

California State Senate

SENATOR
PATRICIA WIGGINS
SECOND SENATE DISTRICT



July 27, 2010

Agenda Item #9
Attachment B
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STANDING COMMITTEES
LOCAL GOVERNMENT
CHAIR
ENERGY, UTILITIES & COMMERCE
GOVERNMENTAL ORGANIZATION
NATURAL RESOURCES & WATER
PUBLIC EMPLOYMENT
& RETIREMENT
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VETERANS AFFAIRS

SELECT COMMITTEE
CALIFORNIA'S WINE INDUSTRY
CHAIR

JOINT COMMITTEE
FISHERIES & AQUACULTURE
CHAIR

Mr. Ken Humphreys
Chair
El Dorado Local Agency Formation Commission
550 Main Street, Suite E
Placerville, CA 95667

Dear Mr. Humphreys:

I am pleased to report that Governor Schwarzenegger signed Senate Bill 1023 into law as Chapter 68 of the Statutes of 2010. SB 1023 creates an expedited procedure for converting resort improvement districts (RIDs) and municipal improvement districts (MIDs) into community services districts (CSDs).

The state laws which govern RIDs and MIDs are outdated, making it hard for those special districts to deliver efficient public services because they lack modern legal procedures. While the Cortese-Knox-Hertzberg Act allows property owners, residents, and local officials to convert these districts into more modern CSDs, the Act's procedures can be complicated and time consuming. SB 1023 expedites the conversion of special districts while respecting constitutional rights of voters and property owners. The expedited procedures in SB 1023 promote accountability and transparency without imposing fiscal burdens on taxpayers and other local governments.

Because of your support for SB 1023, legislators understood the need for the bill which then moved smoothly through the legislative process. I am grateful for your help.

Sincerely,

A handwritten signature in cursive script that reads "Pat Wiggins".

PATRICIA WIGGINS
Senator, Second District

Enclosure

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**Senate Bill 1023 (Wiggins)
Chapter 68, Statutes of 2010
Converting Special Districts**

Summary. Senate Bill 1023 (Wiggins) creates an expedited procedure for converting resort improvement districts and municipal improvement districts that operate under outdated statutes into community services districts, without substantive changes to their powers, duties, finances, or service areas. SB 1023 also creates an accelerated procedure for converting the Tahoe Paradise Resort Improvement District into a recreation and park district. Signed into law by Governor Schwarzenegger as Chapter 68 of the Statutes of 2010, the new law takes effect on January 1, 2011.

Existing Law

The *Cortese-Knox-Hertzberg Local Government Reorganization Act* (Government Code §56000, et seq.) creates a local agency formation commission (LAFCO) in each county. The courts regard the LAFCOs as the Legislature's "watchdog" over boundary changes (*City of Ceres v. City of Modesto* [1969] 274 Cal.App.2d 545; *Timberidge Enterprises, Inc. v. City of Santa Rosa* [1978] 86 Cal.App.3d 873). LAFCOs have the power to govern the formation, boundaries, and dissolution of most special districts (§56036 & §56037). These procedures usually require five steps:

- Application to LAFCO, including environmental review.
- A formal public hearing for LAFCO review and approval.
- Another formal hearing to measure public protests.
- The possibility of an election, if there was significant protest.
- Ministerial filing of final documents.

A reorganization (§56073) combines two or more proposed boundary changes (§56021) into a single proposal. For example, a reorganization could involve the simultaneous dissolution (§56035) of an existing special district and the formation (§56021) of a new district.

In 2005, the Legislature revised the *Community Services District Law* (Government Code §61000, et seq.; SB 135, Kehoe, 2005). Under this principal act, more than 300 community services districts (CSDs) deliver a wide variety of public facilities and services. However, before a CSD can activate its latent powers and offer a new public service, it must receive the LAFCO's approval (§61106 & §56824.1). Practitioners also see the new statute as an opportunity to convert existing special districts that operate under outdated statutes into CSDs that can operate under contemporary laws.

In 2001, the Legislature rewrote the *Recreation and Park District Law* (Public Resources Code §5780, et seq.; SB 707, Senate Local Government Committee, 2001). About 100 recreation and park districts operate under that revised principal act.

