



50 Years of LAFCOs

A Guide to LAFCOs

**California's Local
Agency Formation
Commissions**

Third Edition

December 2013

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December 17, 2013

Dear Friend,

No state is as geographically and demographically diverse as California. From the Siskiyou Mountains to San Diego Bay, over 5,000 local governments serve more than 37 million California residents. City limits and district boundaries shape California's future. Drawing these lines determines who develops land, who pays which taxes, and who receives public services. Few of us, however, know much about the institutions that draw those lines.

The Legislature created Local Agency Formation Commissions (LAFCOs) fifty years ago to control local agency boundaries.

When the Senate Local Government published Bill Ihrke's first edition of this citizen's guide in 1996, we received lots of orders because Californians wanted to know more about LAFCOs. In 2003, the second edition reviewed AB 2838 (Hertzberg, 2000), the most important reform to the state's local boundary laws in forty years. 2013 marks the fiftieth anniversary of the Legislature's first authorization to create LAFCOs.

This publication answers many questions about LAFCOs, explaining what LAFCOs are, why they came about, their legal powers, and how to understand and work with them. This guide also tells you where to get more information about LAFCOs, and how you can become more involved with their activities.

I hope that Samantha Lui's third edition provides you with helpful information on LAFCOs.

Sincerely,

LOIS WOLK
Chair

50 YEARS OF LAFCOs

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Senate Governance and Finance Committee
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HISTORY

After World War II, California's population and economy grew, generating demands for housing, employment, and municipal services. In response, the state approved the formation of many new local government agencies. Over time, the lack of coordinated growth management led to hastily formed cities and special districts, inefficient public service delivery, and diminishing amounts of agricultural and open-space lands.

To improve regional planning and growth management, Governor Edmund G. "Pat" Brown, Sr. created the Commission on Metropolitan Area Problems in 1959. The Legislature translated the Commission's recommendations into the Knox-Nisbet Act of 1963, which established a Local Agency Formation Commission, or LAFCO, in each county.

In 1971, the Legislature expanded LAFCOs' powers by requiring them to establish spheres of influence -- areas of planned growth -- for all cities and special districts, and to prepare studies that consider future growth and anticipated municipal service needs and opportunities. LAFCOs' powers and responsibilities were substantively expanded again in 2001 when the Legislature enacted the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) -- a comprehensive revision of LAFCO law that enabled LAFCOs to be more effective in fulfilling their legislative mission. Under the CKH Act, LAFCOs must, as needed, review and update spheres of influence every five years, and prepare Municipal Service Reviews to evaluate the adequacy of service relative to current and future community needs.

2013 marks the fiftieth anniversary of the Knox-Nisbet Act. California has changed over fifty years, but LAFCOs' main purposes remain the same. This publication provides background on what LAFCOs are, their legal powers, and how they have influenced California's planning and development landscape.

WHAT'S A LAFCO?

Under state law, the Legislature has exclusive power to regulate local government boundaries, including the power to create and dissolve local agencies and change their boundaries. The Legislature bestowed this authority to LAFCOs. No local government can unilaterally change its own boundary, nor can voters use an initiative or referendum to modify a boundary to bypass LAFCO consideration.

Local agency formation commissions serve as the Legislature's watchdog over city and special district boundaries. The **Cortese-Knox-Hertzberg Local Government Reorganization Act** directs LAFCOs to achieve three main purposes:

1. Discourage urban sprawl.
2. Encourage orderly governmental boundaries.
3. Preserve open-space and prime agricultural lands.

To achieve these goals, LAFCOs have planning and regulatory powers. LAFCOs plan by adopting and revising "spheres of influence," which define a city or special district's future boundary and service areas. LAFCOs regulate by reviewing and approving or denying proposals to change local governmental boundaries. Specifically, LAFCOs regulate the following types of boundary changes, called "changes of organization" (see page __ for more information):

- Annexations,
- Detachments,
- City incorporations and disincorporations,
- Special district formations and dissolutions,
- Mergers,
- Consolidations and creation of subsidiary districts, and
- Reorganizations, which combine two or more of these changes of organization in one proposal.

LAFCOs do not regulate boundaries for counties and some local government agencies, including school districts,¹ community facility (Mello-Roos) districts, and community college districts. Instead of using LAFCOs, the Legislature created alternative procedures to create, modify, and dissolve these agencies.

Table 1 (page ____) depicts which boundaries LAFCOs regulate.

A LAFCO IS NOT...

A county department or county agency. The state's 58 counties are governmental entities that administer state programs and provide various local services. An elected board of supervisors governs a county. Although elected county supervisors are appointed to sit on LAFCO, the county has no authority over LAFCO, and a LAFCO's decision can't be appealed to the board of supervisors.

¹ California has about 1,100 school districts, including community college districts, which provide public education. The County Committee on School District Organization, not LAFCO, regulates school districts' boundaries.

A city department or city agency.

California's 482 cities are municipal corporations that regulate and serve defined geographic areas. A city council, comprised of five or more elected members, governs the city. Although elected city officials sit on LAFCOs, no city council or group of cities has direct authority over a LAFCO.

A special district.² California's approximately 3,300 special districts are governmental entities that provide specific and diverse services, like irrigation water or fire protection, within limited boundaries. A board of directors or board of trustees is the district's governing body, but no special district board or group of districts has authority over a LAFCO. Independent special districts may also be seated as a member of LAFCO. Currently, 30 of the 58 LAFCOs have special district members.

