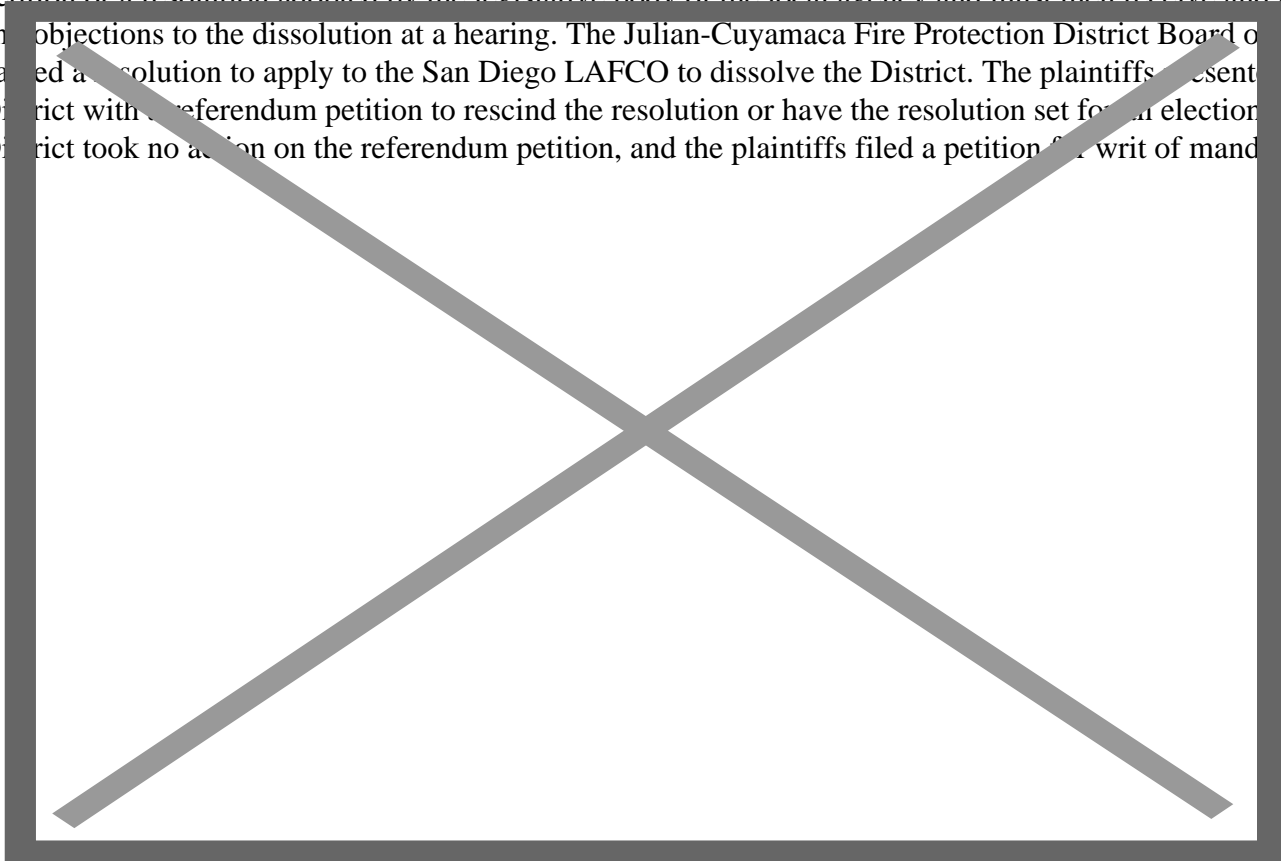


## [Blogs](#)

March 20, 2019

### A Resolution to Dissolve a Fire District is Not Subject to Referendum

The court of appeal held that a fire district's resolution to dissolve the district was not a legislative act subject to voter referendum. [Southcott v. Julian-Cuyamaca Fire Protection District](#), No. D074324 (4th Dist., Mar. 7, 2019). The Fire Protection District Law, which authorizes the formation of fire districts, mandates compliance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 for any change in organization of the fire district, including dissolution. The Local Agency Formation Commission must be presented with a petition or a resolution adopted by the legislative body of the local agency and must then receive and act upon any objections to the dissolution at a hearing. The Julian-Cuyamaca Fire Protection District Board of Directors passed a resolution to apply to the San Diego LAFCO to dissolve the District. The plaintiffs presented the District with a referendum petition to rescind the resolution or have the resolution set for an election. The District took no action on the referendum petition, and the plaintiffs filed a petition for writ of mandamus.



The

court of appeal held that the resolution to dissolve the District was not subject to referendum because the Reorganization Act established the exclusive method for dissolving and/or protesting dissolution of a fire protection district. Under the Reorganization Act, the LAFCO, not the District, holds the power to review and approve (with or without change) dissolution of the District. The Reorganization Act also contains detailed provisions regarding the method of protesting a proposed dissolution of a district and when elections concerning dissolution are required. The court found that if a district's resolution of application for dissolution were subject to referendum, opponents could undermine the Reorganization Act's exclusive method of considering and challenging dissolution proposals. The court also concluded the resolution was not subject to referendum because it was an administrative, not legislative, act. The voters' right to referendum may only be used to review a local government's legislative acts (establishing a new plan or policy), not administrative acts (implementing policy). A local government's legislative act becomes administrative if "the state's system of regulation over a matter of statewide concern is so pervasive" that the local legislative body becomes an administrative agent of

the state. The court found that while the District's resolution could be characterized as a legislative act in a local context, it was administrative in the context of the comprehensive state regulation governing fire district dissolution, which vested LAFCO with the authority to approve or disapprove dissolution.