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August 14, 2013 (Agenda)

August 14, 2013  
Agenda Item 9

Contra Costa Local Agency Formation Commission  
651 Pine Street, Sixth Floor  
Martinez, CA 94553

**Policies and Procedures Update**

Dear Members of the Commission:

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 requires each LAFCO to establish written policies and procedures. Presently, we have the *Commissioner Handbook*, which contains a mix of policies and procedures. In addition, we have various applications and related forms. Periodically, the Commission adopts updates and revisions to these documents in accordance with changes in State law or Commission policy.

Commissioners Burke and Tatzin serve as the Policies & Procedures Committee. On July 30<sup>th</sup>, the Committee met to discuss updates to the Handbook.

Contra Costa LAFCO currently has procedures specific to incorporation proposals and processing multi-county boundary changes. In addition, we have general procedures relating to boundary change proposals. However, we currently have no specific procedures relating other types of changes of organization or reorganizations, including the following:

1. City annexations/detachments
2. District annexations/detachments
3. District mergers and establishment of subsidiary districts
4. LAFCO-initiated proposals
5. New or different services
6. District dissolution
7. District formation
8. District consolidation
9. City consolidation
10. Disincorporation
11. Reorganization

Given our recent experience with the Mt. Diablo Health Care District Reorganization, we thought it would be useful to develop procedures specific to each kind of change of organization, as listed above.

The Committee has drafted specific procedures relating to items 1-6 above (attached) for the Commission's consideration. Once we have a complete set of procedures, the Committee will initiate work on related policies.

**RECOMMENDATION** - It is recommended that the Commission approve the attached procedures with any changes as desired.

Sincerely,

LOU ANN TEXEIRA  
EXECUTIVE OFFICER

- Attachment 1 – Section 3.4 - City Annexations/Detachments
- Attachment 2 – Section 3.5 - District Annexations/Detachments
- Attachment 3 – Section 3.6 - District Mergers and Establishment of Subsidiary Districts
- Attachment 4 – Section 3.7 - LAFCO Initiated Proposals
- Attachment 5 – Section 3.8 - New or Different Services
- Attachment 6 – Section 3.9 - District Dissolution

## Section 3.4 - City Annexations and Detachments

### Initiation of Proceedings

Proceedings for annexation to or detachment from a city may be initiated by petition or by resolution of the governing body of any affected county, city, district or school district (56650). In addition, a LAFCO application is required.

#### 1. Initiation by Petition

##### A. A petition initiating proceedings shall do all of the following (56700):

- (1) State that the proposal is made pursuant to this part;
- (2) State the nature of the proposal and list all proposed annexations and/or detachments;
- (3) Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries;
- (4) Set forth any proposed terms and conditions;
- (5) State the reason or reasons for the proposal;
- (6) State whether the petition is signed by registered voters or owners of land;
- (7) Designate no more than three persons as chief petitioners, setting forth their names and mailing addresses;
- (8) Request that LAFCO consider this proposal pursuant to the Cortese-Knox-Hertzberg Act; and
- (9) State whether the proposal is consistent with the spheres of influence of any affected city or district.

##### B. Signature Requirements

- (1) A petition for annexation to a city shall be signed by either of the following (56767):
  - (a) not less than 5% of the number of registered voters residing within the territory proposed to be annexed; or
  - (b) not less than 5% of the number of owners of land within the territory proposed to be annexed who also own 5% of the assessed value of land within the territory as shown on the last equalized assessment roll.

- (2) A petition for detachment of territory from a city shall be signed by either of the following (56768):
  - (a) not less than 25% of the number of registered voters residing within the territory proposed to be detached; or
  - (b) not less than 25% of the number of owners of land within the territory proposed to be detached who also own 25% of the assessed value of land within the territory, as shown on the last equalized assessment roll.

## 2. Initiation by Resolution

An adopted resolution of application by the legislative body of any affected county, city, special district or school district shall contain all the matters required in the petition except for signers and signatures (56653, 56654).

