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AGENDA REPORT

December 4, 2017

Item No. 9 (Business/Action)

November 22, 2017

TO: Commissioners

FROM: Executive Officer

SUBJECT: Policy Amendments | Special District Appointments to Consolidated Redevelopment Oversight Board

SUMMARY

The San Diego Local Agency Formation Commission (LAFCO) will consider recommended amendments to its existing policies governing the administration of the Independent Special District Selection Committee. The amendments address new legislation for LAFCO to conduct elections to appoint a special district representative to a consolidated oversight board tasked with completing the draw-down of remaining activities of successor redevelopment agencies in San Diego County. The amendments have been developed with feedback from the Special District Advisory Committee and establish specific eligibility, allowances, and procedures in conducting an election ahead of the July 1, 2018 appointment deadline.

BACKGROUND

Redevelopment Agencies | Establishment and Function

Redevelopment agencies (RDAs) in California were established in 1945 as a means for cities, towns, and counties to expedite the acquisition and or funding of public work projects to improve “blighted” areas. The underlying legislative intent in creating RDAs was to empower local officials to foster economic development through the use of local property tax proceeds. Markedly, once established, property tax revenue generated within a designated area became stationary with regard to the monies distributed among other local agencies – such as schools and special districts – with the incremental increases going forward getting redirected to RDAs.

Dissolution Proceedings Enacted Under AB X26 | Transition to Successor Agencies

In June 2011 – and following several earlier attempts – the Legislature passed Assembly Bill (AB) X26 with the Governor’s signature as a budget trailer bill to freeze the 400 plus RDAs in California and their authority to initiate any new projects. The legislation also initiated a gradual dissolution process in which oversight of RDAs were transferred to successor boards with the legislative task of drawing down preexisting projects. Increment property tax revenues generated within RDAs were also now redirected to a single countywide fund – known as the Redevelopment Property Tax Trust Fund (RPTTF) – and administered by local auditor-controller offices.¹

Redevelopment in San Diego County | Successor Agencies and Affected Special Districts

There are 17 successor agencies to RDAs in San Diego. Almost all – and specifically 15 – of the cities in San Diego County have successor agencies with the exception of Coronado, Del Mar, Encinitas. The County of San Diego also has two successor agencies. The total value of the residual incremental property tax revenue (e.g. non-committed funds) collectively within all 17 successor agencies as of the current calendar year tallies \$131.6 billion. Additionally, within the 17 successor agencies there are 26 special districts that are part of the property tax roll, and as such eligible to receive residual payments from the RPTTF. These eligible 26 special districts are as follows.

RPTTF Eligible Special Districts in San Diego County

Lakeside Fire Protection	Lower Sweetwater Fire Protection
San Miguel Consolidated Fire Protection	North County Cemetery
Pomerado Cemetery	Grossmont Healthcare
Palomar Healthcare	Tri-City Healthcare
San Diego Resource Conservation	San Marcos Fire Protection
Lakeside Water	Santa Fe Irrigation
Vista Irrigation	Leucadia Wastewater
Carlsbad Municipal Water	Olivenhain Municipal Water
Otay Water	Rincon del Diablo Municipal Water
Padre Dam Municipal Water	San Diego County Water *
San Diego County Street Lighting *	CSA No. 17 (San Dieguito) *
CSA No. 69 (Heartland Area) *	San Diego Flood Control *
CSA No. 115 (Pepper Drive) *	Vallecitos Water District

* Denotes dependent special districts in which the legislative body consists, in whole or in part, of ex officio members that are officers of a county or another local agency or appointees of those officers.

¹ Successor agencies are now tasked with filing annual requests to the State to draw monies out of the local RPTTF through the auditor-controller offices to meet preexisting RDA obligations. The remaining or residual monies within the RPTTF are set aside for distribution among the other local agencies with pre Proposition 13 property tax allocations.

DISCUSSION

This item is for San Diego LAFCO to consider proposed amendments to its existing policies to guide the election of a special district representative to serve as one of seven voting members on the San Diego County Consolidated Redevelopment Oversight Board. The prompt for these amendments is drawn from Senate Bill 107, which was passed by the Legislature with the Governor's signature in September 2015 and mandates the consolidation of all 17 successor agencies in San Diego County by July 1, 2018. Markedly, the legislation calls for the appointment of the special district representative to be conducted by San Diego LAFCO and through the framework of its existing administrator role of the Independent Special Districts Selection Committee (ISDSC). The proposed amendments have been developed with feedback from LAFCO's Special District Advisory Committee and addresses ambiguity in the legislation with respect to appointment eligibility, standards, and procedures. Pertinently, proceeding with the amendments is consistent with Government Code Section 56300 and its direction to LAFCOs to adopt local policies to clarify and/or specify the implementation of State law while taking into account local conditions.

An expanded summary of the role and composition of the San Diego County Consolidated Redevelopment Oversight Board is provided in the accompanying footnote.²

Implementing Issues | Six Open Policy Questions

As referenced the legislation providing for the appointment of a special district representative on the San Diego County Consolidated Redevelopment Oversight Board is broad and in some areas ambiguous with respect to implementing direction to LAFCOs. This includes staff identifying six open policy questions and highlighted by eligibility issues. With this in mind, and drawing from a joint-publication prepared by the California Special Districts Association and California Association of LAFCOs paired with feedback from the Special District Advisor Committee, the proposed amendments address the six open and sequential policy questions underlying the appointment process as follows.

