



2005-2006 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

INDEPENDENT SPECIAL DISTRICTS – OVERSIGHT FALLS FAR SHORT!

Summary

Most citizens are not aware that special districts are agencies of California state, county, and municipal governments. In Santa Clara County (County), special districts and related organizations spend approximately \$1 billion annually (equivalent to almost 1/3 of the annual County budget) and are responsible for \$2 billion in debt, as of Fiscal Year (FY) 2003 (see Appendix B). In 2000, a California Little Hoover Commission (LHC) did a comprehensive review of these government agencies and concluded that “independent special districts often lack the kind of oversight and citizen involvement necessary to promote their efficient operation and evolution.”

To examine the current level of oversight, the 2005-2006 Santa Clara County Civil Grand Jury (Grand Jury) randomly selected four independent special districts. The Grand Jury found that, six years after its publication, the observations and conclusions of the LHC report are still valid for all four of the following districts reviewed:

- Guadalupe-Coyote Resource Conservation District
- Loma Prieta Resource Conservation District
- Saratoga Cemetery District
- South Santa Clara Valley Memorial District

The Grand Jury makes both systemic and district-specific findings and recommendations summarized as follows:

ISSUES THAT APPEAR TO BE SYSTEMIC

1. The special districts reviewed appear to be essentially invisible to County government and to the public, thereby making effective oversight and accountability impossible. A lead County role (management-audit agent) for regular oversight of special districts should be established.
2. LAFCO provides little guidance or impetus for streamlining special districts. Reasons for the continued existence of special districts seem never to be questioned and re-validated. LAFCO should refocus its efforts and coordinate

with the proposed County oversight function, including decisions about consolidation and/or dissolution of districts where appropriate.

3. Prudent financial oversight and accountability appear to be lacking:
 - 3a. The proposed annual budgets of Districts appear to receive no review in terms of performance and management from the County. The County Board of Supervisors (BOS) should implement a management review process, including evaluation of accomplishments against measurable objectives and an assessment of value added to the community.
 - 3b. Property tax revenues are apportioned to special districts in an automatic, ongoing manner according to formulas at the state level. The proposed management-audit agent should require districts to justify their financial plans, independent of formulaic property tax allocations.
 - 3c. The Grand Jury could not identify any guidelines for managing financial reserves of special districts within the County. An advisory panel should be formed, including financial management expertise from local industry and other government agencies, to help establish and implement prudent best-practice guidelines for determining appropriate reserve levels and for their management.
4. Mechanisms are lacking to inform and engage the public affected directly by special districts so they can understand and judge the appropriateness, effectiveness, and efficiency of district activities.
 - 4a. Property tax bills show little detail of where public money is going. Mechanisms should be developed to make it easier for individuals to obtain information about how their tax dollars are spent.
 - 4b. Results of district analyses done by the management-audit agent in Recommendation 1 should be made publicly available.

ISSUES RELATED TO INDIVIDUAL DISTRICTS

5. The budget management processes of Guadalupe-Coyote and Loma Prieta Resource Conservation Districts do not appear to meet prudent financial practices that best serve the public interest. The Districts should create plans containing up-to-date, and measurable objectives. The District budget should be structured and managed in accordance with these District plans.
6. The Guadalupe-Coyote and Loma Prieta Resource Conservation Districts have not held elections for board members in at least the last four years. Vacant board positions are most often filled by appointment by the BOS with minimal public review. The BOS should promote public elections. If that is not possible, the BOS should openly recruit fully qualified and competent candidates and conduct an interview/selection process in a manner similar to that used to select managerial-level county employees.

7. Each of the four Districts examined has a substantial discretionary reserve balance which the Grand Jury was unable to assess for lack of accepted criteria and management justification. The reserves of each special district should be reviewed regularly and adjusted in accordance with the criteria established under Recommendation 3c.
8. The non-property tax revenues of the Saratoga Cemetery District are nearly sufficient to fund that District solely as an enterprise district. The status of the District should be re-evaluated.
9. The South Santa Clara Valley Memorial District's internal financial statements contain numerous errors and offer no comprehensible audit trail of District activities. If District management cannot remedy these serious shortcomings immediately, the BOS should replace the existing board with persons who can effectively oversee District affairs. This board should hire, using accepted County procurement procedures, a qualified outside management firm to conduct operations.

Background

WHAT ARE SPECIAL DISTRICTS?

Special districts are “agencies of the state for the local performance of governmental or proprietary functions within limited boundaries” (see Government Code § 16271 (d); Mizany and Manatt, “What’s So Special About Special Districts?”; and the LHC report). Simply stated, a special district is a separate agency of local government that delivers public services to a particular area – from airports to zoos. Fire districts, irrigation districts, pest abatement districts, and others exist ostensibly because taxpayers want and are willing to pay for the public services provided (see Appendix A). Special districts localize the costs and benefits of public services. An elected or appointed board governs each district and has corporate power (the ability to make decisions and get things done) and tax powers (the authority to raise money). Very rarely do special districts have police power (the authority to regulate private behavior to accomplish a public goal).

Special districts may have a combination of the following characteristics:

- *Single-function* (e.g., sewer service) or *multi-function* (water sales and creek management). About 85% of special districts in the State are single-function
- *Enterprise* (fee supported) or *non-enterprise* (tax supported). About 27% of the special districts in the State are enterprise
- *Independent* (self-governed by a Board of Directors) or *dependent* (governed by a county board of supervisors or a city council). About 65% of the special districts in the State are independent

To provide further perspective, it should be noted that special districts are distinct from:

- State, county, or city government
- School districts
- Benefit assessment (Mello-Roos or Proposition 218) districts – these only serve to raise money and do not deliver services
- Redevelopment agencies, which serve to eliminate blight

Special districts most often operate under a *principal act*, one of about 60 generic California statutes that apply to special districts of particular types. For example, the Fire Protection District Law of 1987 in the State Health and Safety Code governs all 386 fire districts in the State. When local circumstances fail to fit the conditions anticipated by a generic principal act, the Legislature may create a *special act* district tailored to the unique needs of a specific area. For example, the Santa Clara Valley Water District was created in 1968 by a special act of the Legislature (Santa Clara Valley Water District Act, California Water Code Appendix, Chapter 60).

WHAT ARE LOCAL AGENCY FORMATION COMMISSIONS OR LAFCOS?

