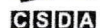




California Special  
Districts Association



*Districts Stronger Together*

## UNDERSTANDING SPECIAL DISTRICT BOARD MEMBER COMPENSATION

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This paper is intended to help you understand compensation for special district board members in California. Specifically, it describes (1) the statutory authority behind board member compensation, (2) the maximum compensation board members can receive, (3) how board members can increase compensation, (4) board member reimbursements for job-related expenses, (5) the extent to which board members may receive benefits, and (6) how small community services districts typically compensate board members.

### Under what authority can special districts compensate board members?

Typically, special district board member compensation is set by the Legislature. Special districts have the general authority to compensate board members for attendance at meetings under the California Government Code.<sup>1</sup> However, this general authority is limited by statutes specific to particular types of districts, which prescribe rates and conditions for board member compensation. Special districts are granted authority either under principal acts or special acts. Principal acts are codified in state laws and are generic statutes that apply to all special districts of a particular type. Special acts are often uncoded and are narrowly focused on governing one or a few special districts to fit the unique needs of those districts. A board member interested in learning more about their district's authority to compensate its board members should first reference their district's formation or enabling documents to determine whether the district is governed by a principal act or a special act. Identifying which statutes govern a district is important because such statutes often vary in provisions for the maximum amount of compensation a board member may receive, how and if board members can increase compensation, and provisions regarding reimbursements and board member benefits.

### What is the maximum amount of compensation a special district board member may receive?

Principal act districts that have been codified in state law vary on the maximum amount a board member may be compensated. Most code sections set the maximum compensation rate at \$100 for each meeting attended by a board member or each day in which a board member is engaging in official duties. This includes special districts such as county water districts,<sup>2</sup> recreation and park districts,<sup>3</sup> community services districts,<sup>4</sup> public cemetery districts,<sup>5</sup> and more. Other code sections explicitly provide that special district board members are to receive no compensation in their roles as board members. These

<sup>1</sup> Gov. Code § 53232.1(a).

<sup>2</sup> Water Code § 30507.

<sup>3</sup> Pub. Res. Code § 5784.15(a).

<sup>4</sup> Gov. Code § 61047(a).

<sup>5</sup> Health and Safety Code § 9031(a).

districts include pest abatement districts,<sup>6</sup> police protection districts,<sup>7</sup> citrus pest control districts,<sup>8</sup> port districts,<sup>9</sup> river port districts,<sup>10</sup> and memorial districts.<sup>11</sup> Many districts set maximum compensation rates at amounts smaller than \$100, such as \$10,<sup>12</sup> \$25,<sup>13</sup> or \$50<sup>14</sup> per meeting attended by the board member. Some code sections authorize a flexible compensation rate to be determined by the board members themselves. The California Water Code sections governing levee districts<sup>15</sup> and reclamation districts<sup>16</sup> provide that each board member shall receive compensation for their services "... as the board determines to be just and reasonable..." Generally, these districts still compensate board members at a rate under \$100 per meeting.

**Can special district board members increase their compensation? If so, how can board members do so?**

In addition to attending regularly scheduled board meetings, board members often must attend the meetings of other agencies or travel to conferences in order to better understand and fulfill their roles. In order to meet these often demanding and time-consuming duties, some special districts consider increasing the compensation of its board members. If a special district board is considering increasing the compensation of its board members it is important it starts by referencing its governing statutes or acts. A district's governing statutes or acts will determine whether board members can increase compensation, to what extent compensation can be increased, and how to increase compensation.

Many special districts can increase board member compensation pursuant to California Water Code section 20201, which both sets the maximum amount of compensation per meeting at \$100 but also authorizes board members to increase compensation above \$100.<sup>17</sup> Although this may be welcome news to districts interested in increasing compensation, there are three notable restrictions on a district's ability to do so. If a special district board can increase compensation via section 20201: (1) it must do so via ordinance,<sup>18</sup> (2) the increase may not exceed 5% for each calendar year,<sup>19</sup> and (3) voters may petition for a referendum on the ordinance increasing compensation.<sup>20</sup> As part of the ordinance requirement, special district boards must hold a public hearing for discussion of the compensation increase and publish a notice of the hearing.<sup>21</sup> Special districts should also note voter referendums may result in the ordinance appearing on a regular election or special election ballot for voter approval.<sup>22</sup> If the ordinance is struck down by voters, the special district board will be prohibited from adopting a new compensation increase ordinance for at least one year.<sup>23</sup>

<sup>6</sup> Health and Safety Code § 2851

<sup>7</sup> Health and Safety Code § 20069

<sup>8</sup> Food and Ag. Code § 8508

<sup>9</sup> Har. and Nav Code § 6251.