## 3. Pre-zoning

Cities are required to pre-zone territory prior to LAFCO consideration of a city annexation. The zoning designation assigned must remain in effect for two years following the completion of the annexation, unless the city council makes a finding that a substantial change has occurred in circumstances that require a change from the pre-zoning set forth in the application to LAFCO (56375). An application will not be considered complete unless the city has pre-zoned the area proposed for annexation, or LAFCO can make findings in accordance with 56375(a)(7).

## 4. Noncontiguous Territory

In general, cities may not annex territory unless the territory is located in the same county and is contiguous with the annexing city (56741). However, if approved by the Commission, cities may annex noncontiguous territory not exceeding 300 acres in area, which is located in the same county, owned by the city, and is being used for municipal purposes at the time Commission proceedings are initiated (56742). Cities may also annex noncontiguous territory that constitutes a state correctional facility or a state correctional training facility (56742.5).

## Commission Proceedings

1. Contra Costa LAFCO may approve, modify, or deny the proposal. If approved, the Commission may also adopt terms and conditions for the annexation or detachment. Unless protest proceedings are waived, the proposal is scheduled for a conducting authority protest hearing where no further modifications may be made. The Commission serves as the conducting authority for city annexations and detachments (56029).
2. If a proposal is submitted that includes a city detachment, it shall be placed on the next Commission agenda for information purposes and a copy of the proposal shall be forwarded to the detaching city. Within 60 days after the proposal is included in the Commission agenda, the affected city may adopt and transmit to the Commission a resolution requesting termination of proceedings. If such a resolution is adopted and transmitted within the prescribed timeframe, proceedings shall be terminated (56751).

## **Conducting Authority (Protest) Proceedings**

The Commission is the conducting authority for an annexation or detachment.

1. Within 35 days following the adoption of the Commission's resolution making determinations, and following the reconsideration period specified in 56895, the Commission sets the proposal for a protest hearing and gives notice of the hearing. The hearing shall not be less than 21 or more than 60 days after the notice is given (57002). If authorized pursuant to 56662, the proposal may be approved by resolution without notice, hearing and election (57002).
2. Unless the requirements for hearing are waived pursuant to section 56662, the Commission or, if delegated to the Executive Officer, the Executive Officer shall conduct a hearing to receive any oral or written protests and take one of the following actions (57000, 57050):
  - A. Inhabited territory
    - (1) The conducting authority must order the territory annexed without an election when protests are less than 25% of registered voters in the territory, and less than 25% of the landowners owning less than 25% of the assessed value of land in the territory (57075).
    - (2) The conducting authority must call an election on the question of an inhabited annexation when 25% or more (but less than 50%) of the voters or landowners protest (57075).
    - (3) When 50% or more of the registered voters of an inhabited area proposed for annexation or detachment protest in writing, the proceedings are terminated (57078).
  - B. Uninhabited territory
    - (1) The conducting authority must approve uninhabited annexations with less than 50% assessed land value landowner protest (57075).
    - (2) When landowners owning 50% or more of the total assessed value of land within the affected territory protest in writing, proceedings are terminated (57078).

## **Special Provisions**

### **1. Elections Requirements**

In the case of an inhabited annexation to a city, the Commission shall require that an election be held in both the annexation area and the city when (56737):

- A. The assessed value of land within the annexation area equals one-half, or more, of that within the city prior to the annexation; or

- B. The number of registered voters within the annexation area equals one-half or more of that within the city prior to the annexation.

## 2. Distinct Communities

If a proposed annexation consists of two or more distinct communities and any one community has more than 250 registered voters, any protest filed shall be accounted separately for that community (57078.5). This provision does not apply if the proposal is an island annexation initiated in accordance with 56375.3.

## 3. Island Annexations

The Commission shall approve an annexation to a city and order the annexation without an election, and waive the conducting authority proceedings if the annexation is proposed by resolution of the affected city and the Commission finds that territory contained in the annexation meets all of the following requirements (56375.3).

- A. The territory does not exceed 150 acres in area, and the area constitutes the entire island.
- B. The territory constitutes an unincorporated island as defined by statute and local LAFCO policy.
- C. The territory is surrounded in either of the following ways:
  - (1) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and the county boundary or the Pacific Ocean; or
  - (2) Surrounded by the city to which annexation is proposed and adjacent cities.
- D. The territory is substantially developed, or developing. This finding shall be based on one or more factors, including, but not limited to:
  - (1) The availability of public utility services.
  - (2) The presence of public improvements.
  - (3) The presence of physical improvements upon the parcel or parcels within the area.
  - (4) It is not prime agricultural land as defined by Government Code §56064.
  - (5) It will benefit from the annexation or is receiving benefits from the annexing city.

