

Date of Hearing: June 12, 2024

**ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT**

Juan Carrillo, Chair

SB 1405 (Ochoa Bogh) – As Introduced February 16, 2024

**SENATE VOTE:** 37-0

**SUBJECT:** Community service districts: Lake Arrowhead Community Services District: covenants, conditions, and restrictions.

**SUMMARY:** Repeals the authority for the Lake Arrowhead Community Services District (LACSD) to enforce covenants, conditions, and restrictions (CC&Rs) on behalf of the Arrowhead Woods Architectural Committee (AWAC).

**EXISTING LAW:**

- 1) Allows for the formation of community services districts (CSDs) and establishes the powers and duties of such districts. [Government Code (GC) § 61000 et. seq.]
- 2) Grants certain specific CSDs the authority to enforce CC&Rs on behalf of specified private entities, including the LACSD, which can enforce all or part of the AWAC CC&Rs for a tract, and assume the duties of the AWAC to the extent that a tract's CC&Rs are legally enforceable by AWAC. (GC § 61105)
- 3) Requires, before the LACSD can enforce the CC&Rs for a tract, the LACSD's board to do all of the following (GC § 61105):
  - a) Receive a written request from the AWAC board, with a petition signed by not less than a majority of the property owners of the parcels within the tracts covered by AWAC, requesting the LACSD to assume AWAC's duties and enforce the CC&Rs for the tracts.
  - b) Conduct a public hearing on the question, after mailing notice to each property owner.
  - c) Apply to the Local Agency Formation Commission (LAFCO) for the ability to enforce the CC&Rs, and receive LAFCO's approval, subject to any conditions imposed by the LAFCO. The application must specify the exact nature and scope of the intended services to be provided by the LACSD.
  - d) Adopt an ordinance assuming AWAC's duties and enforcement responsibilities, as follows:
    - i) The ordinance must require the property owners within the tracts to finance, in compliance with other state and local law, the activities assumed by the CSD through fees or regular or special assessments. The CSD may collect these charges on the property tax bill.
    - ii) The ordinance must also require AWAC to indemnify the district for any litigation-related costs incurred in carrying out AWAC's duties.

- 4) Prohibits the LACSD from enforcing any CC&Rs or assuming the duties of the AWAC, until all unlawfully restrictive covenants are removed from the CC&Rs of the properties in those tracts pursuant to a process under existing law. (GC § 61105)
- 5) Allows the LACSD to divest itself of the responsibility to enforce the CC&Rs on AWAC's behalf by adopting an ordinance. (GC § 61105)

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **Community Service Districts (CSDs).** The CSD Law is the principal act that governs CSDs, which are a form of special district. The law governing CSDs was initially passed in 1951 and re-enacted in 1955. SB 135 (Kehoe), Chapter 249, Statutes of 2005 revised the CSD Law with the help of a large working group of stakeholders.

A CSD can deliver over 30 different types of services and facilities, such as police protection, road maintenance, and parks and recreation. Most of the state's 330 CSDs perform only a few of these authorized services, depending on what local residents and property owners are willing to fund. When a specific CSD wants to exercise a new power that statute provides to CSDs generally (known as a "latent power"), the CSD must apply to the LAFCO in the county. LAFCOs can impose wide-ranging conditions before a CSD can use the new power.

- 2) **Covenants, Conditions, and Restrictions (CC&Rs).** The Legislature has granted special powers to individual CSDs when communities face unique circumstances. In a few cases, the Legislature has authorized CSDs to enforce CC&Rs on behalf of private entities. CC&Rs are limitations and rules placed on a group of homes by a builder, developer, neighborhood association or homeowner association that impose mutual contractual duties on property owners. Subject to legal limitations, CC&Rs can place restrictions of almost any kind on homeowners, from exterior paint color to restrictions on curb-side parking, as long as the homeowners electing to adopt the CC&Rs agree to them. CC&Rs generally outline procedures for amendments or rescission. CC&Rs have the effect of imposing limitations on the use of property that is subject to them beyond what the city or county land use laws require. CC&Rs are private arrangements, outside the government's land use regulations that come from the police power. Although CC&Rs have the same purpose and often the same effect as zoning ordinances, they are not government regulations; they are private contracts.

