

EL DORADO COUNTY
2017-2018 GRAND JURY
REPORT



EL DORADO COUNTY
FIRE PROTECTION CONSOLIDATION

CASE 17-04 • JUNE 4, 2018

Public Release
JUNE 8, 2018

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Case 17-04 • June 30, 2018

SUMMARY

Proposition 13 significantly reduced revenues for local governments including fire protection districts. Many El Dorado County (EDC) fire protection districts have struggled to survive while continuing to provide service to their districts. Compelling reasons to consolidate fire agencies in El Dorado County exist, from cost savings to operational efficiency. Yet, the fear of losing local control might cause some districts to be reluctant. The El Dorado County Board of Supervisors should take the lead to move toward consolidation of all county fire agencies. Total or partial consolidation of fire protection agencies will take time. But, more importantly, it will first take the will to start.

BACKGROUND

In the late 1970's Californians were frustrated with increasing property tax assessments, especially when the State general fund had a surplus of approximately \$5 billion. In June 1978, California voters approved Proposition 13 limiting the real estate tax rate to one percent of assessed valuation. The resulting 53 percent reduction in tax revenues in 1978-1979 significantly affected local governments.

The California Legislature passed implementing legislation providing block grants to local agencies. Apportionment schedules for the distribution of those funds were based on the current budget of each agency. They can only be changed by a County Board of Supervisors when a consolidation of local agencies happens. The legislature then passed AB8 in 1979, permanently allocating a portion of these funds as block grants.

Facing serious financial difficulties in 1992, the Legislature created the Educational Revenue Augmentation Fund (ERAF), shifting ten percent of county, city and special district AB8 funds to local schools. However, any special district providing service across two or more counties was exempt from the 10 percent shift. The El Dorado Hills County Water District (El Dorado Hills Fire Department) provides service to a portion of Sacramento County and is therefore exempt. Similarly, the Lake Valley Fire Protection District serves a part of Alpine County and is also exempt. Any district that dissolves and the territory is annexed by either the El Dorado Hills County Water District or the Lake Valley Fire Protection District would most likely be exempt. The State Controller's Office has historically viewed that the statutes for this type of expansion of territory by a multi-county agency do not provide for a recalculation of the base ERAF calculations. That has been exemplified with the expansion of the Sacramento Metropolitan Fire District in Sacramento County.

Some El Dorado County fire protection districts felt the impact of Proposition 13 more than others. Over the years, the Board of Supervisors provided supplemental funding to fire protection districts. However, that funding has diminished in recent years, and remains uncertain as the county faces budget issues of its own. Budgetary issues, including the impact of Proposition 13

revenue limitations and ERAF revenue shifts have caused small districts across the state to consider cost-saving measures, including consolidation. Consolidation can achieve economies of scale, including the elimination of high paid executive positions. There are several types of consolidation. A *merger* occurs when a district consolidates with a city. Some consolidations are partial. In an *administrative consolidation*, departments remain legally separate but consolidate administrative or staff functions like sharing a fire chief. In a *functional consolidation*, a department performs special functions, like training, for others. An *operational consolidation* happens when departments join both administrative and functional operations. Lastly, *full consolidation*, or *reorganization*, is where one agency dissolves and is then annexed by another becoming one agency.

Some El Dorado County fire protection districts with existing funding constraints have successfully reorganized to maintain or improve service levels. Other fire protection districts are sharing administrative and/or functional operations without a full consolidation. The voters of some districts have passed special taxes to increase revenues for fire protection. Some districts have reduced service.

The El Dorado Local Agency Formation Commission (LAFCO) is the local agency charged with reviewing and approving boundary service areas for county agencies including fire protection districts. In 2010, LAFCO retained Citygate Associates, LLC, to conduct a fire and emergency services planning study. In part, this study made an in-depth examination of a possible countywide fire system.

Prior El Dorado County Grand Juries have recommended consolidation to save money. The 2007-2008 Grand Jury found that consolidation could provide an annual cost saving of more than \$1.2 million. In a separate report, the same Grand Jury recommended the Garden Valley Fire Protection District consider consolidation. The 2015-2016 Grand Jury recommended that the Mosquito Fire Protection District pursue consolidation of services with other fire protection districts.

This investigation tried to determine the pros and cons of consolidating fire protection services, why agencies may be reluctant to consolidate and how the county might motivate consolidation.

METHODOLOGY

- Reviewed prior El Dorado County Grand Jury reports about fire protection districts.
- Reviewed special district budgets relating to fire protection.
- Reviewed the Citygate Associates, LLC, May 13, 2010 *Fire and Emergency Service Study* for the El Dorado LAFCO.
- Interviewed elected El Dorado County officials.
- Interviewed El Dorado County career firefighters.
- Interviewed a representative from the El Dorado County Fire Chiefs Association.
- Interviewed past and current El Dorado County fire protection district board members.
- Interviewed experts on successful consolidations in El Dorado and other counties.
- Interviewed a representative from the El Dorado Local Agency Formation Commission (LAFCO).
- Interviewed a representative from the Fire Districts Association of California.
- Obtained legal guidance from the Office of County Counsel.