At the option of either the city or the county, a separate property tax transfer agreement covering an island annexation may be agreed to by the city and the county without affecting any existing master tax sharing agreement between the city and the county.

These provisions do not apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

These special provisions are scheduled to expire on January 1, 2014, unless eliminated or extended by a superseding statute.

4. Special Provisions for Williamson Act Territory (51233, 51243.5, 56738, 56752).

The Williamson Act provides that a property owner may enter into a contract with a county or city whereby the assessed property taxes are reduced in return for keeping the property in an agricultural preserve for a minimum of 10 years. Except as provided in Government Code section 51243.5, on and after the effective date of an annexation by a city of any land under contract with the county, the city shall succeed to all rights, duties, and powers of the county under the contract.

A city may refuse to succeed to a Williamson Act contract if either of the following conditions exist:

- A. Prior to December 8, 1971 the land being annexed was within one mile of the city boundary when the contract was executed and the city filed a resolution protesting the contract with the board of supervisors; or
- B. Prior to January 1, 1991: (a) the land being annexed was within one mile of the city boundary; (b) the city had filed a resolution protesting the contract with LAFCO; (c) LAFCO held a hearing to consider the protest; (d) LAFCO made a finding of inconsistency with future land use; and (e) LAFCO approved the protest.

Please refer to the applicable code sections for specific procedures regarding the annexation of Williamson Act territory.

## Section 3.5 - District Annexations and Detachments

### Initiation of Proceedings

Proceedings for annexation to or detachment from a district may be initiated by petition or by resolution of the governing body of any affected county, city, district or school district (56650). In addition, a LAFCO application is required.

#### 1. Initiation by Petition:

##### A. A petition of application shall do all of the following (56700):

- (1) State that the proposal is made pursuant to this part;
- (2) State the nature of the proposal and list all proposed annexations and/or detachments;
- (3) Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries;
- (4) Set forth any proposed terms and conditions;
- (5) State the reason or reasons for the proposal;
- (6) State whether the petition is signed by registered voters or owners of land;
- (7) Designate no more than three persons as chief petitioners, setting forth their names and mailing addresses;
- (8) Request that LAFCO consider this proposal pursuant to the Cortese-Knox-Hertzberg Act; and
- (9) State whether the proposal is consistent with the spheres of influence of any affected city or district.

##### B. Signature Requirements (56864):

- (1) **Registered-voter district** (a district whose principal act provides that registered voters residing within the district are entitled to vote) petitions for annexation or detachment shall be signed by: (a) not less than 25% of the registered voters within the territory to be annexed or detached; or not less than 25% of the number of landowners who own not less than 25% of the assessed value of land within such territory.
- (2) **Landowner-voter district** (a district whose principal act provides that owners of land within the district are entitled to vote) petitions for annexation or detachment shall be signed by not less than 25% of the number of landowners who own not less than 25% of the assessed value of land.



2. Initiation by Resolution (56654):

An adopted resolution of application by the legislative body of any affected county, city, special district or school district shall contain all the matters required in the petition except for signers and signatures.

**Commission Proceedings**

The Commission shall consider factors pursuant to sections 56668, 56668.3 and 56668.5 in its review of a district boundary change proposal.

If a proposal is submitted for a district annexation or a reorganization that includes a district annexation and the proposal was not initiated by the affected district, the proposal will be placed on the next Commission agenda for information purposes and a copy of the proposal shall be forwarded to districts to which annexation is proposed. Within 60 days after the proposal is included on the Commission agenda, any district to which annexation is proposed may adopt and transmit to the Commission a resolution requesting termination of proceedings. If such a resolution is adopted and transmitted within the prescribed timeframe, proceedings shall be terminated (56857).

LAFCO may approve, modify, or deny a proposal. If approved, the Commission may also adopt terms and conditions for the annexation or detachment. Then the proposal is scheduled for a conducting authority hearing where no further modifications may be made. The Commission is the conducting authority for a district annexation or detachment (56029).

