

LEGAL MEMORANDUM

To: Don Elias, General Manager
From: Margaret Long, District Counsel
Date: January 14, 2021
Re: Requirement of a Treasurer Position within a Special District

QUESTION PRESENTED

The Special District has contracted with an outside agency/person in the past to serve as the designated “treasurer” for the District. The existing accounting firm does not want to assume the position of District Treasurer. Is the District required to have an employee/contractor whose responsibility is to serve as the District Treasurer?

DISCUSSION

No. The District does not need to have a separate employee designated as Treasurer. The District has several options it can use to ensure the Government Code requirements are met and the District’s finances are safeguarded.

Government Code section 61050 provides that, unless specified otherwise, the County Treasurer shall serve as the District Treasurer, and shall oversee the holding and distribution of the funds.

If the Board decides to regulate this without using the County pursuant to Government Code 61053, it is required to have someone designated to oversee the District funds who is classified as the District Treasurer, but it does not have to be a CPA or someone with financial background. Typically, for a small district, the general manager takes on this title. The general manager can then contract for fiscal support to actually oversee the finances.

CONCLUSION

Below, for your records, is the complete government code section regarding the obligated positions within the District. If the District wants to separate from the County, or already has done so, then they will need to give someone the title of District Treasurer, but it can be the General Manager if the outside vender does not want that responsibility. In fact, it is recommended that that title be kept in-house, even if an accounting firm is doing all of the financial work for the District.

GOVERNMENT CODE

61050. (a) The board of directors shall appoint a general manager. (b) The county treasurer of the principal county shall serve as the treasurer of the district. If the board of directors designates an alternative depository pursuant to Section 61053, the board of directors shall appoint a district treasurer who shall serve in place of the county treasurer. (c) The board of directors may appoint the same person to be the general manager and the district treasurer. (d) The general manager and the district treasurer, if any, shall serve at the pleasure of the board of directors. (e) The board of directors shall set the compensation, if any, for the general manager and the district treasurer, if any. (f) The board of directors may require the general manager to be bonded. The board of directors shall require the district treasurer, if any, to be bonded. The district shall pay the cost of the bonds. 61051. The general manager shall be responsible for all of the following: (a) The implementation of the policies established by the board of directors for the operation of the district. (b) The appointment, supervision, discipline, and dismissal of the district's employees, consistent with the employee relations system established by the board of directors. (c) The supervision of the district's facilities and services. (d) The supervision of the district's finances.

61052. (a) Except as provided by Section 61053, the county treasurer of the principal county shall be treasurer of the district and shall be the depository and have the custody of all of the district's money. (b) All claims against a district shall be audited, allowed, and paid by the board of directors by warrants drawn on the county treasurer. (c) As an alternative to subdivision (b), the board of directors may instruct the county treasurer to audit, allow, and draw his or her warrant on the county treasury for all legal claims presented to him or her and authorized by the board of directors. (d) The county treasurer shall pay the warrants in the order in which they are presented. (e) If a warrant is presented for payment and the county treasurer cannot pay it for want of funds in the account on which it is drawn, the treasurer shall endorse the warrant, "NOT PAID BECAUSE OF INSUFFICIENT FUNDS" and sign his or her name and the date and time the warrant was presented. From that time until it is paid, the warrant bears interest at the maximum rate permitted pursuant to Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2.

61053. (a) Notwithstanding Section 61052, a district may establish an alternative depository pursuant to this section. (b) The board of directors shall appoint a district treasurer who shall serve in the place of the county treasurer. 94 — 17 — Ch. 249 (c) The board of directors shall adopt a resolution that does each of the following: (1) State its intention to withdraw its money from the county treasury. (2) Fix the amount of the bond for the district treasurer and other district employees who will be responsible for handling the district's finances. The district shall pay the cost of the bonds. (3) Adopt a system of accounting and auditing that shall completely and at all times show the district's financial condition. The system of accounting and auditing shall adhere to generally accepted accounting principles. (4) Adopt a procedure for drawing and signing checks, provided that the procedure adheres to generally accepted accounting principles. The procedure shall provide that bond principal and salaries shall be paid when due. The procedure may provide that checks to pay claims and demands need not be approved by the board of directors before payment if the district treasurer determines that the claims and demands conform to the district's approved budget. (5) Designate a bank, a savings and loan association, or a credit union as the depository of the district's money. A bank, savings and loan association, or credit union may act as a depository, paying agent, or fiscal agency for the holding or handling of the district's money, notwithstanding the fact that a member of the board of directors, whose funds are on deposit in that bank or savings and loan association is an officer, employee, or stockholder of that bank or savings and loan association, or of a holding company that owns any of the stock of that bank or savings and

loan association. (d) The board of directors and the board of supervisors of the principal county shall determine a mutually acceptable date for the withdrawal of the district's money from the county treasury, not to exceed 15 months from the date on which the board of directors adopts its resolution. (e) In implementing this section, the district shall comply with Article 1 (commencing with Section 53600) and Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5. Nothing in this section shall preclude the district treasurer from depositing the district's money in the county treasury of the principal county or the State Treasury pursuant to Article 11 (commencing with Section 16429.1) of Chapter 2 of Part 2 of Division 4 of Title 2. (f) The district treasurer shall make quarterly or more frequent written reports to the board of directors, as the board of directors shall determine, regarding the receipts and disbursements and balances in the accounts controlled by the district treasurer. The district treasurer shall sign the reports and file them with the general manager.