

**Continuity Report on
Santa Cruz County Grand Jury 2011-12 report
Protecting Our Special Districts: Is There Any Oversight?**

The 2012-13 Grand Jury has the following comments on the responses given by the Local Agency Formation Commission (LAFCO) to the 2011-12 Grand Jury's findings and recommendations.

One of the findings of the 2011-2012 Final Report is that LAFCO does not have any system in place to do proactive "service reviews" of any special district upon becoming aware of facts indicating financial/operational problems that threaten to adversely affect a district's services to its citizens. According to its responses to the Grand Jury's findings and recommendations, LAFCO sees that it has four legal duties regarding special districts: 1) to authorize the formation of a special district; 2) to determine that district's "sphere of influence" ; 3) to evaluate a district's request to alter its geographic boundaries; and 4) once every five years, to conduct a service review of each special district over which LAFCO has jurisdiction. LAFCO's position is that this is all it is *obligated* to do under applicable law (the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000)¹ . LAFCO states that it lacks the funding and personnel to exercise the more "proactive" oversight, even for problem districts, that the Grand Jury recommends. Indeed, LAFCO'S responses to such recommendations clearly state that it intends to keep operating as it has historically done and is neither obligated nor disposed to expand its oversight activities.

The Grand Jury disagrees with LAFCO as to the scope of its legal oversight obligations under the Hertzberg Act. According to that law, LAFCO initially determines a special district's sphere of influence and "*shall as necessary* review and update each sphere of influence," but at minimum this must occur every five years² (italics added). In conjunction with its sphere of influence update, LAFCO must also perform a "service review" of the district's "municipal services provided in the county"³ . Following such a review, LAFCO "shall prepare a written statement of its determinations" of six specified items. Two of these items are "(3) Financial ability of agencies to provide services" and "(6) Any other matter related to effective or efficient service delivery, as required by commission policy."³

Thus, it is the Grand Jury's opinion that LAFCO is legally obligated to perform a service review of a special district in two instances: once every five years and "as necessary". The major problems of the Lompico County Water District (LCWD) would have been discovered (and possibly prevented) if LAFCO had proceeded in accordance with its duties. As the legal entity with oversight of the county's special districts, LAFCO was surely aware of LCWD's problems such that an "as necessary" service review was indicated. But LAFCO did not act.

¹ California Government Code §56000 et seq.

² §56425(g)

³ §56430(a)

The Grand Jury believes that LAFCO should have the funds and personnel available to effectively oversee these matters and, importantly, act when it detects a problem district. The Grand Jury does not feel that adhering to a simple once-every-five-years service review is the best course for serving the interests of the citizens residing in Santa Cruz County's special districts.