



## Legislation Text

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**File #:** 21-0547, **Version:** 1

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Department of Transportation and Community Development Services Finance and Administration recommending the Board:

- 1) Direct Community Development Services Finance and Administration to fully recover all administrative and indirect costs associated with the Zone of Benefit program by equitably charging each Zone their fair share of these costs based on the number of parcels within the zone; and
- 2) Direct the Department of Transportation to begin the dissolution process for those zones where one of the following findings can be made:
  - a) Public convenience and necessity no longer require the different service be provided; or
  - b) Dissolving would be in the best interest of the public; or
  - c) Zone revenues are insufficient to support zone activities.

**FUNDING:** Special Taxes and Benefit Assessments.

### **DISCUSSION / BACKGROUND**

#### Background

A zone of benefit is a geographic area established under County Service Area law to provide funding for additional services not already being provided by any other entity, or at a higher level that might otherwise be available. Examples of services that can be provided include road maintenance and improvement services, drainage facility, landscape, and lighting maintenance. A zone of benefit is governed by the County Board of Supervisors. Roads within a Zone of Benefit are not maintained by the El Dorado County Department of Transportation. Formation of a zone simply provides a mechanism to collect funds to pay for maintenance. One requirement of formation is that irrevocable offers of dedication for road and public utility easements be granted to the County. Once completed, this action establishes the road as a public road, subject to provisions of applicable State laws, including but not limited to the California Vehicle Code and Streets and Highways Code.

Zones of benefits are charged annually for items such as insurance policies; County staff time spent on purchasing and contracts, budget review and tax assessments; road and drainage work specific to each zone; and indirect costs related to the overall management of the program.

Zones cover these annual costs in one of two ways; a special tax or a benefit assessment. The amount of either a special tax or a benefit assessment is supported by an engineer's report submitted with the application to form a zone of benefit.

A special tax requires two-thirds majority approval of the registered voters voting within the zone boundaries. A special tax is a uniform amount to each property, except that unimproved properties may be taxed at a lower rate. A special tax can be established with an escalator and/or with a "sunset clause". Any proposed increase exceeding the approved amount requires a two-thirds majority voter approval in another election.

In the case of a proposed benefit assessment, a report prepared by a licensed engineer explaining the proportional benefit received by each parcel is submitted. Each owner of interest in a parcel of

land within the zone boundaries will then receive a ballot on which they express their approval or objection to the proposed assessment. Responses are weighted, based on amount of the proposed assessment to the property and the percent of ownership interest for each ballot cast, in relation to all of the ballots cast. If a majority of the weighted ballots received protest the assessment, it cannot be levied. Any subsequent proposed increase would be subject to the same documentation requirements and approval process. Once established, benefit assessments are confirmed annual by the Board of Supervisors. Any zone resident or property owner may appear before the Board to speak on the proposed assessments.

Once approved through the appropriate process, the benefit assessment or special tax is added to the property tax bill for each parcel. The funds are collected with the property taxes and deposited into an interest bearing account for use within the zone. The Department of Transportation administers all funds. Monies are not placed in the General Fund and cannot be used for any other purposes.

As part of formation, the property owners and residents of the zone may recommend the Board of Supervisors appoint an Advisory Committee and identify a Key Contact to act as liaison to the County. Once appointed by the Board, members of this committee serve in an advisory capacity and, as such, are subject to the provisions of California's open meeting laws, also known as the Ralph M. Brown Act ("Brown Act"). The Advisory Committee is required to meet at least four (4) times each year. All meetings are open to the public and must be noticed accordingly. All property owners and residents of the zone have the right to speak and vote on these issues. The Committee develops a recommended budget, including specific projects to be completed. The committee may evaluate and make recommendations on the adequacy of the amount of revenue collected within the zone. If an increase to the previously approved benefit assessment or special tax is proposed, it must be approved through the procedures previously described.