Prior to the 2005 CSD law revision, 18 CSDs were authorized to enforce CC&Rs, but only nine used this authority. When revising the law, the Legislature repealed the authority for those that were not actively exercising this power. Currently, nine CSDs have the authority to enforce CC&Rs within their districts on behalf of the private entities named in those CC&Rs.

- 3) **Arrowhead Woods Community.** The community of Arrowhead Woods comprises approximately 10,000 parcels that surround Lake Arrowhead in the San Bernardino Mountains. The architectural style of the residential neighborhood has been maintained by enforcement of the CC&Rs that are recorded on most of the developed tracts of land. The CC&Rs task AWAC, a non-profit public benefit corporation, with the responsibility for enforcing the CC&Rs by approving the design and construction of structures within the tracts. AWAC is governed by a volunteer board. The CC&Rs provide that no structures can

be erected without AWAC approval, and AWAC funds its operations via permit fees when property owners seek AWAC approval to build on their property and damage assessments when they do not. When AWAC discovers a violation of the CC&Rs, it must go to court to enforce the CC&R.

LACSD was formed in 1978 to provide drinking water to Arrowhead Woods, which had been provided by a private company. Over time, the CSD annexed additional areas and added wastewater services to its responsibilities. LACSD is governed by a five-member board elected by district and currently provides drinking water to approximately 8,900 connections and wastewater services to approximately 11,000 connections, encompassing Arrowhead Woods and other nearby communities.

- 4) **SB 1405 of 2022.** Because the Arrowhead Woods CC&Rs predate the state’s homeowners association (HOA) law and don’t govern property shared in common amongst the property owners, AWAC is not an HOA and cannot impose general dues to fund its duties. In 2022, the Legislature granted LACSD the authority to assume the duties of AWAC in enforcing CC&Rs for Arrowhead Woods in an attempt to ease the administration and enforcement of the AWAC CC&Rs.

SB 1405 generated substantial controversy within Arrowhead Woods. According to a June 14, 2023 article in the *Mountain News*, many residents in the area protested at a June 10, 2023, town-hall, they cited concerns that the bill would allow a takeover of AWAC, water rights could be affected, and LACSD’s enforcement of the CC&Rs would be overly stringent. The article further noted, “There did not seem to be any dissent about SB 1405 among the voices of the attendees at the meeting. The bottom line from the residents was to rescind the bill.”

- 5) **Author’s Statement and Bill Summary.** According to the author, “New leadership at the Arrowhead Woods Architectural Committee, in the Lake Arrowhead community, decided to formally ask me to rescind SB 1405 (2022).”

This bill repeals SB 1405 (Ochoa Bogh), Chapter 309, Statutes of 2022, which granted the authority to LACSD to enforce CC&Rs for AWAC. This bill is sponsored by AWAC.

- 6) **Arguments in Support.** AWAC, the sponsor of this bill, writes, “Considering the crucial feedback received from the community since SB 1405 took effect on January 1, 2023, AWAC’s Board of Directors respectfully requested that Sen. Ochoa Bogh carry legislation to repeal the law.

“Our organization and the community we serve appreciate the time and effort needed to repeal this law. We recognize Sen. Ochoa Bogh’s dedication to our community, as demonstrated by her willingness to listen and act on the concerns of our homeowners.”

- 7) **Arguments in Opposition.** None on file.

## REGISTERED SUPPORT / OPPOSITION:

### Support

Arrowhead Woods Architectural Committee [SPONSOR]  
Arrowhead Woods Informed  
512 Individuals

**Opposition**

None on file.

**Analysis Prepared by:** Claire Norton / L. GOV. / (916) 319-3958