

Date of Hearing: June 28, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 692 (Dahle) – As Introduced February 16, 2023

**SENATE VOTE:** 39-0

**SUBJECT:** South Fork Irrigation District.

**SUMMARY:** Makes certain non-residents eligible to serve on the South Fork Irrigation District (SFID) Board of Directors. Specifically, **this bill:**

- 1) Defines the following terms:
  - a) “Corporation” as any legal entity, public or private, properly organized under the laws of the state in which it was created, that is allowed to own real property in California.
  - b) “District” means SFID.
  - c) “Legal representative” means the person authorized to act for purposes of this bill for or on behalf of a corporation, estate, or trust holding title to land within SFID.
  - d) “Residency area” means land within SFID or land within five miles of any SFID boundary.
- 2) Provides that the board of directors of SFID may adopt a resolution that authorizes a person to be a director if the person, at the time of the person’s nomination or appointment and through the person’s entire term, meets all of the following requirements:
  - a) Is a registered voter in California.
  - b) Resides within the residency area.
  - c) Is an owner of real property within the division the person represents or the owner’s legal representative.
- 3) Specifies that notwithstanding the adoption of a resolution described above, the registered voters in SFID may request, in writing, that all of the directors who are appointed or elected subsequent to the receipt of the request be required to meet existing requirements for board membership. The request shall be submitted to the board of directors.
- 4) Provides, if the board of directors determines that at least 25% of the registered voters in the district have signed the request submitted pursuant to 3) above, all of the directors who are appointed or elected subsequent to the receipt of the request shall meet existing requirements for board membership.
- 5) Specifies that before a legal representative may declare the legal representative’s candidacy or be appointed to serve as a director, the person shall present to SFID a copy of that person’s authority that shall be kept and filed with the returns of the election or the certificate of appointment.

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **Bill Summary and Author's Statement.** This bill authorizes the board of directors of SFID to adopt a resolution that authorizes a person to be a director if the person meets specified requirements, including being a registered voter in California, residing within the residency area, and is an owner of real property within the division the person represents or the owner's legal representative. This bill defines "residency area" as land within the district or land within five miles of any district boundary. This bill is sponsored by SFID.

According to the author, "Rural areas face many unique challenges. One of those challenges is that irrigation districts in sparsely populated rural areas struggle to fill the board of director's seats. The South Fork Irrigation District (SFID), for example, can barely maintain a three-person board due to the small population of the District. This bill, modeled after my 2016 bill AB 1816 which addressed a similar problem for the Tulelake Irrigation District, would allow the SFID to authorize a person to be a board member if they live within five (5) miles of the district boundary. This bill will ensure that the irrigation district can have a complete board of directors so that the district continues to operate efficiently."

- 2) **Irrigation Districts.** California's approximately 90 irrigation districts generally operate under a set of statutes known as the Irrigation District Law that dictate their board governance structure and powers. Typically, irrigation districts are governed by a five member board of directors, with each member representing a division within the district. In most cases, registered voters are eligible to vote in district elections, but directors must be voters, landowners, and residents in the division of the district they represent. This landowner requirement reflects the historical role of irrigation districts to exclusively provide irrigation water to agricultural land. However, as California's population has grown, more and more residential and commercial development is encroaching on agricultural land. In response to this growth, some irrigation districts began providing retail water service to residential customers that live within their jurisdictions in the absence of traditional retail water suppliers in the area, or providing electricity services.

Recognizing this trend, the Legislature has taken steps in the past few decades to allow registered voters who do not own land to be directors in some districts. Specifically, the Legislature removed the landowner qualification for board members of irrigation districts that provide electricity [SB 1939 (Alarcón), Chapter 1041, Statutes of 2000] and removed the landowner requirement for irrigation districts that generally provide 3,000 or more acre-feet of water to residential customers or that have more than 3,000 customers [AB 159 (Salinas), Chapter 847, Statutes of 2006]. However, the Legislature has also provided specific exemptions from the residency requirement for directors by enacting special legislation for four districts: Pixley Irrigation District, Hills Valley Irrigation District [AB 2335 (Bustamante), Chapter 11, Statutes of 1994], Stratford Irrigation District, and Byron-Bethany Irrigation District [AB 3296 (Campbell), Chapter 1134, Statutes of 1994].