**Special Provision for Special Districts that Furnish Gas or Electric Service (56129)**

Districts cannot furnish gas or electric service within a service area for which a public utility has been granted a certificate of public convenience until an election is held on the question of the change of organization or the question of the gas and electric service has been called after the completion of proceedings for the change of organization.

**Conducting Authority (Protest) Proceedings**

1. Within 35 days following the adoption of the Commission's resolution making determinations, and following the reconsideration period specified in 56895, the Commission shall set the proposal for a protest hearing and give notice of the hearing. The hearing shall not be less than 21 or more than 60 days after the notice is given (57002). If authorized by LAFCO pursuant to 56662, the proposal may be approved by resolution of the conducting authority without notice, hearing, and election (57002).
2. Proceedings shall be terminated if written protests are filed and not withdrawn prior to the conclusion of the hearing by:
  - A. In the case of uninhabited territory, landowners owning 50% or more of the assessed value of land; or
  - B. In the case of inhabited territory, 50% or more of the voting power of voters residing in the territory (57078).
3. If no majority protest is filed, the Commission shall order the annexation or detachment either without or subject to an election. An election may only be waived when:
  - A. In a registered-voter district, if inhabited and protests are filed by less than 25% of

the voters, or less than 25% of the number of landowners owning less than 25% of the assessed value of land within the affected territory (57075).

- B. In a landowner-voter district, if protests are filed by less than 25% of the number of landowners owning less than 25% of the assessed value of the land, or less than 25% of the voting power of landowner voters entitled to vote as a result of owning property within the territory (57076).
  - C. The Commission has waived election requirements pursuant to the provisions of Section 56662 (57002).
4. Pursuant to Section 56876, the Commission may order the election to be held only:
- A. Within the territory; or
  - B. Within both the territory and all or part of the district outside of such territory.

### **Election and Completion of Proceedings**

- 1. After the election, the Commission shall adopt a resolution confirming the order of the change of organization if a majority of the votes cast are in favor in either of the following circumstances (57176):
  - A. At an election called in the affected territory; or
  - B. At an election called within the affected territory and within the territory of the affected agency.
- 2. A resolution ordering an annexation or detachment shall describe the exterior boundaries of the territory annexed or detached, and shall contain all terms and conditions imposed upon such annexation or detachment (57100).
- 3. For the purpose of any action to determine or contest the validity of an annexation or detachment, the annexation or detachment shall be deemed to be completed and in existence upon the date of execution of the Certificate of Completion (56102).
- 4. If no effective date has been fixed in any of the terms and conditions, the effective date shall be the date of recordation by the County Recorder (57202).

## Section 3.6 - District Mergers and Establishment of Subsidiary Districts

### Definitions

1. A merger means *the termination of the existence of a district when the responsibility for the functions, services, assets, and liabilities of that district are assumed by a city* (56056).
2. A subsidiary district means *a district in which a city council is designated as, and empowered to act as, ex officio the board of directors of the district* (56078).

### Territorial Requirements

1. In a merger, the territory of a district shall be included entirely within the boundaries of a city (57104).
2. In establishing a subsidiary district (57105):
  - A. The entire territory of a district shall be included within the boundaries of a city; or
  - B. A portion or portions of the territory of such district shall be included within the boundaries of a city, and such portion or portions shall both represent 70% or more of the area of land within such district and contain 70% or more of the number of registered voters who reside within the district.

### Initiation of Proceedings

1. A merger or subsidiary district proposal may be initiated by petition or resolution as follows (56375, 56654, 56866):
  - A. Petition for a merger of a registered-voter district that overlaps a city, or for the establishment of such district as a subsidiary district of the city shall be signed by either of the following:
    - (1) 5% of the registered voters of the district; or
    - (2) 5% of the registered voters residing within the territory of the city outside the boundaries of the district.
  - B. Petition for a merger of a landowner-voter district that overlaps a city, or for the establishment of such district as a subsidiary district of the city shall be signed by either of the following:
    - (1) 5% of the number of landowner-voters who own not less than 5% of the assessed value of land within such district; or
    - (2) 5% of the registered voters residing within the territory of the city outside the boundaries of the district.
  - C. Resolution of application by the legislative body of any affected local agency (56654).
  - D. Resolution adopted by LAFCO. The Commission may initiate proposals for the merger of districts or the establishment of subsidiary districts (56375). For a discussion of LAFCO initiated proposals, see Section 3.7.