Other miscellaneous local governments include:

- Joint powers authorities (JPAs) are formed by two or more governmental entities (federal, state, or local) to provide a common service. Many are financing tools that let agencies pool resources; others run programs jointly. Councils of government (COGs) are JPAs.
- Special financing districts, such as Mello-Roos Act community facilities districts and benefit assessment districts, raise revenue from specific areas for specific purposes, often related to financing capital improvements. Counties, cities, special districts, and school districts

² To learn more about Special Districts, please see the committee's publication, "What's So Special about Special Districts?" <http://sgf.senate.ca.gov/sites/sgf.senate.ca.gov/files/2010WSSASD4edition.pdf>

use these financing districts to pay for public works and some public services.

- Regional agencies and state commission, like the California Coastal Commission or air quality management districts, focus on a defined public topic in a specific region.

LAFCO POWERS

State law prohibits LAFCOs from making direct land use decisions, such as property development or subdivision design, but LAFCOs do indirectly impact land use by considering annexation to cities of territory planned for development and by determining access to three general types of public facilities and services:

1. **Growth inducing** land use decisions provide infrastructure and services essential to suburban and urban development, such as sewers, domestic water, structural fire protection, and flood control facilities. Without such services and facilities, development is not feasible.
2. **Growth supporting** facilities and services affect the quality of life in developed areas. Whereas growth inducing decisions develop uninhabited areas, growth supporting decisions make development more attractive to current and future residents and businesses. Parks, libraries, harbors, and airports are a few examples of these amenities.
3. **Non-growth related** facilities and services, like hospital, mosquito abatement, and public cemetery districts, do not influence patterns of

suburban, urban, and rural growth. However, LAFCO has the authority to regulate the boundary lines of cities and special districts that operate these facilities.

LAFCOs are required to establish a sphere of influence (SOI) -- a plan for the probable physical boundaries and service area of a local agency -- for cities and most special districts. LAFCOs must also conduct a Municipal Service Review (MSR) to inform the preparation and update of an agency's sphere of influence. In conducting a MSR, a LAFCO can review a single agency, a group of agencies providing a similar service or services, an area, a region, or the entire county.

Any person or local government may request an amendment or change to a sphere of influence. The request provides an opportunity to be heard at a public hearing. LAFCO commissioners have the final vote amending a sphere of influence. LAFCOs may recommend specific boundary changes based on a sphere of influence.

Whenever a LAFCO reviews proposed boundary changes for a city or special district, the commissioners consider whether the boundary changes are consistent with the local government's sphere of influence. Territory must be within a local government's sphere of influence to be eligible for a boundary change.

REASONS FOR BOUNDARIES

Boundaries assign *physical space* to local governments and help define a city or special district's geographic identity. For example, the City of Redding lies along the Sacramento River and the foothills of the

Coastal and the Cascade Ranges surround the city. The eastern side of the city is relatively flat while the western edge has hills as tall as 1,200 feet and ravines as deep as 200 feet.

Boundaries define which local governments have *taxing powers* over a certain area. For example, the City of San Diego is located in the County of San Diego. The city and the county charge a 10.5% transient occupancy tax, commonly known as a "hotel tax." If a tourist stays at a hotel in the City of San Diego, the City receives the revenue from the tax. If, however, someone stays at a hotel in the unincorporated part of San Diego County, the County gets the tax revenue. These "site-specific taxes" are known as *situs taxes* because local governments impose and collect them from a specific site or location within governmental boundaries.

Boundary lines decide which local governments have *corporate powers* or the authority to act in a certain area. For example, the Richvale Irrigation District (Butte County) has the corporate power to build and maintain water facilities for agricultural irrigation. The District, however, cannot provide water to farmers outside its jurisdiction without the Butte County LAFCO's approval.

Land use regulation in California is *mutually exclusive*, which means that only one agency -- a city or a county -- has land use planning authority for a given parcel of land. Mutual exclusivity explains why Simi Valley's City Council can approve a new subdivision in its jurisdiction but not in the unincorporated territory of Ventura County, and the County cannot approve developments within the City boundary.

TYPES OF BOUNDARY CHANGES

Local governments, property owners, and communities may seek boundary changes.³ For example, cities or districts may seek to serve additional areas or encourage new development; or, property owners or voters might want a change in government structure

To seek a boundary change, a person, group, or local government agency must submit an application to the LAFCO in the affected county. The CKH Act calls a single proposed change a *change of organization*. If two or more of changes of organization are in one proposal -- such as an area's annexation to a city and detachment from a special district -- it's called a *reorganization*.

1. **Annexation** occurs when a city or district *attaches, includes, or adds* territory to its boundary.
2. **Incorporation** means the *creation or establishment* of a new city. At least 500 registered voters must reside within the proposed territory at the time of the application. Most cities incorporate to gain local control of land use decisions and to receive more local revenue.
3. **Formation** of a special district means the *creation* of a new special district. Residents typically form special districts because they want a new or higher level of service and decide that a special district would be the most effective provider.
4. **Detachment** means the *exclusion, deletion, or removal* of territory from a city or district. Detachment occurs when land is annexed to another agency that provides similar services.

³ For a note on CEQA and how it pertains to LAFCO actions, please see Box 2 on page 13.

