

**Section 16 (d)**  
**The Special District "Problem"**

#### IV. THE SPECIAL DISTRICT "PROBLEM"

A particular aspect of the allocation of public service responsibilities about which the Council has been concerned and for which the Council makes a series of recommendations is that regarding special districts. The provision of public services by independent special districts confuses and defies rational choice among competing service priorities at the local level.

Special districts have been the subject of intensive study over the past 15 years. They have been looked at from all levels—national, statewide, metropolitan, and local. A bibliography published by the U.S. Department of Agriculture in 1968 lists 250 publications on the subject of special districts and many more have been added since then. It was ten years earlier, in 1957, that John C. Bollens referred to special districts as the "new dark continent of American politics". The 1960 census of governments showed special districts to be the largest number and fastest growing type of local governmental units in the United States.

*The existence of special districts continues today to be cited by many public officials as a basic intergovernmental problem with dimensions that extend into governmental structure, organization, functions, and financing.*

Devices such as local agency formation commissions (Calif. Government Code Sections 54773-54799.5) and the District Reorganization Act (Calif. Govt. Code Sections 56000-56550) have been created in recent years to help in solving the so-called special district "problem". Still, it is claimed that special districts have increased and that the problems they pose are still with us.

In almost all the urban areas of this State, special districts continue to perform public services which general purpose units of government—cities and counties—could be performing.

Despite the years of research on special districts, there is little agreement on the root of the special district problem itself. It has been distilled from the latest research and it is generally acknowledged by many city and county officials that special districts present a number of special problems—problems which outweigh the use of the independent special district approach to providing public services.

The purpose of this part of the Council project on the allocation of public service responsibilities is to more clearly define the "special district problem" as it exists in California, and, thereby to develop and recommend steps toward solution as necessary.

##### A. Definition of Special District

A first step in placing the special district problem in perspective is to define special district. The State Controller's office has traditionally used the most inclusive one for their preparation of the Annual Reports of Financial Transactions of Special Districts:

"A special district is defined for purposes of this report as a legally constituted governmental entity established for the purpose of carrying on specific activities within definitely defined boundaries. The area of a district may cover only a small portion of a county, or may be multi-county in scope . . . Its governing body may be the board of supervisors or the city council, in an ex officio capacity, of the county or city within which it is located or it may be composed of elected or appointed members. The primary consideration is that within the limits provided by the State Constitution and State Law, it should be autonomous and have corporate and continuing life."

The State law concerning local agency formation commissions defines special district as follows:

" 'Special district' means an agency of the State for the local performance of governmental or proprietary functions within limited boundaries. 'Special district' does not include the State, a city, a county, or a school district. 'Special district' does include a county service area but does not include a special assessment district formed under the Improvement Act of 1911 . . . or any similar assessment law . . ."

Special districts also have even been cited as ". . . public corporate entities which exist outside the regular structure of government" in the USDA 1968 bibliography mentioned earlier.

The Council feels that two distinctions need to be made with regard to the definition of special districts:

One concerns the actual autonomy of the district—Does it have a separately elected or appointed governing body that acts independent of the unit of general purpose government (independent districts); or, is it an extension of general purpose government in that its governing body is actually a board of supervisors or a city council (dependent districts). The independent special district is viewed as the corporate essence of the special district “problem”, while the dependent district is viewed as a special assessment district directed and controlled by a city or a county.

The second distinction that needs to be made concerns the area of jurisdiction of the special district. If a special district performs a function or functions within the territory of two or more counties, it is providing the unique benefit of the special district device—it can cross jurisdictional lines as a single entity to more closely fit the area of service need. A multi-county district, therefore, is not considered to be a part of the special district “problem” at the scale of single jurisdictions such as one city or one county.

For the purposes of the Council’s analysis of the special district “problem” a special district is defined as an agency of the State for the local performance of governmental or proprietary functions within limited boundaries and which has a governing body that is *independent* of a city council or county board of supervisors. Also, the Council will not consider school districts or multi-county districts at this point. Both of these kinds of special districts have peculiar characteristics which merit separate consideration.