In 1961, the Legislature passed the *Resort Improvement District Law* (Public Resources Code §13000, et seq.; SB 384, Cameron, 1961). In 1965, the Assembly held hearings into special dis-

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tricts' abuses and one result was to ban the formation of new resort improvement districts (Public Resources Code §13003). Nevertheless, seven RIDs still remain:

Grizzly Lake RID	Plumas County
Lake Berryessa RID	Napa County
Napa Berryessa RID	Napa County
Resort Improvement District No. 1	Humboldt County
Stony Gorge RID	Glenn County
Tahoe Paradise RID	El Dorado County
Talmont RID	Placer County

The county boards of supervisors in Glenn and Napa Counties govern their RIDs *ex officio*, but the other four RIDs have their own directly elected boards of directors.

From the mid-1950s until 1960, the Legislature created several special-act special districts called Municipal Improvement Districts (MIDs) to deliver public services to particular communities, some of which supported specific development projects. The practice of creating separate special districts for particular developers stopped in 1960. Five MIDs still exist:

Bethel Island MID	Contra Costa County
Embarcadero MID	Santa Barbara County
Esterio MID	Foster City, San Mateo County
Guadalupe Valley MID	Brisbane, San Mateo County
Montalvo MID	Ventura County

City councils are the *ex officio* governing boards of the two MIDs in San Mateo County, while the other three MIDs have their own directly elected boards of directors.

Problem Statement

The MIDs' special acts and the statewide RID statute are outdated, lacking clear links to the Brown Act, Public Records Act, the Planning and Zoning Law, and Propositions 13, 62, and 218. For example the RID Law explains how a RID's board of directors annually sets a RID's property tax rate (Public Resources Code §13161). However, that practice has been unconstitutional since 1978 when the voters approved Proposition 13. Most special districts' statutes refer instead to the laws that require county officials to allocate shares of property tax revenues (Revenue & Taxation Code §95, et seq.). Outdated laws make it harder for these districts to deliver public services because they lack modern legal procedures.

Some local officials want to convert the MIDs and RIDs that operate under outdated statutes into CSDs that operate under the revised statute, without affecting their assets, liabilities, boundaries, services, finances, or other duties.

Converting RIDs and MIDs into CSDs, however, is complicated and time consuming. To switch from one principal act to another requires an applicant to formally apply to the LAFCO for a reorganization that proposes the dissolution of the existing RID or MID and the formation of a new CSD. The five-step LAFCO procedures take about a year to complete. Because these reorganizations propose forming new special districts, they need majority-voter approval (Government

Code §57077 [b][1]). Local officials want the Legislature to create a simpler way to convert RIDs and MIDs into CSDs.

In addition, the El Dorado County LAFCO wants a simpler way to convert the Tahoe Paradise RID into a recreation and park district.

To convert RIDs and MIDs into CSDs more quickly, there are at least two policy options:

Special legislation. The Legislature has plenary authority over general law local governments, including special districts. Legislators have the constitutional authority to reorganize local governments without the need for local elections or even against citizen protests (*Broadmoor Police Protection Dist. v. San Mateo Local Agency Formation Com.* [1994] 26 Cal.App.4th 304, relying on *Hunter v. City of Pittsburgh* [1907] 207 U.S. 161). Examples of how the Legislature has used this plenary authority include:

- Dissolving the Avenal Sanitary District and the Avenal Heights Sanitary District and forming the Avenal Community Services District to replace the two dissolved districts (SB 1998, Montgomery, 1955; Chapter 1702, Statutes of 1955).
- Dissolving the obsolete Hunters Point Reclamation District (SB 615, Kopp, 1987; Chapter 794, Statutes of 1987).
- Converting the Hot Spring Valley Irrigation District into the Hot Spring Valley Water District (SB 1117, Cox, 2008; Chapter 615, Statutes of 2008).
- Converting the Vandalia Irrigation District into the Vandalia Water District (SB 1276, Ashburn, 2008; Chapter 619, Statutes of 2008).

Expedited reorganization. Rather than unilaterally wield its plenary authority, the Legislature has delegated control over the formation, powers, and boundaries of special districts to LAFCOs. The Legislature can modify the five-step procedures in the Cortese-Knox-Hertzberg Act and provide the procedures for an “expedited reorganization.” That’s the approach taken by SB 1023.

What SB 1023 Does

I. Converting to Community Services Districts. SB 1023 creates a new boundary change procedure, called an “expedited reorganization,” and allows LAFCOs to convert RIDs and three specified MIDs into community services districts CSDs.