² Oversight boards are empowered to complete the wind-down of all RDA projects managed by successor agencies within their respective jurisdiction. This includes establishing criteria and timing factors underlying the procedures to redistribute future property tax proceeds among eligible local agencies. To this end, the San Diego County Consolidated Redevelopment Oversight Board will be responsible for completing all transactions of the 17 successor agencies. All decisions made by the Consolidated Board shall supersede those decisions made by the 17 successor agencies. It is also empowered to contract with any public agency for administrative support while having the ability to request additional financial information or legal advice from any of the affected successor agencies. The composition shall include seven members drawn from the following appointment process: a) one appointee by the County of San Diego Board of Supervisors; b) one appointee by the San Diego City Selection Committee; c) one appointee by the San Diego Independent Special District Selection Committee; d) one appointee by the San Diego County Superintendent of Education; e) one appointee by the Chancellor of the California Community Colleges; f) one appointee of the public by the County of San Diego Board of Supervisors; and g) one appointee by the recognized employee labor organization representing the large number of successor agency employees in San Diego County.

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- Eligibility Criteria: RTTPF and Non RTTPF Districts
State law does not make explicit whether only RTTFP eligible special districts are eligible to participate in the appointment process. Staff believes it would be reasonable to limit the participation to only those 26 special districts eligible for restored property tax proceedings as a result of the ultimate dissolution of RDAs.
- Eligibility Criteria: Independent and Dependent Districts
State law does not make any explicit eligibility limitations with respect to whether a special district appointee is a member of an independent or dependent special district. Staff believes it would be reasonable to limit participation to only the 20 independents (which are also RTTPF eligible) given the remaining six dependents will presumably be represented through Board of Supervisors and/or City Selection Committee appointments.
- Eligibility Criteria of Nominees
State law does not specify whether an appointee must be a board member of an eligible special district or whether other representatives – staff, public, etc. – are permitted. Staff believes it would be reasonable to limit participation to elected or appointed board members as a means to help refine the nominee pool to those most directly familiar with special district finances and accountable to constituents.
- Appointment Terms
State law does not prescribe any term limitations on an appointee, and as such it is presumed the term will extend indefinitely until all business of the Oversight Board is complete. Staff believes it would be appropriate to establish a four-year term for an appointment as a means to ensure the ISDSC membership can revisit its representation and consider options therein.
- Role – if any – of Alternates
State law does not explicitly contemplate the role of alternates to the Oversight Board. Given the potential for an appointee to be unavailable at times or need to resign staff believes it would be reasonable to allow for an alternative to ensure local representation and avoid the potential of the Governor filling a vacated seat as allowed under State law.
- Appointment Process
State law does not outline an appointment process for seating a special district representative and potentially an alternate to the Oversight Board. Staff believes it would be reasonable to follow existing LAFCO policies in holding mail elections for appointments to the Commission with certain modifications. This includes:
 - Allowing the Executive Officer to transmit all election materials by e-mail with prior concurrence of the presiding officer or their designated alternate.

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- Providing that majority of votes is not necessary for an appointment so long as a voting quorum is achieved. The nominee receiving the most votes among all ballots received will be appointed as the regular representative. The nominee with the second most votes among ballots received will be appointed alternate.

The proposed policies are reflected in track-change form in Attachment One.

ANALYSIS

The enactment of SB 107 marks the latest and presumably final act by the Legislature in achieving the planned dissolution of RDA activities in California. This legislation – and unlike earlier dissolution phases – carves out an important implementing role for special districts and through the framework of the ISDSC with respect to the authority to appoint one of the seven voting members on the San Diego County Consolidated Redevelopment Oversight Board. The proposed policies address outstanding questions left unaddressed by the legislation and help ensure San Diego LAFCO – as the administrative arm of the ISDSC – responsively implements the appointment with deference to the feedback provided by the Special District Advisory Committee.

ALTERNATIVES FOR ACTION

The following alternatives are available to the Commission in considering this item:

Alternative One (recommended)

Approve the proposed policy amendments governing the rules of the ISDSC as provided in Attachment One with any desired changes.

Alternative Two

Continue the item to a future meeting and provide direction to staff with respect to any additional analysis or information requested.

RECOMMENDATION

It is recommended the Commission proceed with Alternative One as outlined in the preceding section.

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PROCEDURES

This item has been agenized for action as part of the Commission's business calendar. The following procedures, accordingly, are recommended in the consideration of this item:

- 1) Receive verbal report from staff;
- 2) Invite comments from interested audience members (voluntarily); and
- 3) Discuss item and consider action on recommendation.