DISCUSSION

Unlike many other counties, El Dorado County does not have direct responsibility for fire service. That responsibility resides with 10 separate fire protection districts, the City of South Lake Tahoe Fire Department, and two community services districts. In addition, the California Department of Forestry and Fire Protection (CALFIRE), provides fire protection service throughout El Dorado County. Historically, the Board of Supervisors has taken a keen interest in fire service in the County. The Fire Advisory Board provided advice on fire-related issues to the Board of Supervisors; that Board is now inactive.

The El Dorado County Fire Chiefs Association of fire chiefs across the County coordinates fire service and advises the Board of Supervisors. The County has a centralized dispatch system for fire response and a robust mutual aid agreement among all County fire agencies. Two or more different agencies often respond to the same fire emergency.

In the 2010 Citygate Associates study, six fire agencies were identified as being in *Best Condition* meaning "...they had a suitable and stable revenue base..." to provide adequate fire services. Two were listed as being in *Modest Condition with Stretched Services* meaning while they have a larger revenue base, "...they are stretched quite thin across a large geographical area and so are not able to provide equity of coverage throughout their District". Since the Citygate report, one of these agencies has operationally merged with a *Best Condition* agency. Six agencies were listed as being in *Unstable Condition*, meaning they "...are small and providing very modest service on an unstable revenue base...". Again, since the Citygate report, one Fire Protection agency in the *Modest Condition* has dissolved and been annexed by a *Best Condition* agency. The financial status of the agencies identified in the 2010 study remains substantially the same today.

In 2002, the Legislature passed SB1207 requiring volunteer firefighters to meet the same California Occupational Safety and Health Administration (OSHA) training and safety standards as career firefighters. That legislation has added additional financial burdens to small rural fire protection districts that rely on volunteer firefighters.

The Fire District Association of California is a non-profit, statewide organization whose primary function is to help fire districts become more successful and effective. A representative from that association advised the Grand Jury that the condition of fire protection agencies in El Dorado County is similar to many other rural counties in the state. Fire protection districts originated as principally volunteer organizations with low budgets. Proposition 13 and subsequent legislation set low appropriation schedules for these districts based on these budgets as they existed in 1978. Increasing populations with a corresponding increase in homes and other structures and new state mandates requiring higher training standards for volunteer firefighters have made it increasingly difficult to operate a volunteer organization.

Individuals interviewed by the Grand Jury were nearly unanimous in support of consolidating fire protection agencies in El Dorado County. Some argued for a complete consolidation of all county fire agencies while others proposed an east slope and west slope two-district consolidation. A few proposed a three-district solution; east, west and the southern portion of the county. There was a consensus that any consolidation effort will be difficult and will take years to accomplish.

Many reasons support consolidation. The primary reason noted was cost saving. Consolidation would eliminate some redundant operations and personnel. There would also be cost savings when ordering supplies and equipment in larger quantities.

Another often cited benefit is standardization of training, equipment and practices, increasing operational efficiency and firefighter safety. As noted previously, it is typical for multiple agencies to respond to a single incident. In many cases, the firefighters responding do not know each other, have not worked together as a team and have trained to operate differently. This lack of coordination results in less efficiency and could reduce safety of firefighters and the public. In addition, consolidation has the potential to provide better service to certain areas by staffing stations on a 24-hour basis. Lastly, the Grand Jury was advised that consolidation would increase firefighter opportunities for advancement within a larger organization.

Conversely, there are many reasons fire protection agencies would be reluctant to consolidate. One is fear of losing local control. For the most part, fire agencies are proud of their organizations and may resist change even when it could have benefits to the community. Communities are also proud of their local fire services. Differences in training, staffing and even the markings on firefighting apparatus as well as patches on firefighter's shoulders, could deter consolidation efforts. Community support is necessary to achieve any consolidation. Under LAFCO rules a simple majority of voters can stop the consolidation process.

Another potential obstacle to consolidation is labor union resistance. Labor unions might oppose consolidation because of possible position reductions, staffing levels at different districts and firefighter station assignment. SB 239 took effect in 2016 impacting functional, administrative or operational consolidations when a labor contract is initiated to consummate a consolidation. In these instances, SB 239 allows labor unions to effectively veto consolidation efforts. However, there are specific situations where labor unions would support a consolidation if it benefited rank and file firefighters.

Disparity in tax revenue is the most significant obstacle to consolidation. Local agency share of tax revenue is based on revenues in 1978. Fire agency boards are reluctant to consolidate unless the consolidation is at least revenue neutral. The disparity among AB8 funding in County fire agencies means it is extremely difficult, if not impossible, for all consolidations to be revenue neutral. While the Board of Supervisors can adjust AB8 rates upon consolidation, there are limits on how this can be accomplished, and many factors must be considered.