Additionally, AB 1816 (Dahle), Chapter 377, Statutes of 2016, authorized the Tulelake Irrigation District board of directors to adopt a resolution that authorizes a person to be a director if the person is a registered voter in California, lives within the "residency area," defined as the land within the district's boundaries or within one mile of any district

boundary, and owns property within the division or is a property owner's legal representative. While similar to this bill, AB 1816's expansion of the "residency area" was one mile instead of five miles.

- 3) **South Fork Irrigation District.** According to the Modoc Local Agency Formation Commission's (LAFCO's) most recent municipal service review (MSR) in 2014, SFID was formed in 1933 and the main crops grown in the District are grass, alfalfa, wild rice, and grain. SFID is located along the South Fork of the Pit River and extends about 10 miles north from the town of Likely in Modoc County. The SFID only provides irrigation water and no drinking water to residents within its jurisdiction. The water for SFID is stored behind the West Valley Dam on the Pit River and SFID has 22,000 acre-feet of water per year.

SFID has a three-member board where members serve four-year terms by division. The Modoc LAFCO MSR stated that, "Since there are only thirteen water users it is difficult to maintain a full board. The independent Auditor noted that 85% of the water shares are owned or managed by individuals operating the District (57% Alturas Ranches, 16% Likely Land and Livestock Inc. and 12% McGarva Ranch.) The Board meetings are held at Alturas Ranches as required." Additionally, the MSR reported that there was no population data available specifically for the South Fork Irrigation District, but that SFID had estimated about 125 people living within its boundaries at the time.

- 4) **Policy Considerations.** The Committee may wish to consider the following:

- a) **Boundary Expansion.** The sponsors have indicated that it has become impossible to fill the three positions on the SFID Board. With rare exceptions, elected officials must reside within the boundaries of the agency that they represent. Of the approximately 90 irrigation districts in California, only a small number allow for directors to reside outside the district that they represent. LAFCOs were formed in each county to act as an arm of the Legislature to determine boundaries while considering local conditions. While the current SFID boundaries may limit the pool of candidates, Modoc LAFCO has the ability to expand its boundaries to encompass the residency area described in this bill, or to include any other relevant territory based on local conditions. For example, the LAFCO might determine that there are more logical changes to SFID's boundaries than simply expanding the district five miles in all directions. The Committee may wish to consider if an official boundary expansion through the LAFCO process is a viable alternative to this bill.
- b) **Landowner Requirement and Divisions.** While potentially not ideal for SFID, other options could also serve as a solution to expand the pool of eligible board members. The principal acts for almost all other types of special districts do not require landownership as a qualification for office. The Legislature previously established an exemption to the landowner requirements in existing law for the South Bay Irrigation District. The Committee may wish to consider allowing resident voters, who are not landowners, to be eligible to serve on the board as a director.

Additionally, SFID is currently divided into three divisions and it may be more difficult to identify an eligible board member for some of these divisions. Would removing the divisions in SFID help remedy its inability to fill its board seats? The Committee may wish to consider these alternative remedies.

- 5) **Arguments in Support.** According to SFID, “The California Water Code written in 1943 governs the district. Because of the way the Code is structured, it has now become very difficult and may become impossible to fill the three positions on the district’s Board of Directors. One of our current directors, Kenneth McGarva, is doing a great job. He has been on the board for 55 years and is 83 years old.

“As is occurring more and more often on farms and ranches, we are seeing absentee landowners for various reasons. Because of this, the District believes it is reasonable and imperative that it allows highly trained and educated stewards of the land that are hired by the landowners to sit on the District Board of Directors as their legal representatives. This will ensure that the District operates with the highest level of efficiency and integrity.

“Another important detail the District is addressing is its existing boundaries. The original boundaries of South Fork Irrigation District follow the outermost edges of the irrigated land and high line ditches surrounding the lowest elevation land in the South Fork Valley. Nearly all of the land within the District is the first ground that floods naturally occurring high water run off from rainfall and snow melt that normally occurs multiple times per year. Because of this situation very little ground exists within the District that is high enough to build a home on where it will not get flooded every year. Consequently, very few people live within the District boundaries...

“...An additional contributing factor is consolidation of ownership that has taken place, where the new owner of the District land lives on their original property, which is near the district but not within. This is why it is so important for the District to not extend its irrigation boundary, but only extend its residency area boundary that will ensure local control with director candidates that have a vested interest in the district because they are dependent on the water it provides.”

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

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

South Fork Irrigation District [SPONSOR]

**Opposition**

None on file

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