5. **Disincorporation** means the *termination* a city's official existence and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city.

6. **Dissolution** of a special district means the *termination* of the district's existence as a local government, ending its corporate powers -- except as LAFCO may provide, or for the purpose of winding up the district's affairs.

7. **Consolidation** occurs when two or more cities or two or more districts join into a single successor entity.

8. **Merger** is the term used when a special district, located entirely within a city boundary, ceases to exist, and the city takes over its service operations, costs, and revenues as a result of LAFCO proceedings.

9. A **subsidiary district** is a special district, in which the city council serves as the district's *ex officio* board of directors. The district is a separate governmental entity with its own corporate powers. A city can establish a subsidiary district if at least 70% of the district's territory is within the city's limits.

10. A special district's **exercise of new or different functions or classes of services** must be approved by LAFCO after a noticed public hearing, review of a plan for services, and determination of sufficiency of revenues. A special district can also take over or provide city services, like mosquito abatement or fire protection.

1. Initiation of proceedings;
2. LAFCO review and approval;
3. LAFCO conducts hearings;
4. Protest proceedings.
5. City or county conducts election, if needed;
6. Completion of proceedings, Filing with the State.

1. Initiation of proceedings. A change of organization or reorganization can be initiated in three ways: by petition of landowners or registered voters, by resolution of application by an affected local agency, or by LAFCO

- **By petition.** Registered voters or landowners in the affected territory may initiate a boundary change. In uninhabited areas⁴, landowners initiate the application; in an inhabited area, landowners or voters may act. Before a petition can be circulated, the petitioner(s) must file a notice of intent to circulate a petition with LAFCO. Before a LAFCO processes any proposal, anywhere from 5% to 25% of the affected voters or landowners, depending upon the type of change of organization, must sign the petition. Generally the petition must be completed within six months of when the first signature was gathered.
- **By resolution.** The governing body of an affected local agency, defined as any city or special district whose territory or sphere of influence contains some or all of the area

LAFCO PROCESS

Every change of organization or reorganization requires five, sometimes six, steps:

⁴ For "landowner-voter" special districts, only landowners may sign the petitions, even if the area is inhabited. Because relatively few landowner-vote districts exist in the state, proponents are encouraged to contact their local LAFCO for questions.

proposed for a change of organization, may initiate a change of organization or reorganization. A county board of supervisors can initiate any change in its county because a county's boundaries include all of the cities and special districts.

- **By LAFCO.** LAFCO may only initiate proposals for special district consolidations, dissolutions, mergers, formations, creation of subsidiary districts, or related reorganizations. Although LAFCOs originally played a reactive role in changing boundaries – acting on proposals submitted by landowners, voters, or other agencies – the Cortese-Knox-Hertzberg Act granted LAFCOs more power. LAFCOs may act more frequently to consolidate districts, and/or merge a district with nearby cities to increase service efficiency and reduce costs. However, LAFCOs can't initiate proposals for annexation to or detachment from a district and can't initiate changes to a city boundary.

2. LAFCO review and approval. Upon receiving an application, LAFCO staff determines whether an application is complete if:

- The petition has the required number of signatures, if initiated by petition;
- The affected local governments have agreed to an exchange of property taxes for the proposed boundary change, unless a master property tax exchange agreement exists;
- Documents and background materials, including any CEQA documents, have been submitted;

- Maps and legal descriptions were submitted, as required by LAFCO; and,
- The applicant has submitted all required application fees.

Within 30 days of receiving a proposal, LAFCO staff decides that an application is either:

- **Incomplete**, and sends the proposal back to the proponents, notifying the applicant about additional information or materials that are required; or
- **Complete**, issues a certificate of filing, and sets a LAFCO hearing within 90 days.

Before the LAFCO hearing, the executive officer prepares a written report and recommendation. All commissioners, affected local agencies, other persons named in the application, and those who have requested a copy, receive the report.

3. Public hearing. At the public hearing, the LAFCO members, known as commissioners, listen to testimony and debate the proposed boundary change. LAFCO can approve or deny the application.

- If LAFCO approves, it can attach *terms and conditions*. Terms and conditions spell out the boundary changes, water use priorities, tax transfers, and other necessary details. Terms and conditions cannot directly regulate land use, property development, or subdivision requirements.
- If LAFCO denies the application, all further proceedings cease and are terminated. No similar proposal may be initiated for one year following the denied application.

Any interested parties, within 30 days of a LAFCO decision, may submit a written request to LAFCO for reconsideration. The requesting party must identify new or different facts to warrant reconsideration. LAFCO hears the reconsideration at a public meeting, and then either approves or denies the request.

LAFCO doesn't need to hold a noticed public hearing for annexations, detachments, or reorganizations consisting of annexations and detachments, if: (1) the subject territory is uninhabited; (2) no affected agency has submitted a written demand for a noticed public hearing; and (3) all of the affected landowners have provided their written consent to the boundary change or the LAFCO has received proof that all owners consent to the action.

The commission must make its final decision within 35 days of the hearing's conclusion. The commissioners have four choices:

- Approve the proposal;
- Approve the proposal with conditions;
- Continue the matter to a future date to obtain more information; or,
- Deny the proposal.

4. Protest Proceedings. Unless otherwise specified in state law, the proposal moves to the next stage – a protest hearing when landowners and/or registered voters in the affected territory may formally object to the change.

