

# CONTRA COSTA LAFCO

## 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).