An expedited reorganization relies on the existing procedures for applying to a LAFCO and for the LAFCO’s review and approval. A proposed expedited reorganization must include at least 12 specified terms and conditions. If a board of supervisors is a RID’s governing body, the proposed terms and conditions may also call for the election of the new CSD’s initial board of directors. The LAFCO can change the proposed terms and conditions, but only after notifying the subject RID or MID. The LAFCO can approve, conditionally approve, or disapprove an expedited reorganization, but the LAFCO must disapprove the proposal if the subject RID or MID objects before the LAFCO acts. If the LAFCO approves or conditionally approves the expedited reorganization, there is no protest hearing and no election.

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The expedited reorganization applies to all RIDs and to three MIDs: Montalvo, Bethel Island, and Embarcadero. The new law automatically terminates on January 1, 2018.

II. Converting to a Recreation and Park District. For just the Tahoe Paradise RID, SB 1023 creates a new boundary change procedure, called an “accelerated reorganization,” and allows the El Dorado County LAFCO to convert the Tahoe Paradise RID into a recreation and park district.

The accelerated reorganization relies on the existing procedures for applying to the El Dorado County LAFCO and for the LAFCO’s review and approval. A proposed accelerated reorganization must include at least 12 specified terms and conditions. The LAFCO can change the proposed terms and conditions, but only after notifying the Tahoe Paradise RID. The LAFCO can approve, conditionally approve, or disapprove the accelerated reorganization, but the LAFCO must disapprove the proposal if the Tahoe Paradise RID objects before the LAFCO acts. If the LAFCO approves or conditionally approves the expedited reorganization, there is no protest hearing and no election.

SB 1023 contains legislative findings to support this special legislation. The new law automatically terminates on January 1, 2018.

For more information, contact:

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Revised: July 27, 2010

Senate Bill No. 1023

CHAPTER 68

An act to amend Section 57077 of, and to add and repeal Sections 56853.5 and 56853.6 of, the Government Code, relating to local government.

[Approved by Governor July 9, 2010. Filed with Secretary
of State July 9, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1023, Wiggins. Special districts: consolidation and reorganization.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a local agency formation commission to approve, without an election, a consolidation or reorganization of 2 or more local agencies, if a majority of the members of each of the legislative bodies of the agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, as specified.

The Community Services District Law authorizes the organization of a community services district for various purposes, including, among others, the collection, treatment, or disposal of sewage, wastewater, recycled water, and stormwater, providing fire protection services, and providing public library services.

This bill would, until January 1, 2018, authorize the local agency formation commission to approve or conditionally approve an expedited reorganization of specified districts into a community services district, with the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the district proposed to be dissolved, unless the governing body of the district proposed to be dissolved files a resolution of objection with the commission, as specified.

The bill would also, until January 1, 2018, authorize the El Dorado County Local Agency Formation Commission to approve, disapprove, or conditionally approve an accelerated reorganization of the Tahoe Paradise Resort Improvement District under specified circumstances, and would declare the need for a special statute addressing that reorganization.

The people of the State of California do enact as follows:

SECTION 1. Section 56853.5 is added to the Government Code, to read:
56853.5. (a) In the case of an expedited reorganization, notwithstanding any provision of this division or the Community Services District Law (Division 3 (commencing with Section 61000) of Title 6), unless the governing body of the subject agency files a resolution of objection with

the commission before the close of the hearing held pursuant to Section 56666, the commission may approve, disapprove, or conditionally approve, the expedited reorganization. If the commission approves or conditionally approves the expedited reorganization, the commission shall order the expedited reorganization without an election.

(b) If the governing body of the subject agency files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission shall disapprove the proposed expedited reorganization.

(c) The commission may order any material change to the terms and conditions of the expedited reorganization set forth in the proposal. The commission shall direct the executive officer to give the subject agency mailed notice of any change prior to ordering a change. The commission shall not, without the written consent of the subject agency, take any further action on the expedited reorganization for 30 days following that mailing.

(d) A proposal for an expedited reorganization shall include proposed terms and conditions that shall include at least all of the following:

(1) The proposed community services district is declared to be, and shall be deemed a community services district as if the district had been formed pursuant to the Community Services District Law (Division 3 (commencing with Section 61000) of Title 6). The exterior boundary and sphere of influence of the proposed community services district shall be the exterior boundary and sphere of influence of the district proposed to be dissolved.