## Commission Proceedings

### 1. Special Provisions (56861):

- A. Within 10 days after receiving a proposal to form a subsidiary district, the Executive Officer shall notify by certified mail the district or districts that are the subject of the proposal.
- B. Within 35 days after receiving the notice from the Executive Officer, the board of directors of the subject district or districts may do either of the following:
  - (1) Adopt a resolution consenting to the subsidiary district proposal, with or without requesting additional terms and conditions; or
  - (2) Adopt a resolution of intention to file an alternative proposal to the subsidiary district proposal.

### 2. Alternative Proposal (56862):

Any proposal for a merger must also consider the alternative proposal for the establishment of a subsidiary district, and any proposal for establishment of a subsidiary district must also consider the alternative proposal for a merger (56118).

The exception is the case of mergers of existing subsidiary districts.

- A. If a district files a resolution of intent to file an alternative proposal, the Executive Officer shall take no further action on the original proposal for 70 days. During this period the district shall prepare and submit a completed application for the alternative proposal.
- B. A district that has filed a resolution of intention, but has not filed a completed application within the prescribed time, shall be deemed to have consented to the original subsidiary district proposal.
- C. After receiving an alternative proposal, the Executive Officer shall analyze and report on both the original and alternative proposal concurrently, and schedule the proposals for a simultaneous public hearing.

### 3. Commission Resolution (56863):

Within 35 days following the conclusion of a hearing on an original and an alternative proposal to form a subsidiary district, LAFCO shall adopt its resolution of determination, which shall do one of the following:

- A. Deny both the original proposal and the alternative proposal; or
- B. Approve one proposal and deny the other.

The Commission shall not order a merger or the establishment of a subsidiary district without the consent of the affected city (57107(c)).

## Conducting Authority Protest Proceedings

Please refer to sections XXX and 3.7 on reorganization procedures and LAFCO-initiated proposals for additional information on the criteria used to determine the geographic area of elections and protest thresholds.

The Commission is the conducting authority for district mergers and establishment of subsidiary districts. Upon conclusion of the hearing, the Commission, subject to the limitations of sections 57104 and 57105, shall adopt a resolution taking one of the following actions (57077, 57078, 57107):

1. Order the merger or establishment of a subsidiary district without an election; or
2. Order the merger or the establishment of a subsidiary district or both, subject to confirmation by the voters upon the questions, as the case may be, of (1) merger; (2) establishment of a subsidiary district; or (3) both if:
  - A. Territory is inhabited and petitions requesting an election have been submitted by 25% of the registered voters or 25% of the landowners owning 25% of the assessed value of land; or
  - B. In the case of a landowner-voter district, the territory is uninhabited and petitions requesting an election have been submitted by 25% of the landowners owning 25% of the assessed value of land.
3. In the case of a LAFCO-initiated merger or establishment of a subsidiary district, order the merger or establishment of a subsidiary district subject to confirmation of the voters if a petition is submitted signed by 10% of the landowners or voters within any affected district requesting an election (57113); or
4. Terminate proceedings if majority protest has been filed.

If an election is called on the question of a merger or the establishment of a subsidiary district, the Commission may provide for the election or elections to be called, held, and conducted upon such question or questions (57108):

1. Only within the district ordered to be merged with or established as a subsidiary district; or
2. Both within said district and within the territory of said city outside the boundaries of said district (57118).

The election shall be held only within the district if, prior to the adoption of a resolution ordering the merger or establishment of a subsidiary district, a petition is filed and approved which (57108):

1. In the case of a **registered-voter** district, is signed by not less than 10% of the registered voters of the district; or
2. In the case of a **landowner-voter** district, is signed by not less than 10% of the number of landowner-voters within the district, who also own not less than 10% of the assessed value of land within the district.