Respectfully,



Keene Simonds
Executive Officer

Attachments:

- 1) Proposed Policy Amendments – Track Change
- 2) CSDA-CALAFCO White Paper on SB 107
- 3) Successor Agencies in San Diego County and Affected Special Districts

**SAN DIEGO COUNTY
INDEPENDENT SPECIAL DISTRICT SELECTION COMMITTEE RULES**

I. PURPOSE

The purpose of the Independent Special District Selection Committee shall be to appoint the regular and alternate special district members of the San Diego LAFCO, to fill unexpired terms when vacancies occur, and to select members of the Commission's Special Districts Advisory Committee. The Independent Special District Selection Committee shall also make other appointments as provided under State law and consistent with the rules provided under Section V of these policies.

II. MEMBERSHIP

Membership of the Independent Special District Selection Committee shall be composed of the presiding officer of the legislative body of each independent special district that either is located wholly within San Diego county, or that contains territory within the county that represents 50% or more of the assessed value of taxable property of the district.

III. MEETINGS

Notification and Solicitation of Nominations

The Executive Officer of the Commission shall give written notice to all eligible independent special districts of any meeting of the Independent Special District Selection Committee, specifying the date, time, and place. Each district shall acknowledge receipt of the Executive Officer's notice. Each district shall be encouraged to submit nominations, accompanied by a brief resume on the form provided by LAFCO. All nominations must be received by a specified date that shall be at least six weeks from the date of notification. Facsimile (FAX) copies of nominations may be submitted, if necessary, to meet the established deadline; however, replacement originals must be submitted as soon thereafter as possible.

Nominating Committee

All nominations received by the deadline shall be submitted for review and recommendations by a Nominating Committee appointed by the chairperson or vice chairperson of the Special Districts Advisory Committee. The Nominating Committee shall be composed of advisory committee members whose terms will not expire until the following year. Copies of the Nominating Committee's report and all nominations received by the deadline shall be sent to all eligible districts at least six weeks prior to the meeting.

Registration

Each member of the Independent Special District Selection Committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. In the event that the presiding officer is unable to attend a meeting of the Committee, the legislative body may appoint one of its members to attend in the presiding officer's place. Such a designated member shall submit written authorization at the time of registration. Each voting member shall register and complete a declaration of qualification. The voting member will then be given the required number of ballots and other voting materials.

Quorum

Members representing a majority of the eligible districts shall constitute a quorum for the conduct of Independent Special District Selection Committee business. No meeting shall be called to order (1) earlier than the time specified in the notice, and (2) until a quorum has been declared to be present. Before calling the meeting to order, the Executive Officer shall announce that a quorum is present and request that any voting member who has not yet registered do so at that time. Only those eligible members registered and present when a quorum has been declared and the meeting called to order shall be allowed to vote. No one will be permitted to register and vote after the meeting has been officially convened.

Voting

Voting shall be done using the ballots distributed to each eligible representative at the time of registration. The ballots shall include the names of all nominees, with the incumbents and the Nominating Committee's recommendations identified. Spaces also shall be provided for "write-in" votes. Voting representatives must be present at the time ballots are marked and collected. A candidate for a regular or alternate member of the Commission must receive at least a majority of the votes cast in order to be selected. In the event that no candidate receives the required number of votes, a run-off balloting shall be held between the two candidates receiving the highest and next-highest number of votes. In case of a tie in the "next- highest" category, the tied candidates will both (all) be included in the run-off balloting. Balloting will continue until one candidate receives at least a majority of votes cast.

Election of members of the Special Districts Advisory Committee shall require only a plurality vote.

IV. MAILED-BALLOT ELECTIONS

Authority

A mailed-ballot election may be conducted if the Executive Officer has determined that a meeting of the Independent Special District Selection Committee is not feasible.

Notification and Solicitation of Nominations

The Executive Officer of the Commission shall give written notice to all eligible independent special districts of the intention to conduct a mailed-ballot election. Each district shall acknowledge receipt of the Executive Officer's notice. Each district shall be encouraged to submit nominations, accompanied by a brief resume on the form provided by LAFCO. All nominations must be received by a specified date that shall be at least six weeks from the date of notification. Facsimile (FAX) copies of nominations may be submitted, if necessary, to meet the established deadline; however, replacement originals must be submitted as soon thereafter as possible.

Nominating Committee

All nominations received by the deadline shall be submitted for review and recommendations by a Nominating Committee appointed by the chairperson or vice chairperson of the Special Districts Advisory Committee. The Nominating Committee shall be composed of advisory committee members whose terms will not expire until the following year.

Distribution and Return of Ballots

All eligible districts shall be sent, by certified mail, return receipt requested, the following materials: (1) copies of all nominations received by the deadline, (2) a copy of the Nominating Committee's report and recommendations, (3) ballot(s) as required to vote for Commission and/or Special Districts Advisory Committee members, and (4) voting instructions. The ballots shall include the names of all nominees, with the incumbents and the Nominating Committee's recommendations identified. Spaces shall be provided for "write-in" votes. Each ballot shall be accompanied by a certification sheet to be completed by the presiding officer or designated alternate who cast that district's vote.

A specified period of time, not less than six weeks, shall be allowed for the districts to cast their votes and return their ballots. Ballots shall be sent by certified mail, return receipt requested. Facsimile (FAX) copies of ballots may be submitted, if necessary, to meet the established deadline; however, replacement originals must be submitted as soon thereafter as possible. A ballot received without a certification page will not be counted. All certified ballots received by the deadline shall be counted, and the results announced within seven days. Certified ballots representing a simple majority of the eligible districts must be returned for a valid election.