LAFCOs were introduced into California law in 1963 to deal with the explosive post World War II growth that resulted in the formation of many new local government agencies, often with no coordination or adequate planning. LAFCOs were intended to put order on the multitude of overlapping, inefficient jurisdictional and service boundaries; and to manage the conversion and loss of California's agricultural and open-space lands. Today, each county has a LAFCO whose goals are to:

- Encourage the orderly formation of local governmental agencies
- Preserve agricultural land resources
- Discourage urban sprawl

An important charge given to these commissions in 1972 was the adoption of the concept of managing spheres of influence for local governments (California Government Code § 56000 et seq.). A sphere of Influence is the physical boundary and service area boundary that a local government agency is expected to serve. Establishment of these boundaries is necessary to determine which governmental agencies can provide services in the most efficient way to the people and property in a given area. "Regulatory powers authorize LAFCO to control city and special district boundaries and service provisions. Planning powers allow LAFCOs to influence land use. Although it is not authorized to make any land-use decisions, many LAFCO actions indirectly affect land use ... LAFCOs regulate, through approval or denial, the boundary changes proposed by other public agencies or individuals." In 1994, an important statutory

change authorized LAFCO to initiate proposals for the consolidation and dissolution of special districts.

LAFCO AND SPECIAL DISTRICTS IN SANTA CLARA COUNTY

LAFCO in Santa Clara County consists of a total of five members – two members from the BOS, one from the San Jose City Council, one from another City Council within the County, and one public member chosen by the other four members. This Commission lists about 30 special districts in the County over which it has jurisdiction. About 30 additional entities exist in the County, including other special districts, Joint Powers Authorities (JPAs) and financing authorities, over which LAFCO has no authority.

Meetings of County special districts must be open to the public, and are held periodically (twice monthly, monthly, or quarterly, depending upon the district). As public agencies, the districts are subject to the Brown Act (Government Code § 54950 et seq.). Announcements of district meetings and agenda notices are posted in advance, sometimes in local newspapers and, increasingly, using electronic mail and websites.

Depending on the nature and size of a district and its financial resources, it may have the option of managing its own finances or using County services. The Controller-Treasurer's Office of the County Finance Agency may serve as the steward of District funds, thereby assuring professional oversight of District assets.

Elections to independent District Boards are carried out by the Registrar of Voters, who advertises district elections, makes candidates' statements available, verifies residences and/or other requirements for participation in each District election, and issues statements of election to be forwarded to the Board of Supervisors.

RESOURCE CONSERVATION DISTRICTS (RCD)

Division 9 of the California Public Resources Code (Resource Conservation) establishes the framework for conducting the business of resource conservation in California. It delineates responsibilities, authorities, and operation of various resource divisions and commissions, including Resource Conservation Districts, known formerly as Soil Conservation Districts. Division 9 history dates back to the 1930s when it was recognized that local participation and leadership were required to combat the degradation of land resources. In 1937, the federal government introduced Standard State Conservation District Law, more commonly known as the Standard Act. California adopted a modified version of this Act in 1938, which became Division 9 of the California Public Resources Code. The main difference between the state and federal versions of this code is that Division 9 authorized Soil Conservation Districts to levy property taxes to fund their activities.

Division 9 was periodically repealed and reenacted over the ensuing decades, with the last general revision occurring in 1975. Resource conservation spending within the state reached an all time high in 1967, but was severely reduced through the next decade. In 1978, the Soil Conservation Commission ceased to function, even though

Division 9 still authorized its existence. Further impacts occurred in 1978 with the passage of Proposition 13. Since 1987, resource conservation programs have again received expanded State support.

The powers and responsibilities of RCDs are broad as outlined in Public Resources Code § 9151 et seq. Statutes encourage the election of district board members, but in 1985 a change was introduced (§ 9314). This section provides an option under which a board of supervisors, upon written district request, may appoint district board directors. This provision apparently was passed because of numerous uncontested elections and/or insufficient district monies available to conduct elections.

Under § 9413, district boards are encouraged, but not required, to develop, adopt, and update one- and five-year plans with measurable goals and accomplishments. Such plans can provide a concrete basis for district budgeting, estimating resource requirements, communicating results with the public, and making district management more transparent.

Guadalupe-Coyote RCD

The Guadalupe-Coyote RCD was named in 1995, and has its roots in the Black Mountain and Evergreen Soil Conservation Districts which date back to the mid-1940s. In 1972, the original Evergreen Soil Conservation District was renamed as the Evergreen Resource Conservation District. In 1977, it merged with the Black Mountain District. In 1995, the current name was adopted to better reflect the District's boundaries and scope of interests. The area within this District includes at least a portion of ten distinct watersheds. It lies on the east and west sides of northern Santa Clara Valley and encompasses approximately 557 square miles (see Figure 1).