(2) The proposed community services district succeeds to, and is vested with, the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the district proposed to be dissolved.

(3) The status, position, and rights of any officer or employee of the district proposed to be dissolved shall not be affected by the transfer and shall be retained by the person as an officer or employee of the proposed community services district.

(4) The proposed community services district shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the district proposed to be dissolved.

(5) The unexpended balance as of the effective date of the expedited reorganization of any funds available for use by the district proposed to be dissolved shall be available for use by the proposed community services district.

(6) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the district proposed to be dissolved shall be required by reason of the succession pursuant to the expedited reorganization, nor shall any payment for the proposed community services district's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(7) All ordinances, rules, and regulations adopted by the district proposed to be dissolved in effect immediately preceding the effective date of the expedited reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by the proposed community services district, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the expedited reorganization, or that may be enacted or adopted with reference to the district proposed to be dissolved shall mean the proposed community services district.

(8) All allocations of shares of property tax revenue pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code, special taxes, benefit assessments, fees, charges, or any other impositions of the district proposed to be dissolved shall remain in effect unless amended or repealed by the proposed community services district, or they expire by their own terms.

(9) The appropriations limit established pursuant to Division 9 (commencing with Section 7900) of Title 1 of the district proposed to be dissolved shall be the appropriations limit of the proposed community services district.

(10) Any action by or against the district proposed to be dissolved shall not abate, but shall continue in the name of the proposed community services district, and the proposed community services district shall be substituted for the district proposed to be dissolved by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(11) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the district proposed to be dissolved is a party shall be void or voidable by reason of the enactment of the expedited reorganization, but shall continue in effect, with the proposed community services district assuming all of the rights, obligations, liabilities, and duties of the district proposed to be dissolved.

(12) Any obligations, including, but not limited to, bonds and other indebtedness, of the district proposed to be dissolved shall be the obligations of the proposed community services district. Any continuing obligations or responsibilities of the district proposed to be dissolved for managing and maintaining bond issuances shall be transferred to the proposed community services district without impairment to any security contained in the bond instrument.

(e) If a board of supervisors is the governing body of a resort improvement district pursuant to Chapter 1 (commencing with Section 13000) of Division 11 of the Public Resources Code, then, notwithstanding paragraph (3) of subdivision (d), the proposed terms and conditions may provide for the election of an initial board of directors of a community services district pursuant to Chapter 1 (commencing with Section 61020) of Part 2 of Division 3 of Title 6.

(f) As used in this section, “expedited reorganization” means a reorganization that consists solely of the formation of a community services district and the dissolution of any of the following:

(1) A resort improvement district formed pursuant to the Resort Improvement District Law, Division 11 (commencing with Section 13000) of the Public Resources Code.

(2) The Montalvo Municipal Improvement District formed pursuant to Chapter 549 of the Statutes of 1955.

(3) The Bethel Island Municipal Improvement District formed pursuant to Chapter 22 of the Statutes of 1960.

(4) The Embarcadero Municipal Improvement District formed pursuant to Chapter 81 of the Statutes of 1960.

(g) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later statute which is enacted before January 1, 2018, deletes or extends that date.

SEC. 2. Section 56853.6 is added to the Government Code, to read:

56853.6. (a) In the case of an accelerated reorganization, notwithstanding any provision of this division or the Recreation and Park District Law (Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code), unless the governing body of the Tahoe Paradise Resort Improvement District files a resolution of objection with the El Dorado County Local Agency Formation Commission before the close of the hearing held pursuant to Section 56666, the commission may approve, disapprove, or conditionally approve, the accelerated reorganization. If the commission approves or conditionally approves the accelerated reorganization, the commission shall order the accelerated reorganization without an election.

(b) If the governing body of the Tahoe Paradise Resort Improvement District files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission shall disapprove the proposed accelerated reorganization.

(c) The commission may order any material change to the terms and conditions of the accelerated reorganization set forth in the proposal. The commission shall direct the executive officer to give the Tahoe Paradise Resort Improvement District mailed notice of any change prior to ordering a change. The commission shall not, without the written consent of the Tahoe Paradise Resort Improvement District, take any further action on the accelerated reorganization for 30 days following that mailing.

(d) A proposal for an accelerated reorganization shall include proposed terms and conditions that shall include, but are not limited to, all of the following:

(1) The proposed recreation and park district is declared to be, and shall be deemed, a recreation and park district as if the district had been formed pursuant to the Recreation and Park District Law (Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code). The exterior boundary and sphere of influence of the proposed recreation and park district shall be the exterior boundary and sphere of influence of the Tahoe Paradise Resort Improvement District.