A candidate for a regular or alternate member of the Commission must receive at least a majority of the votes cast in order to be selected. In the event that no candidate receives the required number of votes, a run-off election shall be conducted, either by a second mailed ballot or a meeting of the Independent Special District Selection Committee, at the discretion of the Executive Officer.

Election of members of the Special Districts Advisory Committee shall require only a plurality vote.

Nothing in these Rules shall supersede Section 56332 of the California Government Code, which governs the establishment of the Independent Special District Selection Committee.

V. OTHER APPOINTMENTS

Appointment to Consolidated Redevelopment Oversight Board | Senate Bill 107

Effective July 1, 2018, the 17 redevelopment oversight boards in San Diego County will be consolidated into one seven-member board pursuant to Section 34179(j) of Health and Safety Code. One of the seven members of the consolidated redevelopment oversight board may be appointed by the Independent Special District Selection Committee. The following eligibility, standards, and procedures shall guide the appointment process.

- Eligibility | Nominee Criteria

Only representatives from (a) independent special districts as defined under Section 56044 of California Government Code that are also (b) enrolled in the Redevelopment Property Tax Trust Fund administered by the County of San Diego Auditor Controller's Office are eligible for appointments.

- Eligibility | Board Members Only

Only representatives that are elected or appointed board members from qualifying special districts are eligible for appointments.

- Standards | Alternate Appointment

An alternate appointment shall be made for purposes of serving and voting in the absence of the regular representative. The alternate shall also immediately assume the regular appointment term should the incumbent resign and/or is otherwise no longer eligible to participate.

- Standards | Term Limits and Recall

All regular and alternate appointments involve four-year terms commencing on July 1, 2018. Appointees serve at the pleasure of the Independent Special District Selection Committee and shall be subject to recall proceedings under Section 56332(b) of California Government Code.

- Procedures | Appointments Before July 1, 2018 Deadline

The Executive Officer shall initiate the inaugural election of regular and alternate representatives consistent with the procedures provided in Section IV of these policies no later than January 1, 2018 subject to the following modifications.

- The Executive Officer shall transmit all election materials by e-mail with prior concurrence of the presiding officer or their designated alternate.
- A majority of votes is not necessary for an appointment so long as a voting quorum is achieved. The nominee receiving the most votes among all ballots received will be appointed as the regular representative. The nominee with the second most votes among all ballots received will be appointed alternate.
- Ballots may be returned to the Executive Officer by e-mail.
- Within three business days of the deadline passing for ballots to be returned the Executive Officer shall provide formal notice to all presiding officers of the election results. The Executive Officer shall also immediately provide formal notice of the associated appointments to the County of San Diego Auditor-Controller's Office.

- Procedures | Subsequent Appointments

Should it be necessary the Executive Officer shall conduct subsequent elections to appoint a regular and/or alternate representative after July 1, 2018 and consistent with the above procedures as applicable.

Adopted: August 27, 1982

Amended: August 17, 1987
June 19, 1992
September 6, 1996
December 4, 2017 (proposed)



**California Special
Districts Association**
Districts Stronger Together



COUNTYWIDE RDA OVERSIGHT BOARD SPECIAL DISTRICT APPOINTMENTS

CALIFORNIA SPECIAL DISTRICTS ASSOCIATION
CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS
Last Updated: September 27, 2016



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CSDA and CALAFCO extend sincere appreciation to the individuals on our joint working group, who significantly contributed to the development of this guide. The contributions of the following people were invaluable:

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On July 1, 2018, more than 400 redevelopment agency (RDA) oversight boards will be consolidated into just one oversight board per county (and five oversight boards in Los Angeles County). When this occurs, each county’s Independent Special Districts Selection Committee will be granted the authority to appoint one special district representative to that county’s respective oversight board.

If the Independent Special District Selection Committee in a county fails to act by July 15, 2018, the governor will make the appointment on its behalf. Therefore, it is important that the special districts in each affected county, and the Local Agency Formation Commissions (LAFCo) that administer the operations of the Independent Special Districts Selection Committees, take proactive steps to ensure a successful locally-controlled appointment process.

Much is at stake in the decisions that go before oversight boards. In fiscal years 2015-16 and 2016-17 combined, the governor’s 2016 May Revise estimated special districts will receive \$316 million in property tax restoration due to the continued wind down of RDAs. Oversight board actions could affect the amount and speed of future property tax restorations to special districts and other local agencies.

Due to the newness and uniqueness of the statute providing for countywide oversight boards, the many cross-references within the statute, and the lack of familiarity most LAFCos and special districts have with the Health and Safety Code in which the statute is included, the authorizing language for special district appointments may be challenging to some local officials.

For these reasons, the California Special Districts Association (CSDA) and California Local Agency Formation Commission (CALAFCO) convened a working group to outline the process for appointing special district representatives to countywide oversight boards, and to provide guidance on potential questions related to that process.