For a proposed change of organization...

In *uninhabited territory*, only landowners are authorized to submit protests. For a change of organization in *inhabited territory*, both landowners and registered voters residing within the subject territory can submit protests. However, LAFCO can waive this

additional public hearing if all three of the following conditions are met:

- The affected territory is uninhabited.
- All of the landowners in the affected territory have given their written consent.
- No subject agency has submitted written opposition to waiving the protest hearing.

For a proposed annexation, detachment, or reorganization consisting of annexations or detachment...

After providing landowners and registered voters written notice of LAFCO proceedings, LAFCO can waive the protest hearing if no opposition from an inhabited area's registered voters, or landowners within the affected territory, is received by the end of the commission proceedings. Written notice must disclose that LAFCO intends to waive protest proceedings, and that there is the possibility for the extension of any previously authorized charge, fee, assessment, or tax by the local agency in the affected territory.

Unless a protest proceeding is waived or not required, between the dates when the protest hearing notice is issued and the conclusion of the hearing, any landowner, or registered voter for inhabited proposals, within the affected territory can protest the proposed boundary change in writing. When the hearing ends, LAFCO or its staff counts the written protests and adopts a formal resolution that does one of the following:

- Orders the boundary change, without an election;
- In the case of inhabited proposals, orders the boundary change, subject to voter approval; or,
- Terminates the boundary change because of majority protest.

The number of protests determines whether or not the boundary change requires an election.⁵

- If fewer than 25% of the registered voters or landowners protest, LAFCO orders the boundary change without an election.
- If the protests are between 25% and 50% of registered voters or landowners, and the subject territory is inhabited, the proposal must go to an election for voter approval.
- If 50% or more of the registered voters or landowners file protests, LAFCO terminates the boundary change proposal.

5. Possible Election. Although California courts say that there is no constitutional right to vote on local boundary changes, state law requires a confirmation election in certain cases. A vote to confirm a boundary change may occur at a primary or general election, and a local county recorder may also conduct a special election with mail-in ballots.

If there is sufficient protest, the city council (for city annexation) or county board of supervisors (all other boundary changes) calls for the confirmation election, and the voters decide the fate of a proposed boundary change. If a majority (50% or more) of those voting approves, the proposal passes and the boundary change occurs. If less than a majority (less than 50%) of those voting approves, the proposal fails and no boundary change occurs.

For a proposed city or special district annexation, only the registered voters in the

⁵ Some types of proposals have different protest thresholds. Please check with your local LAFCO.

area proposed to be annexed to the city can vote. If a proposal is a reorganization that affects several local agencies, the registered voters in each of the affected areas participate.

6. Completion and filing. The completion process occurs after LAFCO, and if applicable, the voters approve the boundary change. The executive officer verifies LAFCO's resolution of approval and all its terms and conditions. Once the applicant has complied with all the terms and conditions of approval and has provided the required materials and fees, the executive officer issues a certificate of completion, and then files the change with the State Board of Equalization and County Assessor to change tax rate boundaries. All affected local agencies are notified of the boundary change.

WHO SERVES ON LAFCOs?

Standard Membership

LAFCO members, called *commissioners*, are not directly elected to serve on LAFCO, though most are locally elected officials. When the Legislature created LAFCOs in the 1960s, the standard membership was five commissioners: two county supervisors, two city council members or mayors, and one public member. In the 1970s, state law made it possible for LAFCOs to expand this membership by adding two members from independent special districts. Now, about half of the LAFCOs have commissioners representing special districts. Terms of office are four years.⁶

⁶ For a note on counties with special membership, please see Box 1 on page 12.

Each board of supervisors appoints two of its members to serve on LAFCO and a third as an alternate member.

- In counties with two or more cities, a “city selection committee,” composed of the cities’ mayors and council members, appoints two elected city officials -- city council members or mayors -- and, one alternate.
- In 30 counties, a LAFCO also has two independent special district members. A committee composed of the presiding officers of each independent district appoints district board members, typically two, and one alternate.
- The LAFCO Commission appoints the public member. Anyone can serve as the public member, except for a locally elected official, can serve as the public member. the fifth commissioner, or the seventh commissioner for a LAFCO where special districts are represented.

WHO PAYS FOR LAFCOs?

Before 2001, state law required each county government to pay for the LAFCO in its county. As recommended by the Commission on Local Governance for the 21st Century, which the Legislature established to review statutes that govern boundary changes, the Legislature required cities and special districts with seats on LAFCO to share the cost of LAFCO’s annual operation in equal thirds. For LAFCOs where there is no special district representation on the commission, the county and cities split the cost equally.

A statutory formula allocates the cities’ share among the cities and the independent

special districts’ share among the districts. Local officials can negotiate alternative formulas. The county auditor allocates and collects the costs among funding agencies.

State law allows a LAFCO to charge *fees* to recover its costs of processing and reviewing boundary changes. Most LAFCOs require the applicants to pay these fees when they apply for the boundary change, regardless if the applicants are voters, property owners, or local agencies. Fees vary depending upon the change of organization involved and the size of the affected area, but they can’t exceed the reasonable cost of providing the service.