<sup>10</sup> *Id.* at § 6836.

<sup>11</sup> Mil. and Vet Code § 1197.

<sup>12</sup> Wat. Code § 56031.

<sup>13</sup> Pub. Res. Code § 13041(b).

<sup>14</sup> Har. and Nav. Code § 7047.

<sup>15</sup> Wat. Code § 70078.

<sup>16</sup> *Id.* at § 50605(a).

<sup>17</sup> *Id.* at § 20201.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at § 20202.

<sup>20</sup> *Id.* at § 20204.

<sup>21</sup> *Id.* at § 20203

<sup>22</sup> Wat. Code § 20206.

<sup>23</sup> *Id.*

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On the other hand, many statutes and acts governing special districts are silent on a district's authority to adjust board member compensation. As a result of lacking a statutory authority to adjust board member compensation, special districts falling into this category may be unable to do so. Therefore, it is important that special districts interested in increasing board member compensation reference its district's formation documents to identify if its governing statutes or acts allow such actions.

### **Can board members be reimbursed for job-related expenses?**

Special district board members are often expected to attend a variety of events in the performance of their duties, including trainings, community outreach events, conferences, and local agency meetings. The expenses associated with these activities, including travel, lodging, and food costs, can be significant. Fortunately, the Legislature has recognized the costs associated with serving as a board member and granted special districts with the authority to provide reimbursements. In fact, the vast majority of special districts have the authority to reimburse board members for expenses related to fulfilling their duties as board members.

Again, the most important starting point to determine whether a special district may reimburse its board members is identifying the governing acts or statutes. Most districts have the statutory authority to reimburse board members but are required to abide by the reimbursement procedures set out in Government Code sections 53232.2- 53232.4. In order to comply with Government Code section 53232.2, special districts generally must only reimburse board members for actual and necessary expenses incurred in the performance of official duties and adopt a written policy that specifies the types of expenses that may be reimbursed. Other requirements on board members include the filing of expense reports with special district boards and providing brief reports on the meetings requiring reimbursement.<sup>24</sup> Special districts should note the misuse of reimbursement funds can result in the loss of reimbursement privileges, civil penalties, and even criminal penalties.<sup>25</sup> Therefore, special districts governed by Government Code sections 53232.2- 53232.4 should ensure its reimbursement policies are consistent with these sections and that board members are only being reimbursed for actual and necessary expenses.

Some districts are not directly governed by the statutory requirements of Government Code sections 53232.2- 53232.4 but instead follow a less stringent reimbursement procedure. For example, in reclamation districts a board member's claims for expenses incurred are to be presented to the board and then paid in the same manner as other indebtedness of the district.<sup>26</sup> Although citrus pest control district board members are not entitled to any compensation, they may be reimbursed for actual and necessary expenses when claims for those expenses have been approved by the board.<sup>27</sup> Still, other districts lack the statutory authority to provide any reimbursements for board members, including police protection districts.<sup>28</sup>

### **To what extent can special district board members receive benefits?**

Although only some special district board members may be entitled to compensation, all special district board members may receive group insurance benefits if the board elects to do so. Under Government Code section 53201 and 53205.1, a special district board may provide benefits to its board members,

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<sup>24</sup> Gov. Code § 53232.3(a); Gov. Code § 53232.3(d).

<sup>25</sup> *Id.* at § 53232.4.

<sup>26</sup> Wat. Code § 50606.

<sup>27</sup> Food and Ag. Code § 8508.