COUNTIES REQUIRING A COUNTYWIDE OVERSIGHT BOARD

The following thirty-seven counties have two or more oversight boards that will be consolidated into one countywide oversight board on July 1, 2018 (except for Los Angeles County, which will be consolidated into five oversight boards):

- Alameda
- Butte
- Contra Costa
- Fresno
- Humboldt
- Imperial
- Kern
- Kings
- Lake
- Los Angeles (five oversight boards)
- Madera
- Marin
- Monterey
- Mendocino
- Merced
- Nevada
- Orange
- Placer
- Riverside
- Sacramento
- San Bernardino
- San Diego
- San Joaquin
- San Luis Obispo
- San Mateo
- Santa Barbara
- Santa Clara
- Santa Cruz
- Shasta
- Solano
- Sonoma
- Stanislaus
- Sutter
- Tulare
- Ventura
- Yolo
- Yuba

Of the counties noted above, the following eleven counties do not currently have an Independent Special Districts Selection Committee in place. Therefore, the special districts and LAFCo in each of these counties will need to form an Independent Special Districts Selection Committee in order to facilitate the appointment of a special district representative to the new countywide RDA oversight board:

- Fresno
- Imperial
- Kings
- Madera
- Merced
- San Joaquin
- Solano
- Stanislaus
- Tulare
- Yolo
- Yuba



SPECIAL DISTRICT REPRESENTATIVE APPOINTMENT PROCESS

The statutory authorization for appointing the special district representative to a countywide oversight board is found in Health and Safety Code 34179, which can be found in the appendix. This publication overviews the application of this authority in conjunction with the relevant code sections cross-referenced to the Cortese-Knox-Hertzberg Act or “LAFCo Law” in the Government Code.

On July 1, 2018, counties with 2 – 39 individual RDA oversight boards will be consolidated into one countywide oversight board. Upon consolidation, the county’s Independent Special District Selection Committee is responsible for appointing the special district representative to the new countywide oversight board. The Independent Special District Selection Committee consists of the presiding officer of the legislative body of each independent special district or district-appointed alternate (Government Code Section 56332(a)).

Procedures

The LAFCo Executive Officer/Designee is responsible for calling and giving written notice of meetings of the Independent Special District Selection Committee, at which a representative may be appointed to the countywide RDA oversight board. (Government Code Section 56332(b)).

- A majority of the Independent Special District Selection Committee may determine to conduct the committee’s business by mail, including holding all elections by mailed ballot (Government Code Section 56332(e)).

If the independent special district selection committee has determined to conduct the committee’s business by mail or if the executive officer/designee determines that a meeting of the special district selection committee, for the purpose of selecting the special district members or filling vacancies, is not feasible, the executive officer/designee shall conduct the business of the committee by mail. Elections by mail shall be conducted as follows (Government Code Section 56332(f)):

- 1) The executive officer/designee shall prepare and deliver a call for nominations to each eligible district. The presiding officer, or his or her alternate as designated by the governing body, may respond in writing by the date specified in the call for nominations, which date shall be at least 30 days from the date on which the executive officer mailed the call for nominations to the eligible district.
- 2) At the end of the nominating period, if only one candidate is nominated for a vacant seat, that candidate shall be deemed appointed. If two or more candidates are nominated, the executive officer/designee shall prepare and deliver one ballot and voting instructions to each eligible district. The ballot shall include the names of all nominees and the office for which each was nominated. Each presiding officer, or his or her alternate as designated by the governing body, shall return the ballot to the executive officer/designee by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer/designee mailed the ballot to the eligible district.
- 3) The call for nominations, ballot, and voting instructions shall be delivered by certified mail to each eligible district. As an alternative to the delivery by certified mail, the executive officer/designee, with prior concurrence of the presiding officer or his or her alternate as designated by the governing body, may transmit materials by electronic mail.
- 4) If the executive officer/designee has transmitted the call for nominations or ballot by electronic mail, the presiding officer, or his or her alternate as designated by the governing body, may respond to the executive officer/designee by electronic mail.



- 5) Each returned nomination and ballot shall be signed by the presiding officer or his or her alternate as designated by the governing body of the eligible district.
- 6) For an election to be valid, at least a quorum of the special districts must submit valid ballots. The candidate receiving the most votes shall be elected, unless another procedure has been adopted by the selection committee. Any nomination and ballot received by the executive officer/designee after the date specified is invalid, provided, however, that if a quorum of ballots is not received by that date, the executive officer/designee shall extend the date to submit ballots by 60 days and notify all districts of the extension. The executive officer/designee shall announce the results of the election within seven days of the date specified.
 - o A quorum is the majority of members representing eligible districts (Government Code Section 56332(a))
- 7) All election materials shall be retained by the executive officer/designee for a period of at least six months after the announcement of the election results

Eligibility Requirements

Members appointed by the independent special district selection committee shall be elected or appointed members of the legislative body of an independent special district residing within the county but shall not be members of the legislative body of a city or county (Government Code Section 56332(c)).

- Special district appointees to current individual oversight boards (pre consolidation into countywide oversight boards) are not restricted to members of the legislative body of the district.