## B. Why are There Special Districts?

Historically—from the point of view of the consumer of public services, it has been demonstrated repeatedly that there is little concern over which agency provides a needed service just as long as it is provided. Many special districts have come into being by the initiating action of a group of citizens seeking a specific service where it was believed that a general purpose unit of government could not or would not respond adequately. Some special districts have been the result of particular interests that have sought special provisions favorable to certain circumstances of ownership, residence, property development, or other features.

Regardless of the reason for initiation, in almost every instance of special districts authorized by general laws pertaining to districts and not those created directly by the Legislature, the district for-

mation could have proceeded only by affirmative action of the respective county board of supervisors or city council prior to the creation of local agency formation commissions in 1963. Such county or city approval was based on whether or not the proposed district met or complied with applicable state laws. These local bodies did not interpret that their review provided any prerogatives to deny the formation of independent districts.

The State Legislature also occupies a key position in the establishment of practically all special districts. The Legislature authorizes district formations by enacting procedures by which they can be created. It also acts upon the basic features such as area, function(s), organization, and financing authority.

It has been generally concluded that there are a variety of reasons and factors stimulating the formation of special districts. These reasons have been covered adequately elsewhere (for example, John C. Bollens: *Special District Governments in the United States*, University of California Press, Berkeley, 1957).

“High ranking among the reasons for a special district is the unsuitability of existing general local governments in terms of their area, financing, functions, or administration, or the attitudes of those controlling them.” (Pg. 6)

Not all of these reasons pertain in California, and where they do, not in the degree of severity as elsewhere. The particular reason most often cited by those speaking for special district interests is the desire for independence often expressed as “grass roots” government. Those seeking a single function of primary interest resist having that function allocated to an established general purpose government or even to another special district.

Other particular reasons exist within this desire for independence. Included are often the idea of keeping the function “out of politics” or out of the sphere of influence of some other competing group; there is the better chance of obtaining public funds for a specific function if the function is separate from other competing demands within general government; there is the belief that control over the function can be better observed if it is kept separate. These latter factors are those which appear to be stimulating the use of special districts in California because the general purpose units—the cities and counties—do not have, or with concerted effort could overcome, the legal and fiscal (in terms of tax rate) constraints often ascribed to them.

Setting aside the multitude of reasons for special

district creation, it rests upon the elected policy making bodies of State, county, and city government that so many independent special service districts exist. By action of the State Legislature, 176 different statutory authorizations now provide the basis for at least 51 general types of districts presently operating in the State of California. As noted earlier, most of these districts were initiated by petition and were carried into being through official action or approval by a local legislative body. If there is an overall special district "problem", then general purpose governments have participated in its creation either by direct sanction or by default.

### C. The Special District "Problem"

The complaints concerning special districts include:

1. The problem of numbers—2,346 non-school autonomous special districts exist in California as of 1968.
2. The "crazy quilt" pattern of overlapping districts—district boundaries usually reflect the area of service demand for a specific service and as districts are created at different times in the growth of a community the boundaries rarely coincide.
3. Low political "visibility"—the number of districts, their specialized nature, overlapping boundaries, and the method of tax collection (usually through the county, if not also through the mortgage holder) serve to reduce the public knowledge of their existence.
4. Heavy and unnecessary reliance on the property tax—
  - a. Most districts use the property tax as a revenue source and overlapping districts, therefore, place an uneven and burdensome load on property tax base.
  - b. Some districts use a property tax levy where other districts, often providing the same type service, use a service charge.
5. Fragmentation of public decision-making—the effectiveness of the provision of public services is reduced when the decisions on the range of interrelated public services are made by a number of independent bodies. Overall priorities cannot be discussed and decided, and community choices about the provision of a particular service or program versus a more urgent use of scarce public funds are impossible.

This last complaint that special districts impede or prohibit the balancing of public service priorities and the funds available for their financing is perhaps the most serious indictment of the use of special districts and it is observed that all of the complaints concerning special

districts could be reduced to the common denominator expressed in this latter feature. That is, THE SPECIAL DISTRICT PROBLEM IS THE BASIC NEED TO INTEGRATE DISTRICT PROGRAMS, OPERATIONS, AND PROJECTS INTO THE TOTAL SYSTEM OF CALIFORNIA GOVERNMENT.