LAFCOs AND THE COURTS

While LAFCO decisions are not subject to review by any other administrative body, LAFCOs are subject to judicial review. LAFCO decisions can be challenged through the courts. Before filing a lawsuit, any person or affected agency can ask LAFCO to reconsider its boundary change decision within 30 days. Once LAFCO decides, there is no second appeal to the commission. A person or an agency then needs to go to the courts.

Property owners, residents, and public agencies can sue LAFCOs if they think the commissioners have violated state law. Some lawsuits have challenged the way that LAFCOs have followed the statutory procedures. Other suits challenged LAFCOs’ compliance with the California Environmental Quality Act (CEQA).

Another way to challenge a boundary change decision is through a “validation action,” which asks a judge to rule on the validity of an annexation or other boundary change. In unusual cases, the California

Attorney General can file a “quo warranto” lawsuit.

Over the last few decades, court decisions and legislation reinforced LAFCO’s role, as an independent legal authority, to shape community growth and municipal governance.

Assembly Bill 1335 (Gotch, 1993) empowered LAFCOs to initiate proposals to consolidate, dissolve, or merge special districts. It also required cities and districts to secure LAFCO approval before providing new or extended services outside their boundaries. In 2011, a California court considered LAFCO’s jurisdiction when the University of California, Santa Cruz applied for extension of services from the City of Santa Cruz. The Court’s ruling in *Community Water Coalition v. Santa Cruz LAFCO* (2011) 200 Cal. App. 4th 1317 upholds a LAFCO’s authority to adopt policies consistent with CKH but reflect LAFCO’s local discretion on the choice of methodology to implement its statutory authority.

In October 2012, the Orange County Court of Appeals ruled that Proposition 218 does not apply to annexations in *Citizens Association of Sunset Beach v. Orange County LAFCO* (2012). Sunset Beach was an unincorporated community annexed into the City of Huntington Beach (Orange County) with LAFCO approval. The court rejected claims that Huntington Beach could not impose existing citywide taxes on the annexing area without first securing the approval of Sunset Beach voters.

EMERGING ISSUES AND TRENDS

LAFCOs operate at the intersection of controversial policy issues: land use, infrastructure finance, fiscalization of land use, and community identity. One

emerging issue in land use planning is the existence of disadvantaged unincorporated communities (DUCs)— county islands (mostly surrounded by cities), fringe communities (at or near the edge of cities), or legacy communities (geographically isolated) — which often lack public services and public facilities like domestic water, sanitary sewers, paved streets, storm drains, and street lights.

In response to such situations, Senator Lois Wolk authored Senate Bill 244 (2011), which mandates LAFCOs and cities to include disadvantaged unincorporated communities (DUC) in land use planning. A DUC is defined as an area which has 12 or more registered voters and where the annual median household income is less than 80 percent of the statewide median household income. SB 244 also prohibits the approval of city annexations greater than 10 acres where there is a DUC contiguous to the area of the proposed annexation, unless an application to annex the DUC has also been filed. The law also requires LAFCOs to consider DUCs when preparing Municipal Service Reviews (MSRs) and determining or updating spheres of influence. However, if registered voters in the affected area oppose the annexation, or if the application for annexation of the same DUC has been made in the preceding five years, this requirement is waived.

Another issue would be the elimination of the vehicle license fee revenues that were used to help newly incorporated cities and cities that annex inhabited areas. When Governor Brown’s 2011 Realignment Proposal shifted several state programs and commensurate revenues to local governments, the Legislature passed Senate Bill 89 (Committee on Budget and Fiscal Review, 2011) to increase vehicle license registration by \$12 per vehicle to offset

DMV's cut budget. SB 89 also eliminated \$153 million in vehicle license fee (VLF) revenues allocated to cities and shifted those revenues to fund public safety realignment. It is unclear whether new city incorporations or annexations would be financially feasible.

CONCLUSION

In 1963, LAFCOs emerged as a boundary agency to discourage urban sprawl and "redraw" illogical boundaries resulting

from the prolific changing of California demographics. Fifty years later, with 482 cities and over 3,300 special districts throughout the state, LAFCOs' continue to play an important role through their involvement and participation with local governments in creating governance options to increase efficiency in the deliverance of municipal services to all California residents.

FREQUENTLY ASKED QUESTIONS

1. What's a LAFCO?

LAFCO is an acronym for Local Agency Formation Commission. A LAFCO is an independent regulatory commission that receives powers from the California Legislature. There is a LAFCO in each of California's 58 counties.

2. What do LAFCOs do?

LAFCO evaluates boundary change proposals to see if the changes will result in better and/or more efficient services to the area. LAFCOs adopt "spheres of influence" for cities and special districts, identifying those local agencies' future service areas and boundaries. LAFCOs' regulatory decisions on boundary changes must be consistent with the adopted spheres of influence. LAFCOs are the Legislature's "watchdogs" over boundary changes to encourage and provide well-ordered urban development.

3. Who controls the local boundaries that LAFCO doesn't?

The state government has the ultimate control over the boundaries of all local governments and regional agencies. The Legislature has delegated to LAFCOs its authority over city and district boundaries. For county boundaries, however, the rules are different. County boards of supervisors can adjust their boundaries by agreeing to minor boundary changes. Forming a new county is more complicated because it involves a special County Boundary Review Commission appointed by the Governor.