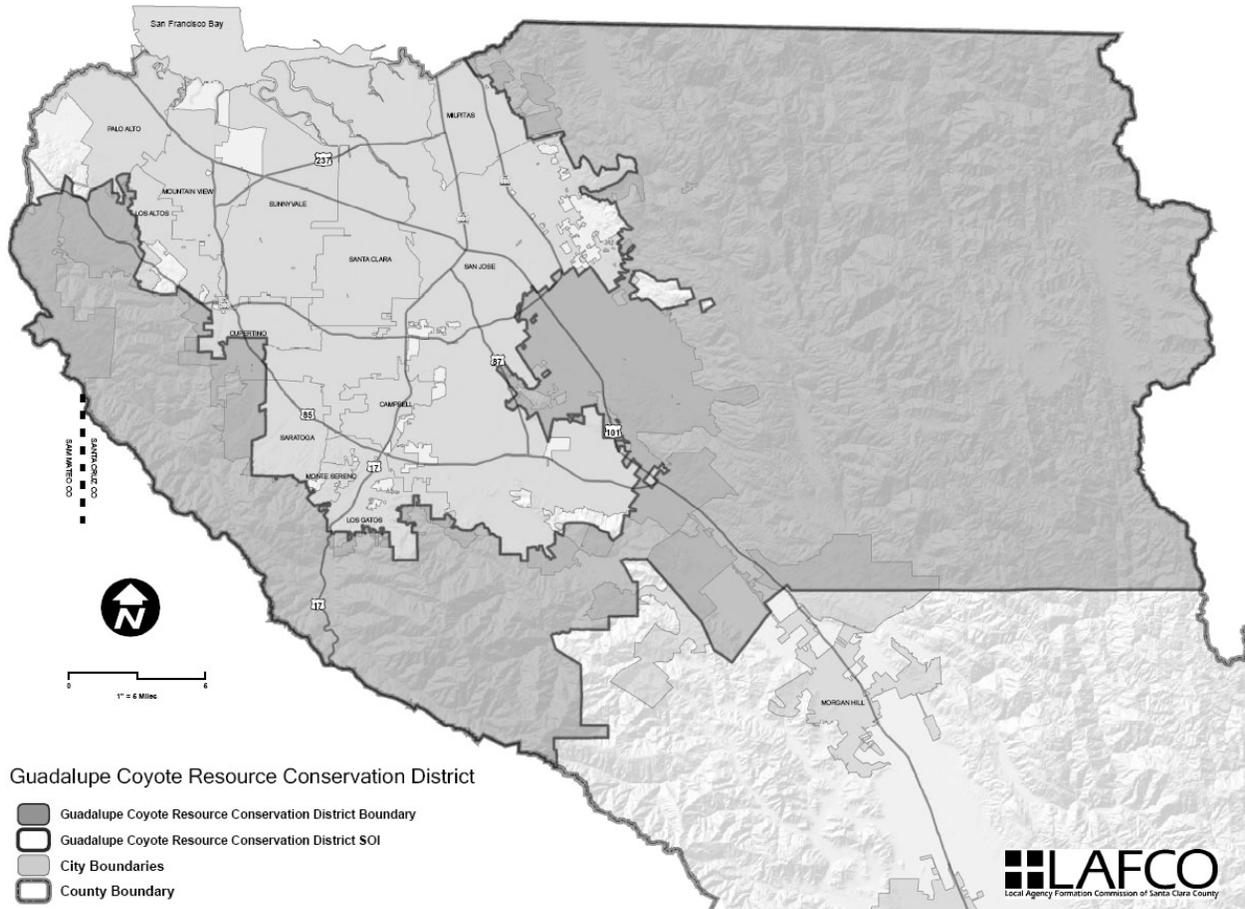


Figure 1: Sphere of Influence for Guadalupe-Coyote Resource Conservation District

Loma Prieta RCD

The Loma Prieta RCD was formed in 1942 to develop and administer a program of soil, water and related resource conservation services for the southern portion of Santa Clara County and a portion of northern San Benito County. The District boundaries have changed over time, and the District now serves an area within southern Santa Clara County of approximately 463 square miles (see Figure 2).

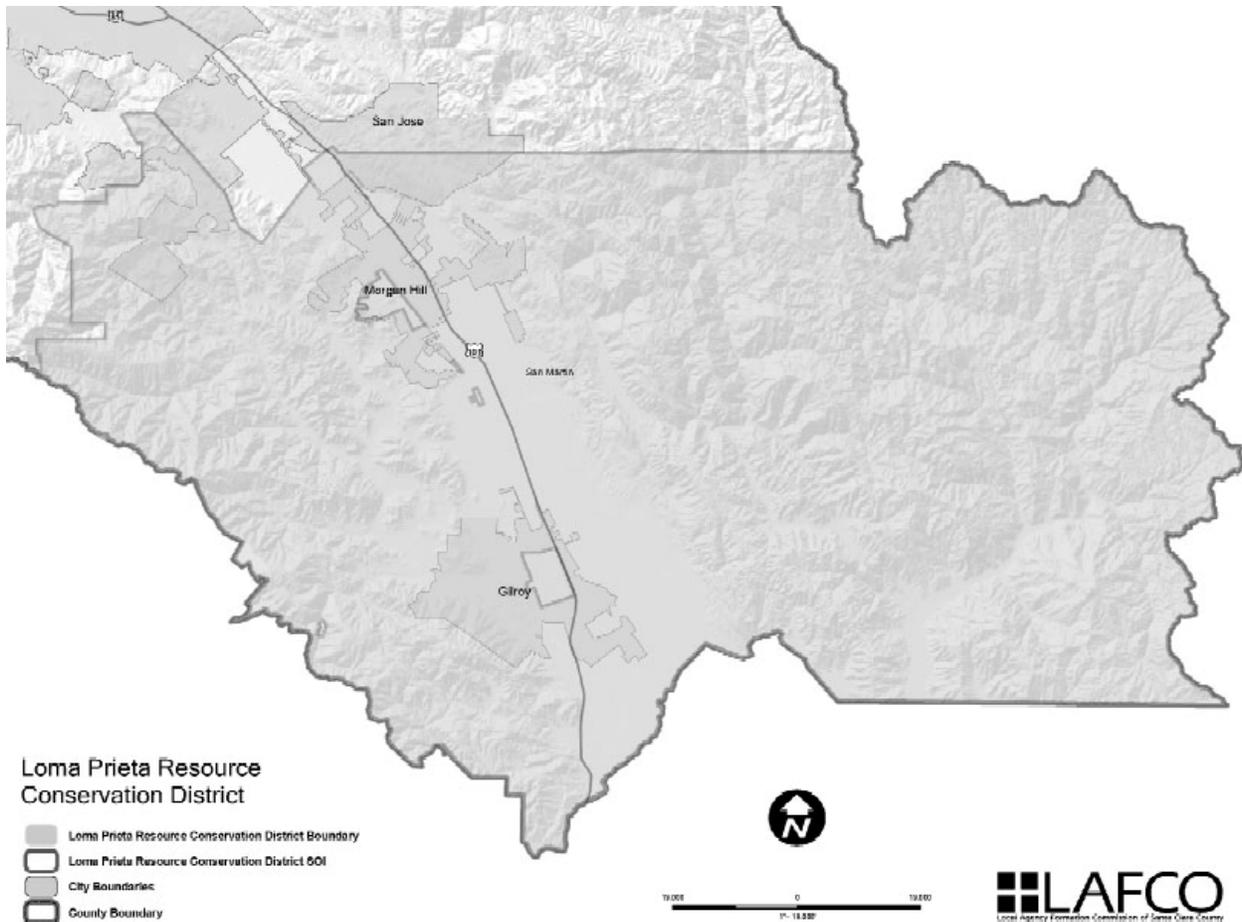


Figure 2: Sphere of Influence for Loma Prieta Resource Conservation District

SARATOGA CEMETERY DISTRICT

The Saratoga Cemetery District governs the Madronia Cemetery in Saratoga. It is the city’s oldest institution, serving the community since 1854, when it originated as a potter’s field. Over the years, the cemetery size has increased from its original two acres. In 1987, the area served by the District expanded from the Saratoga Union Elementary School District to include all of Saratoga and Monte Sereno. In 2003, the District increased its cemetery land size by two acres, through a purchase of adjoining land for the sum of \$1,600,000, and is now 12½ acres in size. From its original purpose, this cemetery has evolved into an upscale community cemetery, serving the affluent communities of Monte Sereno and Saratoga.

This District is chartered by the California State Health and Safety Code § 9000, known as the Public Cemetery District Law. In 1909, the Legislature authorized the creation of public cemetery districts “to assume responsibility for the ownership, improvement, expansion, and operation of cemeteries and the provision of interment services from fraternal, pioneer, religious, social, and other organizations that were unable to provide for those cemeteries.” This law has been in existence for nearly a

century, and interment customs and practices have changed considerably during that time. However, "it is the intent of the Legislature to create and continue a broad statutory authority for a class of special districts that can own, improve, expand, and operate public cemeteries that provide respective and cost-effective interments."

SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT

The South Santa Clara Valley Memorial District is chartered under the California Military and Veterans Code. It was formerly called the South Santa Clara Valley War Memorial District and was established in 1946 by State mandate with County funding at its present location. By current code requirement, the District lies entirely within Santa Clara County. Gilroy is the only incorporated city within the District, and includes approximately 40% of the District population.

The District serves the non-medical social needs of veterans residing in the area, and provides free or low-cost facilities for veteran groups. Division 6 of the Military and Veterans Code deals with Veterans' Buildings, Memorials, and Cemeteries. Of particular interest are § 1190 et seq. which address the following management powers and rights of memorial districts:

1. Provide for and maintain halls, buildings, facilities and recreation parks and facilities for use by veterans and certain non-veterans.
2. Purchase, or otherwise obtain, real or personal property related to the above.
3. Purchase, construct, lease, or build facilities related to the above.
4. Provide furnishings for above facilities.
5. Enter into agreements with public authorities or agencies for leases and/or rentals of said district properties.
6. Sell or lease district property to responsible private bidders.
7. Sell or lease district property to government agencies.
8. Adopt rules and regulations for facilities use.
9. Enter into Joint Power Agreements (JPAs) for senior citizen or recreational services.

At present, four veterans' groups use the building as their meeting place, including American Legion Posts 217 and 669, Veterans of Foreign War Post 6309, and the Gilroy Chapter of the American GI Forum. The building also houses the Ladies' Auxiliary of VFW Post 6309. Activities are conducted according to user, national, or state organization mandates, and the District does not dictate user group policies.

Discussion

Only four relatively large special districts in Santa Clara County have received significant Grand Jury attention in the past eight years – the Santa Clara Valley Water District, the Santa Clara Valley Transportation Authority, the Santa Clara Valley Vector Control District, and the Saratoga Fire District. The 2005-2006 Grand Jury undertook the current review in response to a recommendation by the 2004-2005 Grand Jury that more detailed reviews of independent districts be conducted in the future.

The following presents the results of the Grand Jury inquiry into County and district management and oversight procedures for the four randomly chosen, independent districts. The inquiries were conducted by reviewing district documents, interviewing district board and management personnel, attending various district public meetings, interviewing LAFCO management, reviewing LAFCO documents, and interviewing the County Controller-Treasurer.

SYSTEMIC ISSUES AND SANTA CLARA COUNTY OVERSIGHT

This section discusses the following observations:

- For the most part, special districts are ignored by County Government and are invisible to the public
- LAFCO provides little oversight of special districts. Reasons for continued existence of special districts seem never to be questioned or re-validated
- Prudent financial oversight and accountability appear to be lacking in three of the four districts investigated
- Property tax allocations are automatic and are essentially viewed by the districts as entitlements
- Guidelines for managing cash reserves do not exist

The Grand Jury investigated the budget review process for the four subject independent special districts. Annual budgets are submitted to the Controller-Treasurer's Office, where they are checked for minimum accounting requirements and filed. Districts receive tax income based on complex apportionment formulas, independent of their self-generated and self-approved budgets. Based on budget preparation procedures reviewed by the Grand Jury, some districts appear to view this income essentially as an entitlement. Budgets often take little account of the previous year's actual expenditures, revenue from other sources, reserve account balances, or other liquid assets.

For the most part, the laws that establish and set out the authorities of independent special districts do not provide for County oversight. The law establishing the Santa Clara Valley Water District (SCVWD), which is not a subject of this report, is an exception (California Water Code Appendix, Chapter 60, 1968). In this act, § 20 establishes an annual District budget oversight authority for the BOS. In the past year,

this authority has been the subject of discussion between the SCVWD and the BOS and an effort is underway to sever this oversight through legislative modification to the SCVWD Act. Rather than severing it, the Grand Jury believes it might better serve as a model for establishing improved oversight for other special districts in the County.

The Grand Jury found no evidence that anyone in the County exercises effective oversight of special districts, including LAFCO. Similarly, there is no assessment or re-validation of reasons for continued existence of these districts. Once established, districts seem to perpetuate themselves, even if their original reasons for existence may no longer be valid. In two of the four districts investigated, the Grand Jury could find no evidence of measurable services or benefits resulting from district activities. LAFCO service reviews, covering the special districts included in this report, appear to be highly general in nature and provide little insight into the efficiency and effectiveness of district operation.

County LAFCO, by its own admission, spends very little time on special district oversight. It is understaffed and lacks expertise and resources to ensure accountability by special districts to the people they serve. For example, LAFCO currently contracts for and issues infrequent reviews of special districts. The current reports examined by the Grand Jury for the two RCDs covered in this inquiry contain mostly “boilerplate” information and no detail about measurable district goals and accomplishments.

The four districts that are the subject of this report appear to have levels of reserves that are difficult to justify. Some districts assert that these reserves are needed to pay for future or unplanned projects. The Grand Jury could not find any guidelines for districts about accumulating or using reserves. Unless the money is held by the County, reserves invested by a district are effectively invisible to the County and there is no oversight of the investment practices. Much more transparency and consistency appear necessary. As noted in the LHC report six years ago, “Property tax bills should identify for taxpayers the independent special districts that provide services to them, along with the tax allocation, reserves and other financial information about those districts.” Such documentation should answer for the taxpayer why these funds should be held in district accounts rather than being returned to the taxpayers themselves.

The Grand jury contends that most of the public does not know that these special districts exist or how much of their money is directed to each district. Elections are of little interest to the public. Candidates for board seats are often unopposed, resulting in appointments by the BOS. Individual property tax bills bear no indication of allocations to most special districts. There is a complicated mechanism by which a member of the public can enter their APN (Assessor’s Parcel Number) into a website at the County Assessor’s Office (<http://www.sccgov.org/portal/site/asr/>) and get a breakdown of their overall property tax bill, including which special districts they are supporting. To find out what tax rate applies to each of these districts, the user has to navigate to still other sites for the County Finance Agency and the Association of Bay Area Governments to look up district-specific information in various tables. The Grand Jury believes that this process is much too cumbersome and that very few members of the public know about it, much less have the expertise to access the information available.

GUADALUPE-COYOTE AND LOMA PRIETA RCDS

The Grand Jury met with Guadalupe-Coyote and Loma Prieta RCD officials, reviewed documents provided by the Districts, and attended public meetings. Documentation reviewed included meeting agendas and minutes, budget statements, general ledger statements, annual and long-range plans, and other general information documents.

This section discusses the following observations:

- Budget processes lack rigor and transparency, and do not follow acceptable financial practices, especially for the Guadalupe-Coyote RCD
- RCD work plans and reports do not contain measurable goals and accomplishments
- RCD board members are often appointed by the BOS, further reducing public visibility of the District
- Discretionary reserves appear to be substantial and lack justification

These RCDs are funded primarily by property tax apportionments, as well as investment interest income. The District Boards meet regularly each month. Board members do not receive a stipend for meeting attendance but are compensated for travel and miscellaneous expenses.