There is no clear indication that the members appointed by the selection committee must be located in a former RDA. However, it could be implied by Health and Safety Code Section 34179(j)(3).

- Current individual oversight boards (prior to consolidation into countywide oversight boards) limit eligibility to special districts that have territory in the territorial jurisdiction of the former RDA and are eligible to receive property tax residual from the RPTTF: "One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188" (Health and Safety Code Section 34179(a)(3)(A)).

Based on Health and Safety Code Section 34179(j)(3), the committee should appoint a representative from a special district that receives property tax residual from the Redevelopment Property Tax Trust Fund (RPTTF).

- Health and Safety Code Section 34179(j)(3) reads in full: "One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188."

Deadlines and Vacancies

If no one is appointed by July 15, 2018, the governor may appoint an individual on behalf of the Independent Special District Selection Committee. The governor may also appoint individuals for any member position that remains vacant for more than 60 days (Health and Safety Code Section 34179(k)).



Notification Requirements

Health and Safety Code Section 34179(j) does not include notification requirements of the selected special district appointee. However, the current individual oversight boards (prior to consolidation into countywide oversight boards) were required to elect one of their members as the chairperson and report the name of the chairperson and other members to the Department of Finance (Health and Safety Code Section 34179(a)). Additionally, the LAFCo Executive Officer/Designee must announce the results of an Independent Special District Selection Committee election within seven days (Government Code Section 56332(f)(6)).

Counties with Only One Individual Oversight Board

In each county where only one individual RDA oversight board exists, as of July 1, 2018, there will be no consolidation into a countywide oversight board and no change to the composition of the existing oversight board (Health and Safety Code Section 34179(l)).

Counties with 40 or More Individual Oversight Boards

In each county where 40 or more individual oversight boards exist (Los Angeles County), as of July 1, 2018, there will be a consolidation into five oversight boards. The special district membership of each oversight board shall be selected as outlined in Health and Safety Code Section 34179(j)(3) via the Independent Special District Selection Committee process (Health and Safety Code Section 34179(q)(1)).

The consolidated oversight boards in this county shall be numbered one through five, and their respective jurisdictions shall encompass the territory located within the respective borders of the first through fifth county board of supervisors districts, as those borders existed on July 1, 2018. Each oversight board shall have jurisdiction over each successor agency located within its borders (Health and Safety Code Section 34179(q)(2)).

- If a successor agency has territory located within more than one county board of supervisors' district, the county board of supervisors shall, no later than July 15, 2018, determine which oversight board shall have jurisdiction over that successor agency. The county board of supervisors or their designee shall report this information to the successor agency and the department by the aforementioned date (Health and Safety Code Section 34179(q)(3)).

Health and Safety Code Section 34179(q) does not specify if the city and special district appointees must be from an agency located in the respective supervisorial seat.

POTENTIAL QUESTIONS

What if my county does not currently have an Independent Special District Selection Committee?

In the case where more than one successor agency exists within the county, an Independent Special District Selection Committee shall be created pursuant to Government Code Section 56332. Each independent special district shall appoint a member representative to the committee and notify the LAFCo of the appointed member. The LAFCo shall then call and conduct a meeting of the committee, pursuant to Section 56332, for purposes of appointing a representative to the countywide RDA oversight board.



Does the Independent Special District Selection Committee also select an alternate, as it does with LAFCo commissioners? How should a vacancy be addressed?

The strictest interpretation of the statute only authorizes the appointment of one person, but a reasonable argument can be made for the appointment of an alternate. The Legislature expressly incorporated Government Code Section 56332 without elaboration, and that section allows for alternates.

Health and Safety Code Section 34179 does not mention alternates for the countywide oversight boards, but does allow each appointing authority to appoint an alternate for the current individual oversight boards (prior to the consolidation into a countywide oversight board) (Health and Safety Code Section 34179(a)(11)). The selection process outlined in Government Code Section 56332(c) includes the selection of an alternate for the commission.

To resolve any ambiguity, the Independent Special District Selection Committee may choose to adopt local policies, pursuant to its authority in Government Code section 56332, expressly authorizing the appointment of an alternate.

If the LAFCo Executive Officer/Designee anticipates a vacancy will occur – or if an actual vacancy occurs – an election may be held for a representative to the countywide oversight board (Government Code section 56332(b)).

What is the term of an appointment to the countywide RDA oversight board?

Nothing in Health and Safety Code Section 34179 describes terms for members of the oversight board. Rather, Section 34179(g) provides that “Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.”

Can an appointee be replaced mid-term?

Yes; nothing in Health and Safety Code Section 34179 describes terms for members of the oversight board. Rather, Section 34179(g) provides that “Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.”

Can the Independent Special District Selection Committee replace a special district representative appointed by the governor due to a vacancy?

While not clearly outlined within the relevant statutes, the intent of having locally appointed representatives on the oversight board is undermined if the law is interpreted such that seats could become, essentially, permanent representatives of the governor.

That being said, Independent Special District Selection Committees are strongly encouraged to appoint a representative no later than July 15, 2018, and within 60 days of any vacancy thereafter, in order to avoid this potential question.

What should a LAFCo do where the law is not explicit as to the process for appointments to the countywide RDA oversight board?