After canvassing the returns upon the question of a merger or the establishment of a subsidiary district, or both, the Commission shall adopt a resolution:

1. Determining the action defeated (57179); or

2. Confirming either the order of a merger, or the order for the establishment of a subsidiary district in the following manner (57177):
  - A. Where the question submitted to the voters was only upon a merger or only upon establishment of a subsidiary district, the Commission shall adopt a resolution confirming the order, if a majority of the votes cast on the question favored the order either:
    - (1) At an election called only within the district; or
    - (2) At each election, where one election was called within the district and another election was called within the territory of the city outside the boundaries of the district.
  - B. Where both the question of the merger and the question of establishment of a subsidiary district were submitted to the voters within the district only, and both questions were favored by a majority of the voters, the Commission shall order that change of organization favored by the greater number of voters. Where the number of votes was the same on both questions, the merger shall be ordered.
  - C. Where both the question of the merger and the question of establishment of a subsidiary district were submitted at an election called both within the district and at an election within the territory of the city outside the district boundaries, and both questions were favored by a majority of the voters in both areas, that change of organization receiving the greater number of votes in both elections shall be ordered. Where the number of votes was the same, or where the question of merger received the greater number of votes in one of the elections, a merger shall be ordered.

If an effective date is not given in LAFCO's resolution, the merger or the establishment of a subsidiary district shall be effective upon the date of recordation (57202).

## Section 3.7 - LAFCO-Initiated Proposals

LAFCOs are authorized to initiate certain proposals for changes in local government organization if the proposals are consistent with recommendations or conclusions of a sphere of influence (SOI) study or other study prepared by the Commission (56378, 56425, or 56430). LAFCOs are authorized to initiate proposals for consolidation of special districts, dissolution of special districts, mergers of special districts, establishment of special districts as subsidiary districts to cities, or reorganizations that include any of the preceding changes of organization.

### Sphere of Influence Study or Special Study

1. An SOI Study or a Special Study may be initiated by LAFCO. The Commission will also consider requests to conduct an SOI or a Special Study from affected public agencies, interest groups or individuals. Petitioners must provide justification for requesting a study and submit a related processing fee.
2. Affected agencies will be notified in writing of an impending SOI Study or Special Study.
3. An SOI Study or Special Study will be scheduled for consideration by the Commission at a noticed public hearing.
4. An SOI or Special Study conducted by LAFCO shall include, but not be limited to, the following information:
  - A. A description of the subject agency(ies), the agency(ies) SOI(s) and the services provided by the agency(ies);
  - B. Current and future need for the services provided by the subject agency(ies);
  - C. Alternative means of providing services (e.g., change in governmental organization or functional realignment of services);
  - D. Fiscal and other analyses of existing and alternative means of providing services;
  - E. Discussion of past reorganization efforts;
  - F. Information identified in a municipal service review conducted in conjunction with the adoption or update of an SOI; and
  - G. Comments from affected public agencies and interested parties.

## **LAFCO Initiated Change of Organization/Reorganization**

1. If a determination is made to initiate a change of organization or reorganization, the Commission will adopt a resolution of application that describes the proposal.
2. Where the change of organization or reorganization affects more than one subject agency, the Commission may decide to utilize a reorganization committee (56827) to review the proposal and may determine the composition of the committee. The reorganization committee will determine rules for voting and selection of a committee chair and other administrative procedures and also determine areas of study. The Executive Officer will provide staff support to the reorganization committee. The reorganization committee may provide recommendations to the Commission that will be incorporated into the Executive Officer's report.
3. A LAFCO-initiated proposal will be considered to be submitted on the date the LAFCO resolution of application is adopted.
4. Affected agencies will be given 60 days from the date of the Commission resolution of application to submit a resolution proposing a change of organization or reorganization substantially similar to the Commission proposal. The Commission shall not approve a proposal for consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization until it has considered any other change of organization which conflicts with the subject proposal and which was submitted to the Commission within 60 days of the submission of the subject proposal (56657).
5. If, within 60 days, an affected agency submits a resolution proposing a change of organization or reorganization substantially similar to the LAFCO-initiated action, LAFCO will process the affected agency proposal in accordance with the statute and local LAFCO policies.