The Grand Jury examined several successful consolidations in and outside El Dorado County. All had one commonality; one person, usually a fire chief, developed a plan to unify the boards, the public, firefighters, and unions while working through the LAFCO consolidation process. Without a plan and a driving force, no consolidations would have taken place.

The key to successful consolidation is achieving consensus. While the Board of Supervisors can initiate consolidation through LAFCO, they cannot mandate consolidations. Yet, the Board of Supervisors is uniquely positioned to set the vision for fire protection organizations, activate the Fire Advisory Board and staff it with individuals knowledgeable about county fire protection and how successful consolidations have taken place. The Board of Supervisors could charge the Fire Advisory Board to develop a long-term consolidation plan, encourage fire agencies to consolidate and support consolidation efforts as needed through the adjustment of AB8 allocations.

One possible outcome is to consolidate all county fire protection agencies over time, under the El Dorado Hills County Water District. This would potentially avoid an ERAF shift of up to \$1.6 million annually from individual fire agencies. However, it would obviously affect local schools' funding. It could also result in additional costs since El Dorado Hills County Water District is more expensive to operate than other fire protection districts. A cost analysis study comparing consolidating under El Dorado Hills Water District versus other county fire agencies would be prudent before a final decision can be made.

The County may never achieve meaningful consolidation. Nevertheless, that should not deter the County from trying. Neither should the complexity of consolidation efforts. The road forward will take leadership, planning, persistence and time. It will first take the will to start.

FINDINGS

- F1. Many fire protection districts in El Dorado County provide modest service with an unstable revenue base.
- F2. Consolidating fire protection agencies could provide safer, more efficient and more comprehensive fire service.
- F3. The Board of Supervisors, in conjunction with LAFCO, is best positioned to champion fire agency consolidation.
- F4. The Fire Advisory Board, if reactivated, could help the Board of Supervisors with consolidation.
- F5. Consolidation needs to be a well-planned effort and will take many years to accomplish.
- F6. Consolidation is unlikely without adjustment of AB8 allocations.
- F7. Firefighter professionals in the County favor consolidation.

RECOMMENDATIONS

- R1. The Board of Supervisors should take the lead to consolidate County fire protection agencies.
- R2. The Board of Supervisors should reactivate the Fire Advisory board.
- R3. The Board of Supervisors should direct the Fire Advisory Board to develop a plan for consolidation of fire protection agencies.
- R4. The Board of Supervisors should resolutely work to persuade agencies to implement the plan.
- R5. The Board of Supervisors should be open to reasonable AB8 allocation adjustments to support consolidation.

WEB ATTACHMENT

2010 Citygate Fire and Emergency Service Study for the El Dorado LAFCO
<https://www.edlafco.us/citygate-fire-study>

REQUEST FOR RESPONSES

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations, and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Responses are requested in accordance with California Penal Code §933 and §933.05.

- Response to findings F3, F4, F5, F6, and all recommendations from El Dorado County Board of Supervisors.
- Response to finding F3 from El Dorado County Local Agency Formation Commission.

The written response of each named respondent will be reprinted in a publication to the citizens of El Dorado County. Each must include the name of the Grand Jury report along with the name and official title of the respondent.

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to review the Penal Code sections and carefully read the pertinent provisions included below before preparing your official response. Each respondent must use the formats below for each separate finding and recommendation identified above.

Please pay attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

Response to Findings

Finding F# *[Retype the text of the finding as written in the Grand Jury report, # is the finding number in the report.]*

Response: *[Review California Penal Code section 933.05 (a) (1) and (2). Respondents must specify one of three options – a) Respondent agrees with finding, b) Respondent disagrees wholly with finding or c) Respondent disagrees partially with finding. If respondent uses option b or c then the response shall specify the portion of the finding that is disputed and shall include an explanation.]*

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to maintain it. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

Response to Recommendations

Response R# *[Retype the text of the recommendation as written in the Grand Jury report, # is the recommendation number in the report.]*

Response: *[Review California Penal Code section 933.05 (b) (1) - (4). Respondents must specify one of four options – a) recommendation has been implemented, b) recommendation has not been implemented but will be implementing noting a timeframe, or c) recommendation requires further analysis or study noting a timeframe not to exceed six months from date Grand Jury Report was issued or d) recommendation will not be implemented because it is not warranted or reasonable, with an explanation.]*

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public.

ELECTIVE OFFICERS OR AGENCY HEADS

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public.

Failure to Respond

Failure to respond as required to a grand jury report is a violation of California Penal Code Section 933.05 and is subject to further action that may include further investigation on the subject matter of the report by the grand jury.

Where to Respond

All responses must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

Response via Email to courtadmin@eldoradocourt.org is preferred.

The Court requests that you respond electronically with a Word or PDF document file to facilitate economical and timely distribution.

California Penal Code Section 933

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

California Penal Code Section 933.05

933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.