A road zone of benefit can be dissolved by initiation of the Board of Supervisors or by initiation of the property owners or residents. A petition signed by no less than percent (10%) of the registered voters in the zone is required to initiate the dissolution process. A public hearing is conducted by the Board of Supervisors to consider dissolving the zone. Certain findings must be made in order for the dissolution to be approved, including that the roads are not of interest for public use. If formation of the zone of benefit was a condition of approval for a subdivision map, a waiver of that condition must be obtained under a subdivision map amendment from the Planning and Building department before dissolution can proceed. Any funds remaining in a zone account at the time of dissolution will be used for expenses related to the dissolution. If there are additional funds remaining once the dissolution is complete and all financial obligations met, the monies will be transferred to the County General Fund.

### Issue

The Department of Transportation oversees approximately 100 zones of benefit in County Service Areas No. 2, 3, 5 and 9 which were established to provide funding for various services including; road maintenance and improvement services, drainage facility maintenance and improvement services, erosion control services, street lighting, landscape maintenance services, and snow removal. There is a clear nexus between the services that the Department of Transportation provides and the Zones of Benefit. The Zone of Benefit program is a service that the County is providing for private citizens in a narrowly defined zone. All expenses, both direct and indirect, incurred by the zones should be fully funded by the zones. These expenses are not eligible and cannot be paid for with Road Fund dollars.

In addition to the direct charges incurred by the zones for specific road or drainage maintenance activities, there is also an administrative cost to manage the overall program which includes items like budget development, general accounting related to invoice processing and tax roll preparation. These costs should be spread to all zones based on an equitable formula determined by the number of parcels within each zone. In addition to the administrative costs, there is also an indirect percentage that is applied to staff time which covers costs like management time to supervise staff working on the zones, office supplies, etc.

The Zones are concerned that they will not have adequate funds to cover the fully burdened DOT indirect rates. In FY 2018-19, the zone program was moved from Finance and Administration to the Engineering division within the DOT. This program was under the Engineering division within the Department of Transportation which has a higher indirect rate. Again, this is not an eligible Road Fund expense and this cost must be passed on to the zones as part of the cost of providing this service. In an effort to provide the most efficient, cost effective service possible, the Department has now moved this program out of Engineering and into Maintenance which has a much lower indirect rate resulting in less of an increase in charges to the zones.

Some zones have not increased their fees per parcel in over 30 years. Because of these low fees, some zones end up collecting only enough fees to cover the annual administrative costs of the program and never collect enough for the appropriate maintenance and repairs. Above average administrative time becomes necessary for extra monitoring and processing of expenses on these tight zone budgets. In these instances, if parcel owners aren't willing to increase the fees, the best course of action may be to dissolve the zone. In addition to problems collecting adequate fees, some zones are also unable to find volunteers to make up an advisory committee for the zone. The Department would recommend dissolving these zones as well. Finally, some zones may simply want to dissolve to reduce the cost of County administrative and overhead costs and to allow more flexibility by not being locked into public contracting code which results in higher costs related to prevailing wages, etc. There are not any provisions that make the dissolution of the ZOB contingent on the formation of a successor organization.

There has been some discussion around whether or not the General Fund could subsidize the zone program. The use of general fund to subsidize a ZOB is not authorized under the CSA Law. If general fund revenues are used for county service area purposes, the county service area must repay the general fund within the same fiscal year.

## **ALTERNATIVES**

Zones can increase their revenues through an increased benefit assessment or special tax. The process, which is initiated by the Zone of Benefit, is outlined above and guidelines are available on the County website that the steps needed to increasing the benefit assessment or special tax.

The Board can make findings and dissolve the zone of benefit.

The Department of Transportation could reduce some administrative costs related to items such as zone workshops, maintaining the zone website, or conducting large procurement efforts such as RFPs for on call contracts. While these changes may result in decreased administrative costs initially; in the long term costs would increase as the efficiencies gained by these actions would be lost.

**PRIOR BOARD ACTION**

N/A

**OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel

**CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board direct staff to begin the dissolution process for Zones of Benefit where revenues are insufficient to support zone activities in order for the County to fully recover all costs associated with the Zone of Benefit program.

**FINANCIAL IMPACT**

Using data from FY 2019-20, the increase in charges to the zones by applying the full cost recovery methodology would have been approximately \$56,000 or 30%.

**CLERK OF THE BOARD FOLLOW UP ACTIONS**

N/A

**STRATEGIC PLAN COMPONENT**

Good Governance

Public Safety

**CONTACT**

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