The Grand Jury has no reason to doubt that the boards of these Districts are well intentioned. However, from recent annual District progress reports, the Grand Jury did not find evidence of measurable goals and accomplishments of these two Districts.

Budgets

The Guadalupe-Coyote RCD budgets were compared for FYs 2004 and 2005. Overall, the budgets appear to be inflated by 100-200% per year over actual expenditures. When asked how the next year's budget was formed, the District staff response was, "Any budget surplus from the old Fiscal Year is rolled over and added to the estimated amount we receive from the county. That makes up our estimated budget for the new Fiscal Year." In the opinion of the Grand Jury, the Guadalupe-Coyote budget process does not meet acceptable business practices.

Table 1 shows budgets and actual expenses, illustrating the inflated nature of the budgets. The budget for each year is set to the property tax revenue for the current year plus the unexpended balance from the previous year. Nothing in the current budget process affects the allocation of the property tax monies to this District. In addition, the District had approximately \$161,000 in reserves invested with the County, as of June 30, 2005.

Fiscal Year	2004	2005
Income (budget)	\$255,000	\$241,000
Actual expenses	\$108,701	\$ 75,779
% of income over actual expenses	135%	218%

Table 1: Summary of Guadalupe-Coyote RCD Income and Expense

The Loma Prieta RCD actual expenditures more closely track income, i.e., property tax revenues, as shown in Table 2. In addition, the District had approximately \$93,000 in reserves invested with the County, as of June 30, 2005.

Fiscal Year	2004	2005
Income (budget)	\$45,225	\$45,825
Actual expenses	\$43,746	\$34,927
% of income over actual expenses	3%	31%

Table 2: Summary of Loma Prieta RCD Income and Expense

Work Plans Encouraged by Statute

Public Resources Code § 9413 states: “Each district may develop district-wide comprehensive annual and long-range work plans as provided in this section. These plans shall address the full range of soil and related resource problems that are found to occur in the district.” Consistent with the long-range district plan, the relevant parts of Paragraph (c) state: “The annual work plans shall serve the following functions:

1. “Identification of high priority actions to be undertaken by the district during the year covered by the plan.
2. “Identification of the person or persons responsible for undertaking each planned task, how it will be performed, when it will be completed, what constitutes completion, and the cost.
3. “Demonstration of the relationship of annual tasks to the long-range district goals identified in the long-range work plan. ... ”

Paragraph (d) provides for an annual report that “shall serve the following functions:

1. “To report on the district’s achievements during the reporting period to the commission, the department, the board of supervisors of any county in which the district is located, and any agency that review(s) district requests for funding assistance.
2. “To increase public awareness of district activities.
3. “To compare district accomplishments during the reporting period with annual work plan objectives for that period and to identify potential objectives for the next annual work plan.”

The Grand Jury examined the one- and five-year plans of both the Guadalupe-Coyote and Loma Prieta RCDs, and found them to be very general in nature and without measurable objectives. These RCDs claim to participate in a wide variety of resource conservation activities, such as watershed, floodplain, and riparian corridor management. They also claim to be active in creek stewardship, soil conservation, rural landowner workshops, and farm/range land management. It is difficult to determine what, if any, actual accomplishments have resulted from their activities. The stated activities of these Districts are described by verb phrases such as “participate in,” “increase participation in,” “monitor,” “interface with,” “seek funding to allow,” “influence,” “review,” “encourage,” “co-sponsor,” “promote,” “continue to attend,” “communicate,” “provide guidance,” etc. When asked about specific accomplishments, the Districts acknowledged that their achievements are difficult to quantify, and are more of an ongoing nature. No specific measurable goals, achievements, or assigned personnel were included in the plans and reports, as detailed by Division 9 Code. The annual work plans for the Loma Prieta RCD are generic to the extent that the FY 2003 and FY 2004 plans are word-for-word identical.

District Board Elections

Public Resources Code § 9301 et seq. provide for elections of board members in special districts. It also provides for alternative approaches where candidates are uncontested or election costs are prohibitively high. The alternative (§ 9314) allows the BOS to appoint district board members, or select them based on an interview process. The Guadalupe-Coyote RCD has not had a board member election since before 2002. Nevertheless, \$70,000 was budgeted for an election in FY 2004. The District stated that this was done in order to pay for a possible election which was never held. \$5,000 was budgeted for an election the following year which was also not held.

The Grand Jury believes that these budget items are unwarranted under the circumstances, and simply reflect an excuse to appear to balance the budget. More importantly, appointing rather than electing board members further reduces transparency and accountability of the District to the public.

SARATOGA CEMETERY DISTRICT

The Grand Jury visited this District and reviewed budget statements, financial statements, and other descriptive documentation. District board members are appointed by the BOS and receive a stipend (\$100) for each meeting. They are compensated as well for attending relevant outside meetings and travel expenses. This District appears to be well-organized, and the general manager is knowledgeable about District activities and cemetery governance codes.

This section discusses the following findings:

- This District could be essentially self-sufficient as an enterprise district
- This District has substantial discretionary reserve funds, about \$1,300,000

- This District appears to do a business-like job of budgeting

Revenue and expenses for FYs 2002, 2003 and 2004 are shown in Table 3.

Fiscal Year	2002	2003	2004
Property tax allocation	\$400,000	\$423,000	\$430,000
Enterprise and other income	\$405,000	\$450,000	\$414,000
Total income	\$805,000	\$873,000	\$844,000
Actual expenses	\$399,000	\$428,000	\$433,000
% of income over actual expenses	102%	104%	95%

Table 3: Summary of Saratoga Cemetery District Income and Expense

For the three years shown, about 50% of the annual income was unspent. The income from other than property tax allocation is nearly sufficient to fund this District as an enterprise district (or a stand-alone business). The District acknowledged this condition, and stated that in order to sustain itself without tax income, fees would have to be increased somewhat.

Unspent income is allocated to four reserve funds—Maintenance and Operations, Land Acquisition and Capital Improvement; Endowment Care, and Pre-Need. At present, there is no active long-term capital acquisition plan. The Endowment Care Fund and Pre-Need Fund are restricted by law and proceeds can only be spent for designated purposes. Fund balances as of March 31, 2006 are seen below in Table 4. The two discretionary funds, Maintenance and Operations, and Land Acquisition and Capital, Improvement appear to be substantial. The Grand Jury could find no criteria for judging the appropriateness of current levels.

Maintenance and Operations	\$513,000
Land Acquisition and Capital Improvement	\$779,000
Endowment Care	\$1,461,000
Pre-Need	\$342,000
Total	\$3,095,000

Table 4: Details of Saratoga Cemetery District Reserve Fund Allocations

SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT

The Grand Jury visited this District and reviewed documentation covering board meeting agendas and minutes, budget statements, general ledger statements, and other descriptive information.