LAFCOs should adopt local commission policies. Government Code Section 56300 allows LAFCOs to adopt local policies either to clarify requirements or specify how a LAFCo will implement State law taking into account the local conditions. Case law has also indicated that these policies are allowed so long as they are not in conflict with State law.



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For example, Government Code 56325(d) indicates that, notwithstanding any other provision of the Cortese-Knox-Hertzberg Act, each LAFCo can appoint one member and one alternate member who represents the public at large. The same section goes on to specify that the appointment of the public and alternate members must be subject to an affirmative vote of at least one of the members from the other appointed authorities; and it also specifies the noticing requirements to announce the vacancy in this position. Section 56325(d) does not contain any direction for the process of appointing public members, nor does it have an indication of the vetting process for candidates eligible to be appointed to this position. With this unclear in the law, some LAFCos have adopted policies to clarify and indicate the basic appointment process.

LAFCos may establish local polices for appointing special district representatives to the countywide RDA oversight board, so long as they are not in conflict with State law.

DEFINITIONS

Taxing entities

Cities, counties, a city and county, special districts, and school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, that receive passthrough payments and distributions of property taxes pursuant to the provisions of this part (Health and Safety Code Section 34171(k)).

Executive officer

The executive officer or designee as authorized by the Local Agency Formation Commission (Government Code Section 56332(g)).



APPENDIX

HEALTH AND SAFETY CODE

DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING [33000 - 37964] (*Heading of Division 24 amended by Stats. 1975, Ch. 1137.)*

PART 1.85. DISSOLUTION OF REDEVELOPMENT AGENCIES AND DESIGNATION OF SUCCESSOR AGENCIES [34170 - 34191.6] (*Part 1.85 added by Stats. 2011, 1st Ex. Sess., Ch. 5, Sec. 7.)*

CHAPTER 4. Oversight Boards [34179 - 34181] (*Chapter 4 added by Stats. 2011, 1st Ex. Sess., Ch. 5, Sec. 7.)*

34179. (a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before May 1, 2012. Members shall be selected as follows:

(1) One member appointed by the county board of supervisors.

(2) One member appointed by the mayor for the city that formed the redevelopment agency.

(3) (A) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.

(B) On or after the effective date of this subparagraph, the county auditor-controller may determine which is the largest special district for purposes of this section.

(4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public appointed by the county board of supervisors.

(7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time. In the case where city or county employees performed administrative duties of the former redevelopment agency, the appointment shall be made from the recognized employee organization representing those employees. If a recognized employee organization does not exist for either the employees of the former redevelopment agency or the city or county employees performing administrative duties of the former redevelopment agency, the appointment shall be made from among the employees of the successor agency. In voting to approve a contract as an enforceable obligation, a member appointed pursuant to this paragraph shall not be deemed to be interested in the contract by virtue of being an employee of the successor agency or community for purposes of Section 1090 of the Government Code.

(8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.

(9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.



(10) If a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, if that appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city if that appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

(11) Each appointing authority identified in this subdivision may, but is not required to, appoint alternate representatives to serve on the oversight board as may be necessary to attend any meeting of the oversight board in the event that the appointing authority's primary representative is unable to attend any meeting for any reason. If an alternate representative attends any meeting in place of the primary representative, the alternate representative shall have the same participatory and voting rights as all other attending members of the oversight board.

(b) The governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by May 15, 2012, or any member position that remains vacant for more than 60 days.

(c) The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board's and the successor agency's duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.

(d) Oversight board members are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

(e) A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974. All actions taken by the oversight board shall be adopted by resolution.

(f) All notices required by law for proposed oversight board actions shall also be posted on the successor agency's Internet Web site or the oversight board's Internet Web site.

(g) Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

(h) (1) The department may review an oversight board action taken pursuant to this part. Written notice and information about all actions taken by an oversight board shall be provided to the department as an approved resolution by electronic means and in a manner of the department's choosing. Without abrogating the department's authority to review all matters related to the Recognized Obligation Payment Schedule pursuant to Section 34177, oversight boards are not required to submit the following oversight board actions for department approval:

(A) Meeting minutes and agendas.

(B) Administrative budgets.

(C) Changes in oversight board members, or the selection of an oversight board chair or vice chair.

(D) Transfers of governmental property pursuant to an approved long-range property management plan.



(E) Transfers of property to be retained by the sponsoring entity for future development pursuant to an approved long-range property management plan.

(2) An oversight board action submitted in a manner specified by the department shall become effective five business days after submission, unless the department requests a review of the action. Each oversight board shall designate an official to whom the department may make those requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. Except as otherwise provided in this part, in the event that the department requests a review of a given oversight board action, it shall have 40 days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and the oversight board action shall not be effective until approved by the department. In the event that the department returns the oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department. If the department reviews a Recognized Obligation Payment Schedule, the department may eliminate or modify any item on that schedule prior to its approval. The county auditor-controller shall reflect the actions of the department in determining the amount of property tax revenues to allocate to the successor agency. The department shall provide notice to the successor agency and the county auditor-controller as to the reasons for its actions. To the extent that an oversight board continues to dispute a determination with the department, one or more future Recognized Obligation Payment Schedules may reflect any resolution of that dispute. The department may also agree to an amendment to a Recognized Obligation Payment Schedule to reflect a resolution of a disputed item; however, this shall not affect a past allocation of property tax or create a liability for any affected taxing entity.

