



DEFINING SPECIAL DISTRICTS IN FEDERAL LAW & ENSURING ACCESS TO FEDERAL FINANCIAL ASSISTANCE

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The National Special Districts Association (NSDA) is renewing efforts aimed at passing legislation that would define special districts in federal law. The bill – described in further detail below – also would help ensure that special districts have access to all appropriate forms of federal financial assistance.

BACKGROUND AND CONTEXT

NSDA is currently working with our congressional partners to renew legislative efforts designed to establish a first-ever, formal definition of “special district” in the U.S. Code. In the last Congress, a bill (H.R. 7525) that would have accomplished this objective fell just short of the finish line. The bipartisan legislation – known as the *Special District Grant Accessibility Act* – also would have required the White House Office of Management and Budget (OMB) to issue guidance to federal agencies requiring special districts to be recognized as local governments for the purpose of federal financial assistance determinations.

NSDA anticipates the reintroduction of this critically important measure in the near future. In the House, Representatives Pat Fallon (R-TX) and Brittany Pettersen (D-CO) are expected to reintroduce the legislation later this spring. Senators John Cornyn (R-TX) and Jeff Merkley (D-OR) have agreed to sponsor the bill in the upper chamber.

It should be noted that the primary impetus for the *Special District Grant Accessibility Act* was the exclusion of special districts from COVID-19 pandemic-era legislation that provided direct federal financial assistance to local governments for coronavirus relief activities (i.e., *CARES Act* and the *American Rescue Plan Act* (ARPA)). Additionally, special districts are ineligible for – or have barriers to accessing – certain federal grant programs because the U.S. Census Bureau does not recognize special districts as geographic units of government (due to the absence of a formal statutory definition). Not having population-based figures precludes special districts from receiving certain formula-driven programs.

NSDA’s legislation would accomplish the following objectives:

1. Establish a first-ever, formal definition of “special district” in federal law; and,

2. Direct OMB to issue guidance to federal agencies requiring special districts to be recognized as local governments for the purpose of federal financial assistance determinations. Federal agencies would have one year to implement OMB's guidance.

A formal definition of "special district" would foster consistency and enhance special districts' access to a number of federal programs. Moreover, having a formal definition of special district codified in law would help facilitate the inclusion of special districts in future legislative proposals on Capitol Hill, particularly those that are designed to reauthorize or create new grant programs.

Examples of special districts facing barriers to accessing federal funds include:

- **Transportation Alternatives / Rails-to-Trails.** Many local park districts are not able to access the U.S. Department of Transportation's (USDOT) Transportation Alternatives (TA) program, as special districts are not Metropolitan Planning Organizations (MPOs)/do not meet USDOT's TA eligibility criteria.
- **USDOT's Reconnecting Communities Program.** Special districts are not listed in the program guidance as eligible entities. However, DOT staff has advised that special districts *could* qualify as a unit of local government or a non-profit organization depending upon how the district is structured.
- **U.S. Department of Agriculture (USDA) Rural Housing Preservation Grants.** Similar to the aforementioned example, USDA staff has expressed uncertainty regarding special district eligibility for this grant program.
- **U.S. Environmental Protection Agency's (EPA) Clean-Heavy Duty Vehicles Program.** Special districts are not explicitly listed as eligible entities in the program guidance and it remains unclear if districts qualify under the program's "municipality" umbrella.