For school districts, a committee on school district organization, which exists in every county, regulates school districts' dividing lines. State law allows counties, cities, school districts, and special districts to form their own internal financing district boundaries, such as Mello-Roos Act districts and benefit assessment districts. Regional governments and commissions are established by statute to respond to a defined public policy interest.

4. Who serves on a LAFCO?

The standard membership for a LAFCO is two county supervisors, two city council members, and one public member. Half of the LAFCOs have two special district commissioners. Every LAFCO has an executive officer who prepares reports and recommendations for the commissioners. To find out who serves on your LAFCO and who does the staff work, please contact the LAFCO in your county.

BOX 1: A note on special membership

Three counties, Alpine, Mariposa, and Trinity have no incorporated cities, so their LAFCOs consist of three county supervisors and two public members. In counties, like Sierra County, which have only one incorporated city, LAFCO is comprised of two county supervisors, one city council member, and two public members.

For local political, geographical, or population reasons, some LAFCOs have unique membership formulas. For example:

- *Sacramento* LAFCO has seven commissioners, with one of the city seats reserved for the City of Sacramento.
- *San Diego* LAFCO has eight members, with an extra city seat for the City of San Diego.
- *Los Angeles* LAFCO has nine commissioners, with an extra city seat for the City of Los Angeles and an extra public member from the San Fernando Valley.

5. Can I be on a LAFCO?

Yes, in several ways. Any registered voter may run for county supervisor and city residents may run for the city council. Special districts also have elected governing boards of directors. These local officials can sit on LAFCO. If you don't wish to run for elected office, every LAFCO has at least one public member chosen by the other members. Local government agencies often provide community organization and public libraries information about the availability of a public member position.

When a public member seat is available, a LAFCO typically notifies to the county, cities, special districts, and community organizations. The CKH Act prohibits any county, city, or special district officer or employee from serving as a public member.

6. What if I don't like a proposed boundary change? Can I protest or appeal?

When voters, landowners, or a local government proposes a boundary change, LAFCO conducts an open and public hearing. If LAFCO approves the proposal, there may be another public hearing to measure protests. You can oppose the proposal at both hearings. Some boundary changes require elections, while others don't need voter confirmation, unless there is a lot of protest. If LAFCO approves a boundary change, you can ask LAFCO to reconsider its decision. If there's an election on the boundary change, you can campaign and vote against the ballot measure. If there's no election or if the measure passes, it is possible to sue and challenge the boundary change in court; for information on filing a lawsuit, you should consult an experienced attorney.

7. Does CEQA affect LAFCO?

Yes. Although LAFCOs do not directly regulate land use, their decisions strongly influence land use. As a result, most LAFCO determinations, such as city annexations, certain detachments, and changes to a local agency's sphere of influence are all subject to environmental review under the California Environmental Quality Act.

BOX 2: A note about CEQA

In *Bozung v. LAFCO of Ventura County* (1975), California courts have found that LAFCO actions are subject to the California Environmental Quality Act (CEQA). CEQA requires LAFCO to review the environmental effects of proposed boundary changes. Depending on the request, LAFCO may assume the lead agency role and require an environmental impact report.

8. Does LAFCO have authority over school districts' boundaries?

No. School district boundaries are made by a committee on school district organization in each county.

9. Who pays for LAFCO?

By state law, LAFCOs are funded by their member agencies.

10. Where can I get a copy of the Cortese-Knox-Hertzberg Act?

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 starts with Section 56000 of the California Government Code. The California Assembly Local Government Committee publishes the Guide to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 in print copy and on their website: <http://alcl.assembly.ca.gov/publications>. A print copy costs \$12 and may be purchased from:

Assembly Publications
c/o Office of the Chief Clerk
State Capitol, Room 3196
Sacramento, CA 95814

11. Where can I get more information about LAFCOs?

The best place to start is with your LAFCO's executive officer or staff. You can usually find LAFCO's telephone number in the government pages of your telephone book, or use the Internet to find the LAFCO in your county.

Also, if you are interested in attending a LAFCO meeting, most LAFCOs meet every month, or every other month. Agendas are publicly posted online and at their office. Another place to get good information is from the California Association of Local Agency Formation Commissions (CALAFCO). The directory on CALAFCO's website lists the names and phone numbers of the LAFCO executive officers: www.calafco.org.

12. What's a "sphere of influence?"

Sphere of influence (SOI) is a term that means the plan for the probable long-term boundary and service area of a city or special district, given population projections and future service needs. It's a planning tool used by LAFCOs to help determine if future annexations make sense. In effect, a sphere of influence tells landowners, residents, and public officials where the LAFCO thinks a city or district will "grow" in the future. All boundary changes must be consistent with spheres of influence.

13. What's a "municipal service review?"

Before LAFCOs adopt or update spheres of influences, they conduct "municipal service reviews." Since 2000, LAFCOs must conduct a MSR, which is a study prepared before LAFCO updates a city or special district's sphere of influence. In a MSR, a LAFCO can review all of the agencies that provide the public services within the study area. MSRs raise questions and important issues, and get people talking. The CKH Act requires LAFCOs to update, as necessary, the local government's sphere of influence every five years. Logically, LAFCOs must also update MSRs before revising a SOI.

14. What are some useful websites to learn more about LAFCOs?

- **California Association of Local Agency Formation Commissions**
www.calafco.org

This website contains a directory that provides contact information for CALAFCO's 58 member LAFCOs. It also has useful documents and links under "Resources."