<sup>28</sup> Health and Saf. Code § 20000 *et seq.*

retired board members, and the families of board members and retired board members. Benefits can include medical, dental, vision, and life insurance.<sup>29</sup>

California state law is relatively silent on the procedures a special district must take to adopt a benefits policy for its board members. The Office of the Attorney General provides some guidance on the issue by declaring that no official declaration of policy is required for a special district to provide health benefits to its elective officers.<sup>30</sup> The Attorney General's opinion noted that no procedure or mode for providing the benefits is set forth in Government Code section 53201.<sup>31</sup> The Attorney General concluded that a special district board may take action in any appropriate manner, whether by ordinance, resolution, motion, or otherwise.<sup>32</sup> Therefore, whether a district must approve a benefits plan by ordinance or resolution comes down to what the enabling or principal act governing it requires. Beyond that, the Brown Act requires changes in compensation, including fringe benefits, to be made during an open meeting.<sup>33</sup>

Special district boards should note that districts considering providing benefits to its board members have often received pushback from the community.<sup>34</sup> If a special district is considering providing a benefits program to its board members, it may be prudent for them to be transparent about the program's estimated costs and expected beneficiaries so the public is aware of the district's proposed expenditures.

With that being said, most of the principal acts governing special districts make no explicit mention of a board's authority to provide benefits to its board members. This is not to say these special districts may not provide benefits to its board members as Government Code section 53201, which grants districts the authority to provide benefits, still applies to them as well. The few special districts with principal acts that mention benefits separately (such as regional park and/or open space districts) note that board members are eligible for the same group medical or dental plans available to permanent employees of the district.<sup>35</sup>

#### **How do small community service districts typically compensate board members?**

In addition to applicable statutory restrictions, board member compensation for a small district may also be restricted if the district has a small budget. If a particular community services district is governed by the principal act requirements set out in Government Code section 61047, it may provide its board members with \$100 each day for services provided. Community services districts may also increase board member compensation above \$100 in accordance with the authority and requirements set out in Water Code section 20201.

Most community services district do not compensate board members. Some community services districts compensate its board members as much as \$10,000 per year including the Phelan Pinon Hill Community

<sup>29</sup> Gov. Code § 53205.16.

<sup>30</sup> 86 Cal. Att'y Gen. Op. No. 92-1008 (May 5, 1993).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Gov. Code § 5493(c)(3).

<sup>34</sup> Brad Branan, *Health benefits boost board compensation at Sacramento area special districts*, The Sacramento Bee (March 6, 2015, 6:20 PM), <https://www.sacbee.com/news/investigations/the-public-eye/article12892430.html>.; Paul Rogers, *Santa Clara Valley Water District considers idea for lifetime medical benefits for board members*, (August 27, 2012, 1:19PM), <https://www.mercurynews.com/2012/08/27/santa-clara-valley-water-district-considers-idea-for-lifetime-medical-benefits-for-board-members/>.

<sup>35</sup> Pub. Res. Code § 5536.

Services District<sup>36</sup> and the Rosamond Community Services District.<sup>37</sup> Many community services districts compensate board members at a rate consistent with Government Code section 61047, which amounts to \$4,800 a year assuming board members provide services or attend meetings four days a month.

How a small district compensates its board members will come down to what the district's budget and needs are. Although all community services districts have the statutory authority to compensate board members at a rate more than \$100 for each meeting attended, most small districts elect to compensate less than \$100 per meeting or not at all.

### **Moving Forward**

The California Government Code, through principal or special acts, generally provides special districts with the authority to compensate its board members. Although most districts set the maximum board member compensation rate at \$100 for each meeting attended by a board member, some districts offer a flexible compensation rate, compensation under \$100, or no compensation at all. Many special districts can increase board member compensation pursuant to California Water Code section 20201, which both sets the maximum amount of compensation per meeting at \$100 but also authorizes board members to increase compensation above \$100. The vast majority of districts have the authority to reimburse board members for the actual and necessary expenses incurred on the job, subject to those districts and board members meeting certain requirements. All special districts board members may receive group insurance benefits, including medical, dental, vision, and life insurance. Lastly, most small community services districts compensate board members at a rate less than \$100 for each meeting attended or not at all, despite having the authority to compensate board members more than \$100. Moving forward, a special district interested in compensating its board members should reference its enabling statutes because such statutes will often determine the maximum amount of compensation a board member may receive, how and if board members can increase compensation, and whether board members may be provided reimbursements and benefits.

<sup>36</sup> Government Compensation in California, <https://publicpay.ca.gov/Reports/PositionDetail.aspx?employeeid=19490354>, (last visited June 19, 2019).

<sup>37</sup> Government Compensation in California, <https://publicpay.ca.gov/Reports/PositionDetail.aspx?employeeid=19955885>, (last visited June 19, 2019).

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