## **Public Hearing**

1. The Commission will consider the Executive Officer's report and recommendation at a noticed public hearing. At the hearing, the Commission may adopt a resolution denying, modifying, or approving the proposed change of organization or reorganization.
2. Prior to approving a LAFCO-initiated proposal, the Commission must: (A) consider any conflicting change of organization or reorganization proposal that was submitted within 60 days from submission of the LAFCO-initiated proposal (56655); (B) find that public service costs are likely to be less than, or



substantially similar to, the costs of alternative means of providing the service (56881(b)(1)); and (C) find that the change of organization promotes public access and accountability for community service needs and financial resources (56881(b)(2)).

3. If a LAFCO-initiated proposal is approved, the Commission will order the change of organization or reorganization pursuant to 57113. However, the Commission shall not order a merger or establishment of a subsidiary district without the consent of the subject city (57107(c)).
4. If a LAFCO-initiated proposal is denied, the Commission may not initiate a substantially similar proposal for one year. The Commission may waive this prohibition if it finds this requirement is detrimental to the public interest (56884).

### **Conducting Authority Proceedings**

1. For any proposal initiated by the Commission, a protest hearing will be held in the affected territory (57008). The Commission shall order the change of organization or reorganization without an election provided that majority protest, or sufficient petitions requesting an election have not been filed. The Commission will order the change of organization or reorganization subject to an election if it finds either of the following (57113):
  - A. For **inhabited territory**, protests have been signed by either of the following:
    - (1) At least 10% of the number of landowners within any subject agency within the affected territory who own at least 10% of the assessed value of land within the territory (unless the number of landowners within the subject agency is less than 300, then the thresholds are 25%); **or**
    - (2) At least 10% of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory (unless there are less than 300 voters within the subject agency, then the threshold is 25%).
  - B. For a landowner-voter district, that the territory is uninhabited and a protests have been signed by at least 10% of the number of landowners within any subject agency within the affected territory, owning at least 10% of the assessed value of land within the territory (unless the number of landowner-voters entitled to vote within the subject agency is less than 300, then the thresholds are 25%).

## **Section 3.8 - New or Different Services**

This section addresses Commission proceedings for the exercise of new or different functions or classes of services, or divestiture of power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.

### **New or Different Services Procedures**

1. A proposal to provide a new or different function or class of service or divestiture of the power to provide a particular function or class of service, within all or part of the jurisdictional boundaries of a special district, must be made by the adoption of a resolution of application by the legislative body of the special district pursuant to 56654. Prior to submitting a resolution, the legislative body of the district shall conduct a public hearing on the resolution. Following the public hearing, the clerk of the legislative body of the district shall file a certified copy of the resolution with the LAFCO Executive Officer.

The resolution must include all of the information specified for a petition (56700) as well as a plan for service (56653). Pursuant to section 56824.12, the plan for service must also include the following:

- A. A written summary of the new or different function or class of service or divestiture of the power to provide a particular function or class of service;
- B. The total estimated cost to provide the new or different function or class of services;
- C. The estimated cost of the new or different function or class of services per customer or per customer class;
- D. An identification of the existing providers and the potential fiscal impacts to them and their customers;
- E. A plan for financing the new or different function or class of service; and
- F. Alternatives for the establishment of the new or different function or class of service.

### **Commission Proceedings**

The Commission shall conduct a public hearing and shall review and approve, with or without amendments, wholly, partially or conditionally, or disapprove the proposal to establish a new or different function or class of service, or the divestiture of the power to provide a particular function or class of service, within all or part of the jurisdictional boundaries of the district. If the Commission restricts the establishment or divestiture of services to a specific geographic area, any subsequent extension, enlargement or reduction of the service or service area will be subject to LAFCO review and approval.

### **Conducting Authority (Protest) Proceedings**

The Commission is the conducting authority for establishing a new or different function or class of service, or the divestiture of the power to provide a particular function or class of service, within all or part of the jurisdictional boundaries of a district.

1. Within 35 days following the adoption of the Commission's resolution making determinations, and following the reconsideration period specified in 56895, the Commission sets the proposal for

a protest hearing and gives notice of the hearing. The hearing shall not be less than 21 or more than 60 days after the notice is given (57002).