- **California State Legislature**
www.leginfo.ca.gov

The Legislature's official and nonpartisan website gives you free access to legislative records and a full set of state statutes, including the Cortese-Knox-Hertzberg Act.

- **California Senate Governance and Finance Committee**

www.sgf.senate.ca.gov

The Committee's website contains the text of this Citizen's Guide, plus a wide variety of useful information about local governments: counties, cities, special districts, and joint powers agencies.

- **Governor's Office of Planning and Research (OPR)**

www.opr.ca.gov

The Office of Planning and Research (OPR) is a part of the Governor's Office. Among other things, it assists the Governor in land use planning, research, and liaison with local governments.

APPENDIX A: LEGISLATIVE HISTORY

Knox-Nisbet Act of 1963. This act created local agency formation commissions (LAFCOs) with regulatory authority over boundary changes for cities and certain special districts.

Assembly Bill 2870 Spheres of Influence (Knox, 1971). This law required LAFCOs to establish Spheres of Influence (SOIs) for each city and special district within their respect county. This law expanded LAFCO's authority wherein LAFCOs function as a planning agency as well as a regulatory agency.

Cortese-Knox Local Government Reorganization Act of 1985. Cortese-Knox consolidated three major laws governing boundary changes (the Knox-Nisbet Act of 1963, the District Reorganization Act of 1965, and the Municipal Organization Act of 1977) into one cohesive body of law in the Government Code.

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Adopted in response to recommendations contained in *Growth Within Bounds*, the Commission on Local Governance for the 21st Century report, the Act represents the most comprehensive overhaul of LAFCO legislation since the original adoption of the Knox-Nisbet Act in 1963. CKH also established the requirement that LAFCOs prepare Municipal Service Reviews, to inform updates of local government's spheres of influences, which are reviewed at least every five years.

Assembly Bill 54 Mutual Water Companies (Solorio, 2011). AB 54 requires mutual water companies to provide LAFCOs with a map of their service territory. The law also authorizes LAFCOs to consider service provided by mutual water companies when preparing a municipal service review involving water. LAFCOs are authorized to review whether the companies comply with the Safe Drinking Water Act.

Senate Bill 244 Disadvantaged unincorporated communities (Wolk, 2011). SB 244 requires LAFCOs and cities to include disadvantaged unincorporated communities (DUC) in land use plan. The bill also prohibits the approval of city annexations greater than 10 acres where there is a DUC contiguous to the area of the proposed annexation, unless an application to annex the DUC has also been filed. LAFCOs must consider DUCs when preparing Municipal Service Reviews and updating a sphere of influence.

