




# LAFCo 101

## WHAT IS A LAFCo?

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# LAFCO'S PURPOSE: LEGISLATIVE INTENT

- Discourage urban sprawl
- Preserve agriculture and open space
- Promote efficient public services
- Consider regional housing needs, adequate water and other issues
- Encourage orderly boundaries

# LAFCO'S PLANNING FUNCTIONS

- PREPARE MUNICIPAL SERVICE REVIEWS
- DEVELOP AND UPDATE SPHERES OF INFLUENCE FOR CITIES AND DISTRICTS
- PREPARE SPECIAL AGENCY STUDIES AS NEEDED
- COMMENT ON LOCAL AGENCY PLANS: GENERAL PLANS, AREA PLANS, MASTER SERVICE PLANS
- FACILITATE INTERAGENCY COOPERATION

# LAFCO'S REGULATORY FUNCTIONS

- Approve **boundary changes** for agencies based on various factors
- Approve **changes** of organization of existing agencies: new services, dissolution or consolidation
- Approve **formation** of new agencies: cities, districts
- Impose **Terms and Conditions**: Broad authority (GC 56885)
- Control extension of public services outside agency boundaries
- Prohibited from “directly” regulating land use

# LOCAL AGENCIES REGULATED BY LAFCO

- Include:

- Cities, most special districts, certain county agencies

- Does NOT include:

- School or college districts
- County boundaries
- Air pollution/quality districts
- Joint Power Agencies
- Community facility and Mello-Roos districts
- Improvement districts
- Benefit zones

# WHAT DECISIONS DOES LAFCO MAKE?

- City Incorporations (and Disincorporations)
- District Formations (and Dissolutions)
- Annexations & Detachments
- Consolidations and Mergers
- Service Extensions outside a District or City
- Spheres of Influence
- Municipal Service Reviews
- Provision of New Services
- Review Fire Contracts

# LAFCO COMPOSITION

## The Classic Model:

- 2 County Supervisors
  - 2 City Council members
  - 1 Public member
  - Alternate for each category
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- 30 LAFCOs also include 2 Special District members plus an alternate
  - Some LAFCOs have “special seats”
  - Counties with no cities have 3 County Members and 2 Public members

# LAFCO IS FUNDED LOCALLY

- Must adopt a budget by June 15
- Many LAFCOs approve a work plan too
- Budget process is outlined in CKH Act
- Minimum funding level is defined
- Net cost funded by the county, cities, and special districts (usually in equal shares)
- County Auditor calculates charges and processes the invoices



# ROLE OF A CLERK AND ANALYST

## CLERK

- Assembles LAFCO meeting agenda packets and notices of meetings; records LAFCO meetings and prepares resulting documents, including minutes and resolutions
- Develops, maintains, and updates LAFCO files and records systems for tracking applications, project activities, contracts, and other records
- Requisitions supplies and services and maintains records of expenditures and revenue
- Prepares and proofreads reports, correspondence, memoranda, and other written materials
- Tracks correspondence, filings, and materials with deadlines and expiration dates
- Handles various correspondence, requiring knowledge of policies and procedures and research skills

## ANALYST

- Conducts research, data collection, and related analysis in evaluating local agencies and their governmental services in the preparation of municipal service reviews
- Contribute to the preparation of special studies, involving inter-jurisdictional and interdepartmental coordination
- Processing of applicant proposals for boundary changes, outside service extensions, and reorganizations of local government agencies

# LAFCO POLICIES

- Since 2002, each commission has been required to adopt written policies.
- San Joaquin LAFCo adopted written policies in 2007, which have been amended from time to time.
- Commission Policies cover:
  - General Policies and Standards (which apply to all actions)
  - Spheres of Influence
  - Annexations and Detachments
  - Incorporations, Formations, New Services, Consolidations, Dissolutions
  - General Procedures

# LAFCO PROCESS

- Proposals may be initiated by petition of voters or landowners, or by resolution of an affected agency
- City annexations require the City to prezone the lands proposed for annexation (CEQA implications)
- Property tax exchange negotiations are initiated (note: many proposals are subject to master tax formulas and do not require negotiation)
- Proposal is circulated for comment to affected agencies
- Commission hearing is scheduled
- Voters & Landowners in the affected territory and surrounding area are notified