(2) The proposed recreation and park district succeeds to, and is vested with, the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Tahoe Paradise Resort Improvement District.

(3) The status, position, and rights of any officer or employee of the Tahoe Paradise Resort Improvement District shall not be affected by the transfer and shall be retained by the person as an officer or employee of the proposed recreation and park district.

(4) The proposed recreation and park district shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the Tahoe Paradise Resort Improvement District.

(5) The unexpended balance as of the effective date of the accelerated reorganization of any funds available for use by the Tahoe Paradise Resort Improvement District shall be available for use by the proposed recreation and park district.

(6) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the Tahoe Paradise Resort Improvement District shall be required by reason of the succession pursuant to the accelerated reorganization, nor shall any payment for the proposed recreation and park district's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(7) All ordinances, rules, and regulations adopted by the Tahoe Paradise Resort Improvement District in effect immediately preceding the effective date of the accelerated reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by the proposed recreation and park district, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the accelerated reorganization, or that may be enacted or adopted with reference to the Tahoe Paradise Resort Improvement District shall mean the proposed recreation and park district.

(8) All allocations of shares of property tax revenue pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code, special taxes, benefit assessments, fees, charges, or any other impositions of the Tahoe Paradise Resort Improvement District shall remain in effect unless amended or repealed by the proposed recreation and park district, or they expire by their own terms.

(9) The appropriations limit established pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Tahoe Paradise Resort Improvement District shall be the appropriations limit of the proposed recreation and park district.

(10) Any action by or against the Tahoe Paradise Resort Improvement District shall not abate, but shall continue in the name of the proposed recreation and park district, and the proposed recreation and park district shall be substituted for the Tahoe Paradise Resort Improvement District by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(11) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the Tahoe Paradise Resort Improvement District is a party shall be void or voidable by reason of the enactment of the accelerated reorganization, but shall continue in effect, with the proposed recreation and park district assuming all of the rights, obligations, liabilities, and duties of the Tahoe Paradise Resort Improvement District.

(12) Any obligations, including, but not limited to, bonds and other indebtedness, of the Tahoe Paradise Resort Improvement District shall be the obligations of the proposed recreation and park district. Any continuing obligations or responsibilities of the Tahoe Paradise Resort Improvement District for managing and maintaining bond issuances shall be transferred to the proposed recreation and park district without impairment to any security contained in the bond instrument.

(e) As used in this section, “accelerated reorganization” means a reorganization that consists solely of the dissolution of the Tahoe Paradise Resort Improvement District and the formation of a recreation and park district.

(f) This section shall remain in effect only until January 2, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 3. Section 57077 of the Government Code is amended to read:

57077. (a) If a change of organization consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, the commission shall do either of the following:

(1) Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district or otherwise authorized pursuant to Section 56854.

(2) Order the change of organization without election if it is a change of organization that meets the requirements of Section 56854, 57081, 57102, or 57107; otherwise, the commission shall take the action specified in paragraph (1).

(b) If a reorganization consists of one or more dissolutions, incorporations, formations, disincorporations, mergers, establishments of subsidiary districts, consolidations, or any combination of those proposals, the commission shall do either of the following:

(1) Order the reorganization subject to confirmation of the voters, or in the case of landowner-voter districts, subject to confirmation by the landowners, unless otherwise authorized pursuant to Section 56854.

(2) Order the reorganization without election if it is a reorganization that meets the requirements of Section 56853.5, 56853.6, 56854, 57081, 57102, 57107, or 57111; otherwise, the commission shall take the action specified in paragraph (1).

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique

circumstances of the El Dorado County Local Agency Formation Commission and the Tahoe Paradise Resort Improvement District. The facts constituting the special circumstances are:

The Tahoe Paradise Resort Improvement District is the only resort improvement district in the County of El Dorado. The El Dorado County Local Agency Formation Commission seeks the opportunity to accelerate the procedures for the concurrent dissolution of the Tahoe Paradise Resort Improvement District and the formation of a recreation and park district as its replacement. The procedures for a reorganization or an expedited reorganization pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) do not permit the El Dorado County Local Agency Formation Commission to convert the Tahoe Paradise Resort Improvement District into a recreation and park district without an election.

O