APPENDIX B: LAFCO PROCESS

APPENDIX B: LAFCO PROCESS

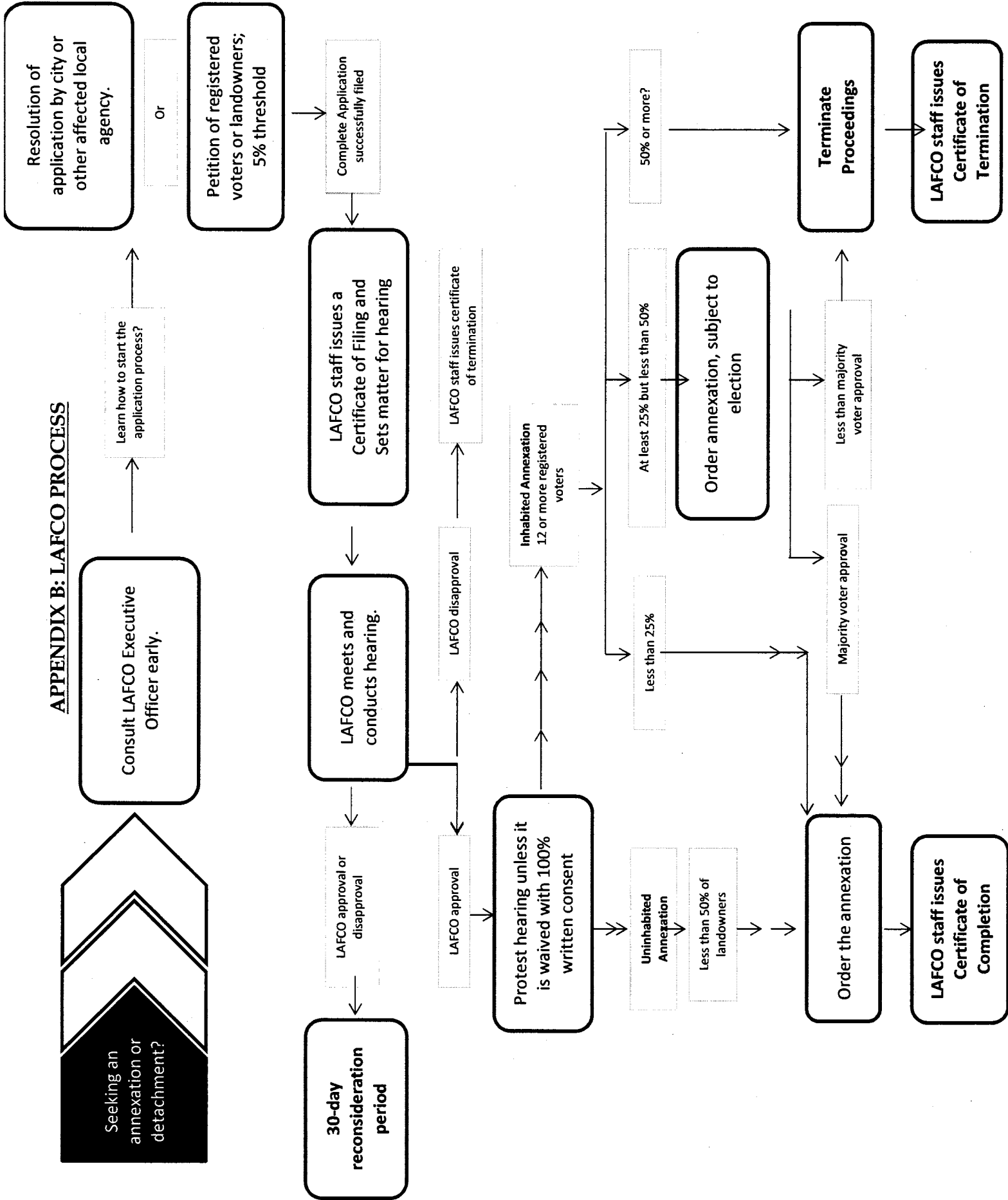


TABLE 1: Types of boundaries that LAFCOs regulate.

| Do Regulate | Do not regulate |
|---|---|
| Air pollution districts California water districts Community services districts County sanitation districts County improvement districts County water works districts Electric power district Harbors and port districts Hospital care districts Irrigation districts Library districts Metropolitan water districts Mosquito abatement districts Municipal utility districts Municipal water districts Pest control districts Police protection districts Public cemetery districts Public utility districts Reclamation districts Recreation and park districts Resource conservation districts Sanitary districts Separation of grade districts Sewer districts Sewer maintenance districts Transit and transit districts Unified or junior high school library districts Vector control districts | Air pollution control districts Air quality management districts Bridge or highway districts Community college districts Community facilities districts (with fire districts) Improvement districts Interior zones or divisions of special districts Joint power agencies Joint highway districts Permanent road divisions School districts Special assessment districts |

REFERENCES TO QUESTIONS

The "Frequently Asked Questions" section on pages 16-18 tries to anticipate many of your questions. Here are the references to those questions. Statutes are listed by code, followed by section. For example, "Government Code §56001" means that you can find the statute under Section 56001 of the Government Code.

Question 1:

Government Code §56001

Government Code §56325

Simi Valley Recreation & Park Dist. V. Local Agency Formation Com, 51 Cal. App. 3d 648 (1975).

Question 2:

Government Code §56300

Government Code §56375, et seq.

Government Code §56425, et seq.

Government Code §56430

Timberidge Enterprises, Inc. v. City of Santa Rosa, 86 Cal. App. 3d 873 (1978).

City of Ceres v. City of Modesto, 274 Cal. App. 2d 545 (1969).

Question 9:

Education Code §35720, et seq.

Education Code §4000, et seq.

California Department of Education's *District Organization Handbook*,

<http://www.cde.ca.gov/re/lr/do/>

Question 3:

Government Code §56300

Government Code §56301

Question 10:

Government Code §56381, et seq.

Government Code §56381.6

Question 4:

Civil Procedure Code §860

Civil Procedure Code §863

Question 11:

Government Code §56425

Government Code §56430

Question 5:

Government Code §56425

Government Code §56428

Question 13:www.calafco.org**Question 6:**

Public Resources Code §21000, et seq.

Bozung v. Local Agency Formation Com, 13 Cal. 3d 263 (1975).

Pistoresi v. City of Madera, 138 Cal. App. 3d 284 (1982).

People ex rel. Younger v. Local Agency Formation Com, 81 Cal. App. 3d 464 (1978).

Question 14:

Government Code §56076

Government Code §56425, et seq.

Question 15:

Government Code §56430

Governor's Office of Planning and Research *Local Agency Formation Commission*

Municipal Service Review Guidelines,

<http://opr.ca.gov/docs/MSRGuidelines.pdf>

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BIBLIOGRAPHY

Altmaier, Monica and Elisa Barbour, Christian Eggleton, Jennifer Gage, Jason Hayter, and Ayrin Zahner. Making it Work: Implementing Senate Bill 375. Center for a Sustainable California, Institute of Urban and Regional Development. Berkeley, CA. 2009
<http://sustainablecalifornia.berkeley.edu/pubs/SB375-FULL-REPORT.pdf>.

California Environmental Protection Air Resources Board. Sustainable Communities. Sacramento, CA 2013 <http://www.arb.ca.gov/cc/sb375/sb375.htm>.

Commission on Local Governance for the 21st Century. Growth Within Bounds: Planning California Governance for the 21st Century. Sacramento, CA, 2000.

Detwiler, Peter M. "The Challenges of Growth Within Bounds." California Environmental Law and Practice. New York: Matthew Bender Company, 2000.

Fulton, William. "Two LAFCO Rulings Reveal Importance of Commissions." *California Planning and Development Report*. (2012). Print. <<http://www.cp-dr.com/node/3300>>.

Ihrke, William. It's Time to Draw the Line: A Citizen's Guide to Local Agency Formation Commissions in California (First Edition). Sacramento, CA, 1996.

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