This section discusses the following findings:

- The District has no long-range management plan
- Financial skills of management personnel are questionable and need improvement
- Accurate internal month-to-month financial statements are not available
- Budgets appear to be inflated
- Reserves are high compared to expenses with no justification

In recent years, the District has contracted facility/property management to South Valley Property Management in Gilroy. The District pays a commission to the management company for all rentals secured. Rental of the building is available to the public, as well as to veterans. The facility has roofing problems and limited restroom and kitchen access for disabled persons. The District does not appear to have any long-range plan to address such issues. It has inquired of several real estate brokers/agents about alternate properties to replace the current facility. Sale of the existing facility is possible under the statutory powers of the District. It has no apparent plans for property sale or purchase at this time.

The internal monthly financial statements from this District were found to be in such disarray that it was not possible for the Grand Jury to reconstruct an audit trail of expenses. Month-to-month statements contain numerous significant errors which the District could not explain. The financial accounting is careless, difficult to follow, and does not meet acceptable practices. It appears possible that financial abuse could be masked by this disarray in the records and cash handling processes.

This District has an annual budget of about \$130,000. Little justification was offered for a \$14,000 budget increase (11%) in FY 2005. In FY 2004, the District underspent its budget by 20%. In FY 2005, the District came in 37% below the budgeted amount. Inflating or overstating budgets appears to be a routine practice. There has been no effective oversight of the financial practices of this District. It is cash-rich, with over \$238,000 in reserves as shown in recent County general ledger statements.

Conclusions

Three of the four selected special districts appear to be drifting along with minimal oversight of their management and financial practices. It is not apparent to the Grand Jury why two of the districts continue to exist, and why a third continues to receive property tax subsidy. County officials and the public appear to be uninformed and unengaged in district matters. If the status of these four randomly selected Districts is at all representative of the nearly 60 special districts, JPAs, and financing authorities in the County, then there is a serious systemic problem. Whereas the annual expenditures of most individual special districts may amount to a few hundred thousand or millions of dollars, in the aggregate, special districts in the County spend a

substantial amount of public monies (about \$1 billion annually). This lack of oversight seems to be endemic to the special district machinery established by the State Legislature. It permits failures in carrying out both County and special district management responsibilities.

The following details both systemic and district-specific Grand Jury findings and recommendations:

ISSUES THAT APPEAR TO BE SYSTEMIC

Finding 1

The special districts reviewed in this report are essentially invisible to County government and to the public, thereby making effective oversight and accountability impossible. The Board of Supervisors, LAFCO, the Controller-Treasurer, and County audit functions all appear to have no active continuing role in district oversight.

Recommendation 1

The County Board of Supervisors should begin immediate action to put in place a set of standards against which special districts are measured. They should also designate a management-audit agent (perhaps under the County Auditor's function) to perform regular performance, management, and financial audits. The mandate of this agent should be to assure prudent planning, budgeting, and control of activities and expenditures reflected in the substantial amounts of public monies involved.

Finding 2

LAFCO provides little guidance or impetus for the efficient management or streamlining of special districts. It only issues periodic generic service review reports containing information largely supplied by the districts themselves. Reasons for continued existence of districts appear never to be questioned or re-validated.

Recommendation 2

LAFCO should refocus its efforts and coordinate with the management-audit agent referenced in Recommendation 1. Efforts should more effectively provide performance, management, and fiscal evaluations, based upon community needs and benefits, including consolidation and/or dissolution recommendations for districts where appropriate.

Finding 3

Prudent County financial oversight and accountability of districts appear to be lacking.

- 3a. Proposed annual budgets of Districts appear to receive little to no review in terms of performance and management from the County.
- 3b. Property tax revenues are apportioned to special districts in an automatic, ongoing manner, almost as entitlements. No justifications for continued full allocations occur, even if sufficient reserves or other revenues are readily available to cover justified district expenses.
- 3c. The County does not monitor, nor does it have guidelines for determining, prudent levels or management of financial reserves for special districts.

Recommendation 3

The Grand Jury recognizes that the authority to oversee and control budgets, reserves, and functions of special districts rests by current statute with the boards of independent districts. The BOS should work with state legislative representatives to implement changes to the appropriate state laws to authorize the following detailed recommendations, perhaps using the precedent of the intended BOS oversight in the Santa Clara Valley Water District Act as a model.

- 3a. The BOS should implement a review process that examines budget details, including income and previous year actual expenditures against projections. This should include evaluating accomplishments against measurable objectives, and the value added by each district to the community. Management audits performed on a regular basis would aid in this process.
- 3b. The management-audit agent to be appointed under Recommendation 1 should require districts to justify their annual budgets in terms of plans, projected costs, and history of actual expenditures. These justifications should not rely on formulaic property tax allocations.
- 3c. The BOS should form a panel, including financial management expertise from local industry and other government agencies. This panel should advise on establishing prudent best-practice guidelines for financial reserve management. These guidelines should include quantitative actuarial approaches, along with policy practices to define appropriate reserve levels. The management-audit agent in Recommendation 1 should review special districts in the County for compliance with these reserve guidelines.

Finding 4

Special districts are essentially invisible to the public. Mechanisms are lacking to inform and engage the public affected directly by special districts so they can understand and judge the appropriateness, effectiveness, and efficiency of district activities. For example, there is no breakdown on property tax bills of the allocations to individual special districts.

Recommendation 4

- 4a. The County Assessor's website must be improved significantly in terms of usability. The property tax bill should have a pointer to the Assessor's website to make it easier, using best practices from e-commerce, for individuals to understand in detail how their tax dollars are spent.
- 4b. The results of analyses by the management-audit agent in Recommendation 1 should be made publicly available on a website, through printed documents in public libraries and government offices, and by inclusion in annual reports of individual special districts.

ISSUES RELATED TO INDIVIDUAL DISTRICTS

Finding 5

The budget management processes of Guadalupe-Coyote and Loma Prieta Resource Conservation Districts do not appear to meet prudent financial practices that best serve the public interest. No annual and long-range work plans containing specific measurable goals could be found. It is impossible to determine what, if any, demonstrable added value these two districts contribute.

Recommendation 5

Design, vet, and maintain annual and long-range district plans, such as described under Public Resource Code § 9413. These plans should contain complete, up-to-date, and measurable objectives. The district budget should be structured and managed in accordance with these district plans.

Finding 6

The Guadalupe-Coyote and Loma Prieta RCDs have not held elections for board members in at least the last four years. Vacant board positions, including uncontested re-election and mid-term vacancies, are most often filled by appointment by the BOS,

despite the fact that the legislature (in Public Resources Code § 9314) encourages public election of district directors. In practice, elections are considerably more expensive than appointments.