This definition of the special district problem would enable a most reasonable approach to solution. By this definition, it can be properly recognized that, while some special districts may be desirable and necessary in a given area, the fragmentation of local decision-making among a number of independent unrelated special service districts does not strengthen responsible local government. In brief, a selective and more definitive line of action can be recommended for the reduction of the special district problem. This definition of the problem also enables viewing the use of special districts as a part of the encompassing governmental structure and organization problem of which municipal annexation and incorporation are a part.

### D. Council Recommendations

The Council previously adopted on May 8, 1969, as part of its Policy Statement on Regional Organization, ". . . the elimination of special service districts where it has been determined that a general purpose unit (city or county) can provide the same service".

The following actions are recommended as specific steps toward integrating special districts into the overall system of California governments.

1. Those districts providing urban services, the major portion of which is within the city boundaries, should be placed under direct control of the city council either by dissolution or by the "subsidiary district" procedures under the District Reorganization Act. This is possible by action of the city council through petition to the local agency formation commission. Specific kinds of districts that would be affected are cemetery, fire protection, garbage disposal, library, memorial, recreation and park, sanitary, transit, public utility.
 

Refer to California Government Code Sections 56400-56405.
2. Those districts which are countywide or smaller and which are providing services that could as well be provided by the county should be brought under direct control by the county either by dissolution or reorganization as a county service area under the District Reorganization Act. This is possible by action of the

county board of supervisors through petition to the local agency formation commission. Specific kinds of districts that would be affected include cemetery, fire protection, library, memorial, mosquito abatement, recreation and park, transit, public utility.

Refer to Government Code Section 56195.

3. As an initial step in carrying out recommendations 1 and 2, legislation should be passed *requiring* that county boards of supervisors review and approve the annual budgets of all special districts mentioned in 1 and 2. The boards of supervisors should have the authority to reduce special district budgets by overall amounts, or to eliminate the specific budget items so as to achieve an overall balance of public service priorities with the funds available for their financing.

A number of years will be required for cities and counties to fulfill recommendations 1 and 2, and the pace of activity will vary from city to city and county to county. During this transition period, some effort must be made to insure an overall balance of public service priorities and the funds available for their financing.

4. For a better control and observation of those districts which are necessary and which will continue to exist, uniform district acts should be developed and authorizing or enabling statutes consolidated and simplified. The 176 authorizations currently in effect for districts could be reduced, to at least the fifty basic types that now exist and could be further reduced by those classes which actually provide urban services in urban areas and whose function is taken over by existing general purpose units of government.

For example, 6 to 8 authorization acts for recreation and park districts were combined into one uniform act by the State Legislature in 1958.

5. Local agency formation commissions should be given the power to review and approve or deny

the assumption of the *latent powers* now residing with existing special districts. For example, there were 465 fire districts in California in 1968. In addition to that number, there are 487 other districts which have the authority to provide fire protection services if they so desire. These are: community services districts, public utility districts, county water districts, and municipal water districts.

On the other hand, most fire protection districts are authorized to provide for the storage and distribution of water. Local agency formation commissions have the authority to review and approve or deny new districts, and there is basically no difference between the creation of a new service and the creation of a new district.

Assembly Bill 2054 of the 1969 Session proposed to give LAFCA's this review of special district latent powers. It was approved by the Assembly, but failed to pass by a small margin in the Senate.

6. Special districts should not be authorized to levy a property tax where a user charge can be made.

Special districts are considered to be an additional load on the property tax base, not only because special district tax levies are set solely in regard to the single function performed by the district and not in relation to an overall set of priorities for all of the public services needed or desired by the residents in the area, but also because a user charge for services rendered in most cases, would be more appropriate.

It has been recognized that the price system for public services has become distorted because many public services are provided as a general social good to be supported by the general taxpayer when actually the users of those services can be identified and, with possible specific exceptions, are able and willing to pay the market price for those services. Examples of such special district services are water supply, cemetery, and waste disposal.