2. The Commission or, if delegated to the Executive Officer, the Executive Officer shall conduct a hearing to receive any oral or written protests and take one of the following actions (57075, 57076):

A. Terminate the proceedings if a majority protest exists (57075, 57076, 57078).

B. Order the change of organization or reorganization without an election:

(1) Registered Voter Districts or Cities (57075)

(a) **Inhabited** - If written protests have been filed and not withdrawn by less than 25% of the registered voters or less than 25% of the landowners owning less than 25% of the assessed value of land within the affected territory.

(b) **Uninhabited** - If written protests have been filed and not withdrawn by less than 50% of the landowners owning less than 50% of the assessed value of land within the affected territory.

(2) Landowner Voter District (57076)

(a) If written protests have been filed and not withdrawn by less than 25% of the landowners owning less than 25% of the assessed value of land within the affected territory.

C. Order the change of organization or reorganization subject to an election:

(1) Registered Voter Districts or Cities (57075)

(a) Inhabited - If at least 25%, but less than 50% of either the registered voters or landowners (owning at least 25% of the assessed value of land) within the affected territory have filed a written protest. Only registered voters can vote in the election.

(2) Landowner Voter District (57076)

(a) If at least 25% of either the of landowners owning at least 25% of the assessed value of land, or at least 25% of the of the voting power of landowner voters entitled to vote as a result of owning property within the affected territory have filed a written protest.

The effective date for the new or different service(s) will be the date LAFCO orders the change of organization or reorganization, unless otherwise specified by the Commission.

## Section 3.9 - District Dissolution

### Definition

Dissolution means the dissolution, disincorporation, extinguishment, or termination of the existence of a district, and the cessation of all its corporate powers, except as the Commission may otherwise provide pursuant to section 56886 or for the purpose of winding up the affairs of the district (56035).

### Initiation of Proceedings

1. Proceedings for dissolution of a district may be initiated by petition or resolution of the governing body of an affected local agency or school district (56014). Also, the Commission may initiate proposals for the dissolution of districts (56375). For a discussion of the dissolution process associated with LAFCO initiated proposals, please refer to Section 3.7.

Petitions for dissolution shall be signed by:

- A. For **registered-voter** districts, by either of the following (56870):
    - (1) Not less than 10% of the registered voters within the district; or
    - (2) Not less than 10% of the number of landowners within the district who also own not less than 10% of assessed value of land within the district
  - B. For landowner-voter districts, by not less than 10% of the assessed value of land within the district (56870).
2. Non-Use of Corporate Powers (56871):

A petition for the dissolution of a district for the “non-use of corporate powers” requires the signatures of three or more registered voters within the district for a registered-voter district, or by three or more landowners within a landowner district, provided that one or more of the following conditions have existed or now exists:

- A. That during the three-year period preceding the date of the first signature on the petition any of the following events have not occurred:
  - (1) There has not been a duly selected and acting quorum of the board of directors of the district.
  - (2) The board of directors has not furnished or provided services or facilities of substantial benefit to residents, landowners, or property within the district.
  - (3) The board of directors has not levied or fixed and collected any taxes, assessments, service charges, rentals, or rates or expended the proceeds of those levies or collections for district purposes.

- B. That during the one-year period preceding the date of the first signature upon the petition, a quorum of the duly selected and acting board of directors has not met for the purpose of transacting business.
- C. That, upon the date of the first signature upon the petition, the district had no assets, other than money in the form of cash, investments or deposits.

### **Commission Proceedings**

After the dissolution proceedings have been initiated, LAFCO must conduct a noticed public hearing. After hearing public testimony the Commission may approve, modify, or deny the proposed dissolution. If it is approved, the Commission also will adopt terms and conditions for the dissolution.

### **Conducting Authority (Protest) Proceedings**

The Commission is the conducting authority for district dissolution. The conducting authority shall adopt a resolution making a finding regarding the numerical value of written protests filed and not withdrawn. The provisions and thresholds relating to dissolution are detailed in section 57077.1.

### **Concluding the Dissolved District's Affairs**

Section 57450 – 57463 provide detailed information and procedures for successor agencies in concluding the affairs of a dissolved district.

The effective date of the dissolution will be the date LAFCO orders the change of organization or reorganization, unless otherwise specified by the Commission.