

**SENATE BILL**

**No. 1023**

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**Introduced by Senator Wiggins**  
(Coauthor: Assembly Member Evans)

February 11, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1023, as introduced, 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 storm water, 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.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 56853.5 is added to the Government  
2 Code, to read:
- 3 56853.5. (a) In the case of an expedited reorganization,  
4 notwithstanding any provision of this division or the Community  
5 Services District Law (Division 3 (commencing with Section  
6 61000) of Title 6), unless the governing body of the subject agency  
7 files a resolution of objection with the commission before the close  
8 of the hearing held pursuant to Section 56666, the commission  
9 may approve, disapprove, or conditionally approve, the expedited  
10 reorganization. If the commission approves or conditionally  
11 approves the expedited reorganization, the commission shall order  
12 the expedited reorganization without an election.
- 13 (b) If the governing body of the subject agency files a resolution  
14 of objection with the commission before the close of the hearing  
15 held pursuant to Section 56666, the commission shall disapprove  
16 the proposed expedited reorganization.
- 17 (c) The commission may order any material change to the terms  
18 and conditions of the expedited reorganization set forth in the  
19 proposal. The commission shall direct the executive officer to give  
20 the subject agency mailed notice of any change prior to ordering  
21 a change. The commission shall not, without the written consent  
22 of the subject agency, take any further action on the expedited  
23 reorganization for 30 days following that mailing.
- 24 (d) A proposal for an expedited reorganization shall include  
25 proposed terms and conditions that shall include at least all of the  
26 following:
- 27 (1) The proposed community services district is declared to be,  
28 and shall be deemed a community services district as if the district  
29 had been formed pursuant to the Community Services District Law  
30 (Division 3 (commencing with Section 61000) of Title 6). The  
31 exterior boundary and sphere of influence of the proposed  
32 community services district shall be the exterior boundary and  
33 sphere of influence of the district proposed to be dissolved.
- 34 (2) The proposed community services district succeeds to, and  
35 is vested with, the same powers, duties, responsibilities,

1 obligations, liabilities, and jurisdiction of the district proposed to  
2 be dissolved.

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

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

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

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

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

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

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

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

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

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

27 (e) If a board of supervisors is the governing body of a resort  
28 improvement district pursuant to Chapter 1 (commencing with  
29 Section 13000) of Division 11 of the Public Resources Code, then,  
30 notwithstanding paragraph (3) of subdivision (d), the proposed  
31 terms and conditions may provide for the election of an initial  
32 board of directors of a community services district pursuant to  
33 Chapter 1 (commencing with Section 61020) of Part 2 of Division  
34 3 of Title 6.

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

38 (1) A resort improvement district formed pursuant to the Resort  
39 Improvement District Law, Division 11 (commencing with Section  
40 13000) of the Public Resources Code.

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

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

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

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

10 SEC. 2. Section 57077 of the Government Code is amended  
11 to read:

12 57077. (a) ~~Where~~*If* a change of organization consists of a  
13 dissolution, disincorporation, incorporation, establishment of a  
14 subsidiary district, consolidation, or merger, the commission shall  
15 do either of the following:

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

21 (2) Order the change of organization without election if it is a  
22 change of organization that meets the requirements of Section  
23 56854, 57081, 57102, or 57107; otherwise, the commission shall  
24 take the action specified in paragraph (1).

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

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

34 (2) Order the reorganization without election if it is a  
35 reorganization that meets the requirements of Section 56853.5,  
36 56854, 57081, 57102, 57107, or 57111; otherwise, the commission  
37 shall take the action specified in paragraph (1).

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**Senate Bill 1023 (Wiggins) --- Converting Special Districts**

**Summary.** Senate Bill 1023 (Wiggins) creates an expedited procedure for converting resort improvement districts and municipal improvement districts that operate under archaic statutes into community services districts, without substantive changes to their powers, duties, finances, or service areas.

**Existing law.** The *Cortese-Knox-Hertzberg Local Government Reorganization Act* (Government Code §56000, et seq.) sets up a local agency formation commission (LAFCO) in each county with 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) is merely a way to combine 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) can 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 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.

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 special districts for particular developers stopped in 1960. There are five remaining MIDs:

Bethel Island MID	Contra Costa County
Embarcadero MID	Santa Barbara County
Estero 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.

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 districts' abuses and one result was to ban 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 Napa and Glenn Counties govern their RIDs *ex officio*, but the other four RIDs have their own directly elected boards of directors.

**Problem statement and policy choices.** The MIDs' special acts and the RID statute are archaic, making it hard for these special districts' boards and managers to govern themselves and deliver public services with transparency and accountability. Some LAFCOs and some of these districts want to convert those districts into CSDs, without changing their boundaries, services, finances, or other duties. However, converting RIDs and MIDs into CSDs can be expensive, complicated, and time consuming.

To switch principal acts under current law, an applicant must formally ask LAFCO to approve 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. Further, these reorganizations require the payment of LAFCO processing fees (Government Code §56383) and they need majority-voter approval (Government Code §57077 [b][1]).

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 courts regard LAFCOs at 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). 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 the bill does.** SB 1023 allows LAFCOs to convert Resort Improvement Districts and selected Municipal Improvement Districts into community services districts, without substantive changes to the districts’ powers, duties, financing, or service areas.

More specifically, SB 1023 allows for expedited reorganizations with these features:

- Standard procedures for applying to LAFCO (i.e., a petition or a formal resolution).
- The LAFCO retains its existing discretion to approve or disapprove.
- The RID or MID can stop the conversion up until the time of LAFCO approval.
- If the LAFCO approves, there is no protest hearing and no election.
- If LAFCO approves, it must impose the terms and conditions listed in the proposed bill.
- The terms and conditions transfer everything to the new CSD, without any changes.
- LAFCO can change the terms and conditions, but only after notifying the RID or MID.
- The bill applies only to RIDs and independent MIDs, not to city-dependent MIDs.
- The new law will sunset these special procedures after seven years, on January 1, 2018.

After SB 1023 becomes law, the LAFCOs will probably comply with the *California Environmental Quality Act* (“CEQA,” Public Resources Code §21000, et seq.) by filing a notice of exemption. An expedited reorganization is likely to qualify as a Class 20 categorical exemption pursuant to Section 15320 of Title 14 of the California Code of Regulations.

For more information, contact:

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**SAMPLE SUPPORT LETTER**

February \_\_, 2010

The Honorable Patricia Wiggins  
California State Senate  
State Capitol, Room 4081  
Sacramento, California 95814

Dear Senator Wiggins:

I am pleased to inform you that the **[INSERT YOUR AGENCY OR GROUP'S NAME]** supports your Senate Bill 1023 which makes it easier to convert special districts formed under outdated laws into community services districts.

The state laws that govern resort improvement districts and municipal improvement districts are archaic, making it hard for those districts' governing boards and managers to deliver quality public services. While it is possible to use current law to convert these districts into more modern community services districts, the statutory procedures are expensive, complicated, and time consuming.

Your SB 1023 allows local officials to set up community services districts to replace the RIDs and MIDs without substantive changes to their powers, duties, financing, or service areas. The expedited procedures in SB 1023 promote accountability and transparency without imposing fiscal burdens on taxpayers and other local governments.

Please include our **[INSERT YOUR AGENCY'S OR GROUP'S NAME]** on the list of those who support SB 1023. We appreciate your leadership on this issue.

Sincerely,

**[INSERT YOUR NAME]**  
**[INSERT YOUR TITLE]**

cc: Members, Senate Local Government Committee [COX, AANESTAD, KEHOE, WOLK]  
Ryan Eisberg, Senate Republican Caucus