

# EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

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## *AGENDA OF AUGUST 24, 2011*

### *REGULAR MEETING*

**TO:** Ron Briggs, Chair, and  
Members of the El Dorado County Local Agency Formation  
Commission

**FROM:** José C. Henríquez, Executive Officer

**AGENDA ITEM #6:** **CONSIDER THE WAIVER OF LAFCO FEES TO  
ENCOURAGE TAHOE PARADISE RESORT IMPROVEMENT  
DISTRICT TO CONVERT TO A RECREATION DISTRICT**

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#### **RECOMMENDATION**

Staff recommends that the Commission consider waiving a portion or all of its fees to encourage Tahoe Paradise Resort Improvement District to convert to a recreation district.

#### **REASON FOR RECOMMENDED ACTION**

Tahoe Paradise Resort Improvement District operates under an archaic principal statute that has not been updated since the 1960s. In 2010, Senate Bill 1023 was enacted to encourage districts similar to Tahoe Paradise RID to convert to other types of agencies with more modern statutes by accelerating the LAFCO process. The waiver of the LAFCO fees might further encourage the district to move in towards conversion.

#### **BACKGROUND**

In 1961, the Legislature passed the Resort Improvement District Law (Public Resources Code §13000, et seq.; SB 384, Cameron, 1961). However, reports of widespread abuses soon came to light and in 1965, the Assembly held hearings to vet the validity of these reports. The result was to ban the formation of new resort improvement districts, though existing districts, including Tahoe Paradise, were allowed to remain in existence after the ban. Not dissolving existing RIDs or converting those districts into other types of agencies created new issues that have yet to be resolved. Because the RID Law has not been updated since 1965, it lacks clear links to:

- The Brown Act
- The Public Records Act
- The Fair Political Practices Law

- The Planning and Zoning Law, and
- Propositions 13, 62, and 218

Outdated laws make it harder for TPRID to function because it lacks the necessary legal procedures to govern itself and deliver public services with transparency and accountability. Consequently, archaic laws provide no guidance to navigate the complex legal rules that all local governments must operate under, especially those requiring special procedures such as the Brown Act and Proposition 218.

Districts have had the ability to change their principal act so that they can convert themselves into a different type of district. While rare, this type of process has been available for some time. They could apply to LAFCO and go through the same process as any other type of change of organization or reorganization. The application requirements would also be the same.

As the Commission is aware, in 2010 the Legislature passed Senate Bill 1023 (Wiggins). This bill, effective January 1, 2011, among other things, created a new LAFCO process called an “accelerated reorganization” that bypasses a few of the typical LAFCO steps. Specifically, the accelerated reorganization:

- Relies on the existing procedures for applying to LAFCO and for the LAFCO's review and approval;
- The LAFCO approval of the proposed accelerated reorganization must include at least 12 specified terms and conditions. LAFCO can change the proposed terms and conditions, but only after notifying Tahoe Paradise RID.
- LAFCO can approve, conditionally approve, or disapprove the accelerated reorganization, but LAFCO must disapprove the proposal if the Tahoe Paradise RID objects before LAFCO acts. This effectively prevents LAFCO from acting unilaterally and without the district's consent.
- If LAFCO approves or conditionally approves the expedited reorganization, there is no protest hearing and no election, saving time and expense.

The law will automatically sunset on January 1, 2018; after that date, the process reverts back to “normal.” A copy of the legislation and a policy statement on the need for legislation is attached to this report.

Please note that the only option the original legislation gave LAFCO was to convert TPRID into a community services district. However, the Commission was successful in its request to Senator Wiggins to amend her bill to allow TPRID's conversion into a recreation and park district (Public Resources Code §5780 et seq.).

Over the past year, LAFCO staff has tried to engage TPRID in a discussion as to why it is to their benefit to convert, but no direct conversation occurred until District 5 Supervisor Norma Santiago intervened. The Executive Officer gave a presentation on the subject on June 23. Based on the questions asked and the overall tone of the discussion, the TPRID Board of Directors did not seem convinced that a conversion was needed. At one point, the president of the board indicated that from a day-to-day standpoint the district operated “just fine” under RID Law. On the other hand, a

question from the audience relating to the District seeking voter approval for a future assessment highlights TPRID's need to operate under modern statutes.

While it is the TPRID Board's choice to decide whether and when to convert, the District's Treasurer hinted at another reason. The District's FY2010-11 budget is less than \$110,000. At \$5,000, the regular LAFCO deposit would be 5% of the budget. After analyzing TPRID's current financial structure, the authority granted to LAFCOs by SB1023 and consulting with the LAFCOs of Napa and Plumas Counties, both of which have successfully converted their districts earlier this year, and with LAFCO Counsel, staff believes it is possible to significantly cut down the amount of work and time to convert TRPID. There would be no need to prepare a special report or amend the sphere. It is believed the process is exempt from environmental review. Because TPRID would continue to provide services at the same level and with the same resources as current operations, the Commission can waive the Service Plan. However, the Government factors in Government Code §56668 would need to be addressed. Staff estimates that the conversion can be completed in one hearing with staff time taking approximately the same amount of time as preparing a typical staff report.

Given all of this, staff requests that the Commission waive the usual LAFCO fees for the conversion. If this request is approved, staff will notify the TPRID Board and Supervisor Santiago.

#### Attachments

Attachment A: Letter from Senator Wiggins dated July, 2010 containing a copy of the chaptered Senate Bill 1023 and Policy Statement