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with Section 1000) of the Government Code shall apply to oversight boards. Notwithstanding Section 1099 of the Government Code, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or community college district.

(j) Except as specified in subdivision (q), commencing on and after July 1, 2018, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board, which shall be staffed by the county auditor-controller, by another county entity selected by the county auditor-controller, or by a city within the county that the county auditor-controller may select after consulting with the department. Pursuant to Section 34183, the county auditor-controller may recover directly from the Redevelopment Property Tax Trust Fund, and distribute to the appropriate city or county entity, reimbursement for all costs incurred by it or by the city or county pursuant to this subdivision, which shall include any associated startup costs. However, if only one successor agency exists within the county, the county auditor-controller may designate the successor agency to staff the oversight board. The oversight board is appointed as follows:

(1) One member may be appointed by the county board of supervisors.

(2) One member may be appointed by the city selection committee established pursuant to Section 50270 of the Government Code. In a city and county, the mayor may appoint one member.

(3) One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.

(4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the county board of supervisors.



(7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.

(k) The governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2018, or any member position that remains vacant for more than 60 days.

(l) Commencing on and after July 1, 2018, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (j).

(m) Any oversight board for a given successor agency, with the exception of countywide oversight boards, shall cease to exist when the successor agency has been formally dissolved pursuant to Section 34187. A county oversight board shall cease to exist when all successor agencies subject to its oversight have been formally dissolved pursuant to Section 34187.

(n) An oversight board may direct a successor agency to provide additional legal or financial advice than what was given by agency staff.

(o) An oversight board is authorized to contract with the county or other public or private agencies for administrative support.

(p) On matters within the purview of the oversight board, decisions made by the oversight board supersede those made by the successor agency or the staff of the successor agency.

(q) (1) Commencing on and after July 1, 2018, in each county where more than 40 oversight boards were created by operation of the act adding this part, there shall be five oversight boards, which shall each be staffed in the same manner as specified in subdivision (j). The membership of each oversight board shall be as specified in paragraphs (1) through (7), inclusive, of subdivision (j).

(2) The oversight boards shall be numbered one through five, and their respective jurisdictions shall encompass the territory located within the respective borders of the first through fifth county board of supervisors districts, as those borders existed on July 1, 2018. Except as specified in paragraph (3), each oversight board shall have jurisdiction over each successor agency located within its borders.

(3) If a successor agency has territory located within more than one county board of supervisors' district, the county board of supervisors shall, no later than July 15, 2018, determine which oversight board shall have jurisdiction over that successor agency. The county board of supervisors or their designee shall report this information to the successor agency and the department by the aforementioned date.

(4) The successor agency to the former redevelopment agency created by a county where more than 40 oversight boards were created by operation of the act adding this part, shall be under the jurisdiction of the oversight board with the fewest successor agencies under its jurisdiction.

(Amended by Stats. 2015, Ch. 325, Sec. 11. Effective September 22, 2015.)

Countywide RDA Oversight Board

San Diego Cities RDA Sucessor Boards	Largest AB8 Special Districts Within RDA Sucessor Boundaries
Carlsbad	Tri-City Health Care District
Chula Vista	Otay Water District
El Cajon	Grossmont Health Care District
Escondido	Palomar Pomerado Health Care District
Imperial Beach	San Diego Water Authority
La Mesa	Grossmont Health Care District
Lemon Grove	Grossmont Health Care District
National City	San Diego Water Authority
Oceanside	Tri-City Health Care District
Poway	Palomar Pomerado Health Care District
San Diego	San Diego Water Authority
San Marcos	San Marcos Fire Protection District
Santee	Padre Dam Municipal Water District
Solana Beach	Santa Fe Irrigation District
Vista	Palomar Pomerado Health Care District

* Determined by Auditor-Controller and Automatic Seat on Sucessor Board



All AB8 Special Districts Within RDA Sucessor Boundaries
Lakeside Fire Protection District
Lower Sweetwater Fire Protection District
San Miguel Consolidated Fire Protection District
North County Cemetary District
Pomerado Cemetery District
Grossmount Health Care District **
Palomar Pomerado Health Care District **
Tri-City Health Care District **
San Diego Resource Conservation District
San Marcos Fire Protection District **
Lakeside Water District
Santa Fe Irrigation District **
Leucadia Wastewater District
Vallecitos Water District
Carlsbad Municipal Water District
Olvenhain Municipal Water District
Otay Water District **
Rincon del Diablo Municipal Water District
Padre Dam Municipal Water District **
San Diego County Water Authority **
County of San Diego Street Lighting District
County Service Area No. 17 (San Dieguito)
County Service Area No. 69 (Heartland)
County Service Area No. 115 (Pepper Drive)
San Diego County Flood Control District

** Currently Seated on One or More RDA Sucessor Agencies' Board of Directors

Independent Districts

Dependent Districts