# LAFCO PROCESS, CONTINUED

- Proposal's consistency with LAFCo law and Commission policy is analyzed by staff, who prepares a report with recommendations for Commission action
- Commission takes action at the hearing either to approve, conditionally approve or deny the proposal (NOTE: LAFCo has broad authority to modify proposals or attach conditions)
- Post hearing actions are completed by staff following the reconsideration period, protest proceedings (if applicable), satisfaction of commission's required conditions

# STAFF ROLE ON PROPOSALS

- Review proposals and other actions for consistency with LAFCo law and Commission policy
- Manage compliance with LAFCo procedures for processing proposal
- Solicit views of other agencies and the public on the proposal
- Make recommendations for commission action based on law, policy and impacts
- Implement the Commission decision

# STAFF ROLE IN ADMINISTRATION

- Prepare work program and budget for Commission consideration
- Prepare or administer preparation of municipal service reviews, sphere studies, environmental documents, special studies as needed
- Manage daily operation of the LAFCo office
- Communicate with the public and other agencies

# COMMISSIONERS

- Commissioners make final decisions
- Decisions cannot be appealed to other administrative bodies
- LAFCo staff accountable to Commission and statutes
- Adopt local policies and procedures that are reflective of local circumstances



# EACH COMMISSION IS INDEPENDENT

- Provides own office, equipment, personnel
- Appoints an Executive Officer
- Appoints a Legal Counsel
- Can contract for staff services



# COMMISSIONERS ARE INDEPENDENT, TOO

- CKH mandates that Commissioners exercise independent judgment on behalf of “the interests of residents, property owners, and the public as a whole” (CKH Section 56325.1)
- While Commissioners’ decisions may be informed by their experience and perspective from their agency, they should not be advocates for their agency at LAFCo

# LAFCO MUST ACT IN COMPLIANCE WITH STATE LAWS

- Cortese-Knox-Hertzberg Act (Government Code 56000, et seq)
- California Environmental Quality Act
- Brown Act / Public Records Act
- Revenue & Tax Code
- Political Reform Act / Other Conflict of Interest Laws
- Principal Acts for each type of agency

# LAFCO'S LEGAL ROLE

- While powers are broad, LAFCo jurisdiction is limited to actions and powers granted by statute
- Commission decisions are “quasi-legislative” and judicial review is limited
- LAFCo is the Legislature’s “watchdog” over local governments – to act as an independent referee and voice on local government actions

# CONDITIONING POWERS

Commission has authority (Section 56886) to impose a wide range of conditions, including:

- Payments from one agency to another for transferred assets
- Creation of new improvement districts
- Transfer of property, funding and employees
- Initiation of a subsequent proposal
- Designation of the method of selection of a new board
- Extension or continuation of previously authorized taxes

# ENVIRONMENTAL REVIEW OF LAFCO DECISIONS

Many LAFCo actions are “projects” under CEQA

- LAFCo is a *responsible* agency for most projects because the agency applicant acts as the lead agency
- LAFCo is a *lead agency* most often for spheres and petitioner-initiated proposals
- LAFCo may often rely upon *categorical exemptions* from CEQA

# LAFCOS' KEY LEGAL CONCERNS

- Must act in accordance with state law and locally adopted policies
- Comply w/ CEQA as lead or responsible agency
- Must adopt findings and determinations to support decision (*McBail*)

# LITIGATION

## What Claims are Most Common?

- CEQA
- Cortese-Knox-Hertzberg
- Public Records Act
- Brown Act
- Political Reform Act and Other Conflict Laws
- Operational Liability: personal injury, personnel, contractual

LITIGATION IS THE GREATEST FINANCIAL RISK  
TO THE AGENCY

# LAFCO MISPERCEPTIONS

- LAFCO has a “magic wand” that instantly solves boundary and service issues
- LAFCO proceedings do not require deliberate review and analysis that require agency and public collaboration and/or support
- LAFCO is an arm of the county, not the state
- LAFCO’s sole mission is to dissolve agencies, particularly special districts
- LAFCO’s role is always “reactive” and not “proactive”



# Questions and Comments