Recommendation 6

If the BOS is unwilling to make routine public election of board members economically affordable, then the appointment process should be made more accountable to the public. This means the BOS should openly recruit fully qualified and competent candidates and conduct an interview/selection process in a manner similar to that used to select managerial-level county employees. Lobbyists should be excluded from any such appointments.

Finding 7

Each of the four districts examined has a substantial discretionary financial reserve balance which the Grand Jury was unable to assess for lack of accepted criteria and management justification.

Recommendation 7

The reserves of each special district should be reviewed regularly and adjusted in accordance with the criteria established under Recommendation 3c.

Finding 8

The revenues of the Saratoga Cemetery District, other than property taxes, are nearly sufficient to fully fund that District as an enterprise district (or as a stand-alone business).

Recommendation 8

The Saratoga Cemetery District should be evaluated to determine if its status warrants change to be solely an enterprise district.

Finding 9

The South Santa Clara Valley Memorial District's internal financial statements contain numerous errors and provide no comprehensible audit trail of District activities. Meetings with District management confirmed, but provided no resolution of, these problems.

Recommendation 9

If South Santa Clara Valley Memorial District management cannot remedy these serious shortcomings immediately, the BOS should replace the existing Board with persons who can effectively oversee District affairs. This Board should hire, using accepted County procurement procedures, a qualified outside management firm to conduct operations.

PASSED and ADOPTED by the Santa Clara County Civil Grand Jury on this 16th day of May, 2006.

Thomas C. Rindfleisch
Foreperson

References

Documents

1. California State Controller's report, "Special Districts Annual Report 2002-03". <http://www.sco.ca.gov/ard/local/locprep/districts/02-03/0203specialdistricts.pdf> (last visited March 11, 2006).
2. Little Hoover Commission Report, "Special Districts: Relics of the Past or Resources for the Future?" May 2000, <http://www.lhc.ca.gov/lhcdir/report155.html> (last visited March 9, 2006).
3. Senate Local Government Committee report, Mizany K and Manatt A, "What's So Special About Special Districts? A Citizen's Guide to Special Districts in California," Third Edition, February 2002, <http://www.sen.ca.gov/locgov/wssasdreport.htm> (last visited March 9, 2006).
4. Santa Clara Valley Water District Act, California Water Code Appendix, Chapter 60, 1968 and subsequent modifications, http://www.scvwd.dst.ca.us/About_Us/District_Info/District_Act/Complete_text/District-2002.shtm (last visited May 7, 2006).
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7. E-mail from Guadalupe-Coyote RCD staff re district budgeting practices, November 8, 2005.
8. Demystifying the California Property Tax Apportionment System, David G. Elledge, Controller-Treasurer, County of Santa Clara.
9. Letter from Jeanie Guimarin, Controller-Treasurer office, County of Santa Clara, to Santa Clara County Special districts, Subject: Fiscal Year 2005 Approved Budgets (minimum SAP account number requirements).
10. Guadalupe-Coyote RCD Jan.2003 to Dec. 2003 Annual Report March 2004.
11. Guadalupe-Coyote RCD Budget Analysis Comparisons, 12 Periods Ended June 30 '04 and June 30 '05.
12. Guadalupe-Coyote RCD Annual Budgets, FYs 2004, 2005, and 2006.
13. Guadalupe-Coyote RCD Meeting Minutes, April 2005 – October 2005.

Documents – Continued

14. Guadalupe-Coyote RCD Long Range Plan 2004-2009.
15. Guadalupe-Coyote RCD Annual Report Jan. 2003 to Dec. 31, 2004 [sic].
16. Loma Prieta RCD Annual Work Plans, FYs 2003 and 2004.
17. Loma Prieta RCD General Ledger Account Analyses, Santa Clara County, FYs 2004 and 2005.
18. Loma Prieta RCD Board Meeting Minutes, July 2004 – October 2005.
19. Loma Prieta RCD Budgets, FYs 2003, 2004, 2005, and 2006 proposed.
20. Loma Prieta RCD Long Range Program, 2002-2007.
21. Countywide Water Service Review, LAFCO, Santa Clara County (Public Review Draft), March 2005.

Interviews

1. October 14, 2005, Executive Officer, Santa Clara County LAFCO.
2. November 9, 2005, Management Audit Manager, Santa Clara County Board of Supervisors Management Audit Division.
3. April 7, 2006, Saratoga Cemetery District General Manager.
4. April 19, 2006, Santa Clara County Controller-Treasurer.

Meetings Attended

1. August 16, 2005, Loma Prieta Resource Conservation District.
2. November 15, 2005, Loma Prieta Resource Conservation District.
3. September 6, 2005, Guadalupe-Coyote Resource Conservation District.
4. October 24, 2005, Guadalupe-Coyote Resource Conservation District.
5. December 5, 2005, California Special Districts Association Meeting, San Jose, CA.
6. April 3, 2006, Guadalupe-Coyote Resource Conservation District.
7. April 4, 2006, South Santa Clara Valley Memorial District.

Appendix A

Summary of Types of Special Districts in California

According to the Mizany and Manatt report, “What’s So Special About Special Districts?”, the following table shows the number of special districts in California by type for 1998-99, totaling 3,361 districts:

County Service Area	897
Fire Protection	386
Community Services	313
Cemetery	253
County Water	174
California Water	141
Reclamation	152
Recreation and Park	110
Resource Conservation	99
County Sanitation	91
Irrigation	97
Sanitary	76
Hospital	77
Public Utility	54
Mosquito Abatement	47
Storm Water Drainage and Conservation	49
County Waterworks	34
Municipal Water	40
Flood Control and Water Conservation	39
Water Agency or Authority	30
Memorial	27
Drainage	23

Levee	15
Harbor and Port	13
Library	13
Transit	13
Water Conservation	13
Airport	9
Water Storage	8
Citrus Pest Control	8
Waste Disposal	7
Pest Control	7
Municipal Improvement	5
Municipal Utility	5
Police Protection	3
Sanitation and Flood Control	2
Sewer	2
Water Replenishment	2
Bridge and Highway	1
Joint Highway	1
Metropolitan Water	1
Separation of Grade	1
Toll Tunnel Authority	1

Appendix B

Summary of Financial Information by Special District in Santa Clara County

The following data are derived from the California State Controller's report,
"Special Districts Annual Report 2002-03".

