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OPINION	:	No. 81-114
	:	
of	:	<u>MARCH 11, 1982</u>
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Attorney General	:	
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Robert D. Milam	:	
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THE HONORABLE NORMAN S. WATERS, MEMBER OF THE ASSEMBLY, has requested an opinion on a question we have phrased as follows:

When may the board of directors of an irrigation district lawfully dispense with its assessment equalization function under Water Code sections 25550-25559?

CONCLUSION

The board of directors of an irrigation district may dispense with its assessment equalization function under Water Code sections 25550-25559 when assessments are not necessary for district funding or if the district has transferred its assessment functions to the county.

ANALYSIS

The Irrigation District Law (div. 11 [commencing with § 20500] of the Wat. Code) provides for formation and financing of irrigation districts (hereafter "district"), whose primary purpose is to "do any act necessary to furnish sufficient water in the district for any beneficial use" (§ 22075).¹ The district is formed by the county board of supervisors (§ 20847; hereafter "board of supervisors") and is governed thereafter by a board of directors (§§ 220521, 21385; hereafter "board of directors").

The district may issue bonds (pt. 9 [commencing with § 24950] of div. 11 of the Wat. Code) and is authorized to sell such bonds in quantities it deems necessary and most advantageous to raise money for the purposes for which they are authorized (§ 25325). To pay the bond charges, and to raise maintenance and operation charges, a district is authorized to levy "assessments" (pt. 10 [commencing with § 25500] of div. 11 of the Wat. Code) or, in lieu thereof, to levy charges (§§ 20541, 22280, 25655) on the users of the services supplied by the district.

Within the boundaries of an irrigation district, subordinate districts may be formed to accomplish some of the purposes of a district. Distribution districts (pt. 6.5 [commencing with § 23500] of div. 11 of the Wat. Code) and improvement districts (pt. 7 [commencing with § 23600] of div. 11 of the Wat. Code) are examples. The board of directors may levy assessments within such subordinate districts for designated purposes. Such assessments are to be levied in the same manner and at the same time as the district assessments. (§§ 23533, 23672, 23776.)

Section 25550 provides:

"Upon receiving the assessment book from the assessor the secretary shall immediately give notice of its receipt and of the time, fixed by the board, when the board acting as a board of equalization will meet to *equalize assessments*." (Emphasis added.)

An equalization hearing is provided by section 25555:

"On the day specified in the notice of equalization, the board shall meet as a board of equalization to hear and determine objections to the valuation, acreage, or any other matter *pertaining to the assessment* coming before it." (Emphasis added.)

¹ All unidentified section references are to the Water Code.

The statutory scheme indicates that the requirements of sections 25550 and 25555 are not absolute. First, these sections speak only in terms of a meeting to "equalize assessments."² If assessments are not levied by a district, whether district-wide or in a subordinate district, the provisions of these sections do not apply. Thus, section 25502 provides:

"Annually, between March 1st and June 1st, the assessor shall assess all lands in his district to the persons owning, claiming, possessing, or controlling it, *except that if all funds are raised other than by assessment no assessment need be levied and no assessment roll need be prepared or equalized.*" (Emphases added.)

If assessments are utilized by a district to finance any of its functions, including assessments for distribution and improvement district purposes, then a district may levy and collect the assessments pursuant to section 25500-25559, which includes equalizing the district assessor's assessments. In the alternative, however, the district may contract with the county to transfer the district's assessing function or both the assessing and collection functions to the county, under chapter 8 (commencing with § 26600) of part 10, division 11, of the Water Code. When the district has transferred its assessing function to the county under such a contract the equalization of the assessments used for district purposes is performed by the board of supervisors or the State Board of Equalization rather than the board of directors. (§ 26625.)

We conclude that the board of directors of an irrigation district may lawfully dispense with its equalization function only during such time as the alternative assessment and equalization provisions of chapter 8 are in effect or when all funds required to be raised by the district are raised other than by assessment.

² The original request inquired whether article XIII A of the state Constitution superseded the board of equalization function of an irrigation district. We do not discuss this question because article XIII A does not apply to "assessments." (See 64 Ops.Cal.Atty.Gen. 790 (1981).)