NAME OF SPECIAL DISTRICT	TOTAL REVENUES	TOTAL EXPENDITURES	TOTAL DEBT
ALDERCROFT HEIGHTS COUNTY WATER DISTRICT	\$154,511	\$172,777	
BAY AREA COMMUNITY COLLEGE DISTRICTS JPA	\$4,049,478	\$3,013,022	
BURBANK SANITARY DISTRICT (SANTA CLARA)	\$661,708	\$309,634	\$396,456
CENTRAL FIRE PROTECTION DISTRICT (SANTA CLARA)	\$53,816,754	\$54,834,985	\$4,380,000
CITY OF SAN JOSE BERRYESSA PROJECT CORPORATION (INACTIVE)	\$0	\$0	
CITY OF SANTA CLARA FACILITIES FINANCING CORPORATION	\$1,230,938	\$24,503,093	\$39,865,000
COUNTY LIGHTING SERVICE DISTRICT	\$322,659	\$313,612	
COUNTY SANITATION No. 2-3	\$2,061,049	\$2,097,295	\$1,371,667
CUPERTINO PUBLIC FACILITIES CORPORATION	\$4,312,449	\$9,865,705	\$54,770,000
CUPERTINO SANITARY DISTRICT	\$5,911,483	\$6,485,406	\$7,046,510
EL CAMINO HOSPITAL DISTRICT	\$8,664,000	\$223,000	
FIRST 5 SANTA CLARA COUNTY	\$27,271,090	\$17,777,285	
GAVILAN COLLEGE FINANCING CORPORATION	\$0	\$0	
GILROY U.S.D. SCHOOL BUILDING CORPORATION	\$2,945,297	\$3,799,562	\$28,585,000
GUADALUPE COYOTE R.C.D	\$120,365	\$131,014	
LAKE CANYON COMMUNITY SERVICE DISTRICT	\$68,250	\$111,848	\$250,000
LEXINGTON DRIVE MAINTENANCE DISTRICT (SANTA CLARA)	\$5,946	\$0	
LOMA PRIETA R.C.D.	\$43,571	\$36,666	
LOMA SERENA STREET LIGHTING MAINTENANCE DISTRICT	\$1,756	\$2,064	
LOS ALTOS HILLS COUNTY FIRE DISTRICT	\$4,759,449	\$3,179,233	
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT	\$22,070,132	\$25,357,792	\$117,505,859
MORGAN HILL WASTEWATER FACILITIES FINANCING CORPORATION	\$220,233	\$380,233	\$4,525,000
MOUNTAIN VIEW SHORELINE REGIONAL PARK COMMUNITY	\$24,181,000	\$10,290,000	\$55,025,000
NORTH COUNTY LIBRARY AUTHORITY	\$704,937	\$700,333	
NORTHERN CALIFORNIA COMMUNITY COLLEGE POOL	\$2,319,728	\$2,239,624	
OVERLOOK ROAD MAINTENANCE DISTRICT	\$21,532	\$5,554	
PALO ALTO PUBLIC IMPROVEMENT CORPORATION	\$1,336,844	\$2,495,293	\$12,905,000
PARKING AUTHORITY OF THE CITY OF SAN JOSE (INACTIVE)	\$0	\$0	
PURISSIMA HILLS WATER DISTRICT	\$3,406,650	\$2,843,939	
RANCHO RINCONADA RECREATION AND PARK DISTRICT	\$318,844	\$289,398	
RECLAMATION DISTRICT #1663 (INACTIVE)	\$0	\$0	
ROSE-ANDREWS STREET LIGHTING DISTRICT	\$1,203	\$1,033	
SAN JOSE CIVIC IMPROVEMENT AUTHORITY (INACTIVE)	\$0	\$0	
SAN JOSE FINANCING AUTHORITY	\$17,460,728	\$40,526,515	\$578,100,000

Appendix B - Continued

NAME OF SPECIAL DISTRICT	TOTAL REVENUES	TOTAL EXPENDITURES	TOTAL DEBT
SAN JOSE-SANTA CLARA CLEAN WATER FINANCING AUTHORITY	\$10,010,335	\$12,960,061	\$99,285,000
SAN MARTIN COUNTY WATER DISTRICT	\$0	\$0	
SANTA CLARA COUNTY ABANDONED VEHICLE ABATEMENT SERVICE AUTHORITY	\$1,441,101	\$1,441,101	
SANTA CLARA COUNTY BUILDING AUTHORITY (INACTIVE)	\$0	\$0	
SANTA CLARA COUNTY FINANCING AUTHORITY	\$21,625,356	\$35,001,110	\$517,505,767
SANTA CLARA COUNTY OPEN-SPACE AUTHORITY	\$12,807,085	\$7,123,710	
SANTA CLARA COUNTY PUBLIC FACILITIES CORPORATION	\$63,975	\$1,671,719	
SANTA CLARA COUNTY SCHOOLS INSURANCE GROUP	\$22,535,689	\$23,977,746	
SANTA CLARA COUNTY VECTOR CONTROL DISTRICT	\$2,711,158	\$2,873,477	
SANTA CLARA COUNTY-EL CAMINO HOSPITAL DISTRICT FACILITIES AUTHORITY		\$2,100,000	\$60,100,000
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	\$304,194,821	\$382,334,545	\$417,469,961
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	\$32,677,396	\$32,677,396	
SANTA CLARA VALLEY WATER DISTRICT (FLOOD CONTROL & WATER CONSERVATION)	\$114,590,866	\$123,635,147	\$203,885,000
SANTA CLARA VALLEY WATER DISTRICT (WATER ENTERPRISE)	\$132,681,203	\$116,217,545	\$101,191,465
SARATOGA CEMETERY DISTRICT	\$879,088	\$2,055,826	\$1,120,574
SARATOGA FIRE PROTECTION DISTRICT	\$3,884,552	\$4,844,906	\$5,908,737
SCHOOL ALLIANCE FOR WORKERS COMPENSATION EXCESS SELF-FUNDED JPA	\$20,528,613	\$1,197,326	
SILICON VALLEY ANIMAL CONTROL AUTHORITY	\$1,934,300	\$1,754,254	
SILICON VALLEY LIBRARY SYSTEM	\$603,418	\$634,241	
SOUTH BAY AREA SCHOOL INSURANCE AUTHORITY	\$1,479,958	\$1,261,510	
SOUTH BAY DISCHARGERS AUTHORITY (INACTIVE)	\$0	\$0	
SOUTH SANTA CLARA COUNTY FIRE DISTRICT	\$3,057,283	\$2,821,216	
SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT	\$87,363	\$86,056	
SPORTS & OPEN SPACE AUTHORITY OF THE CITY OF SANTA CLARA (INACTIVE)	\$0	\$0	
SUNNYVALE FINANCING AUTHORITY	\$22,802,465	\$22,741,962	\$48,945,000
SUNOL SANITARY DISTRICT (SANTA CLARA)	\$116,085	\$98,988	\$184,190
WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY	\$11,883,311	\$12,802,676	\$17,209,389
TOTALS	\$911,038,005	\$1,004,298,433	\$2,377,530,575