

APPENDIX L

DESCRIPTION OF LAFCO'S DECISION-MAKING

This chapter contains a general chronology of events during the LAFCO hearing and evaluation process, and it describes post-approval steps taken by the LAFCO and by the Conducting Authority.

A. THE LAFCO EVALUATION AND HEARING PROCESS

This section describes the steps the LAFCO and its staff will take to ensure that proposals comply with LAFCO standards and policies.

1. Receipt and Acceptance of Applications

- a. Except where LAFCO is the lead agency under CEQA, the Executive Officer will determine within 30 days of receiving an application whether the applicant has provided the appropriate materials.
 - (1) If an application is determined not to be complete, the Executive Officer will inform the applicant, specifying those parts of the application which are incomplete and the manner which they can be made complete. An application which is not complete will not be accepted for filing.
 - (2) No application shall be deemed complete for processing purposes until the appropriate environmental documents have been prepared.
- b. After accepting an application for filing, the LAFCO will provide mailed notice to affected agencies, to agencies or individuals requesting notice, and to subject agencies of the proposal's description and the territory it affects. The notice shall state that a copy of any comments on the application, or other submittals to LAFCO must be accompanied by proof of mailing a copy to the applicant. The Executive Officer may not issue a Certificate of Filing until at least 20 days after mailing such notice.
- c. If the environmental documents required in the California Environmental Quality Act (CEQA) have been prepared, the environmental documents should be included with the application. If the LAFCO is the Lead Agency under CEQA, the LAFCO must cause environmental documents to be prepared before the application will be accepted for filing.

- d. When an application is accepted as complete, including the environmental documents, the Executive Officer shall issue a Certificate of Filing to the applicant and file it with the County Clerk, unless a 20-day notice and waiting period is required by law.

Certain exceptions will be made to these procedures as provided for in Section 56828 of the Cortese-Knox Act.

2. Staff Report Preparation

- a. The Executive Officer shall review each application and shall prepare a report on the application that includes recommendations to LAFCo. The report shall be completed not less than five days prior to the date specified in the Notice of Hearing.
- b. If the Executive officer requires additional information to complete his or her evaluation of the proposal, he or she will notify the applicant. The applicant may submit a response within 30 days of receiving such notice, which may include an amendment to the application. The amendment should state the reason, or reasons, for the amendment and provide evidence regarding how the amendments would correct problems identified by the Executive officer. The Executive Officer will then review the amendment to determine if the changes address or correct the problem identified.
- c. Upon completion, the Executive Officer shall furnish copies of the report to:
 - (1) Officers, entities, or persons designated in each application;
 - (2) Each local agency, including the County, whose boundaries, service responsibilities, revenue authorities, or Sphere of Influence would be changed by the proposal or recommendation;
 - (3) Each local agency, group, or person that has filed a request for a report with the Executive officer;
 - (4) The LAFCo Executive officer of any other affected county when a portion of a district is or will be located in that other county;
 - (5) Each affected city, including the city Manager and City Councilperson in whose district the project site is located; and

- (6) The Board of Supervisor member, or members, representing the district in which the project site is located.

The report shall evaluate the application and make recommendations based upon an application of the Cortese-Knox Act and LAFCO policies and standards to information and data provided in the application, and to other related information and data that the LAFCo may gather.

3. Property Tax Exchange

If the proposal includes an incorporation or the formation of a district, the Commission shall determine the amount of property tax revenue to be exchanged by the affected local agencies, pursuant to Section 56842 of the Cortese-Knox Act. As part of that determination, the commission will:

- (a) Estimate the total amount of sales tax revenue and user fees, service charges and other revenue transferred, but this total shall not include those revenues excluded by Section 56842(c)(1)(A) and (B);
- (b) Estimate the value of any agreements included in the proposal which may be designed to compensate for fiscal inequities;
- (c) Estimate the cost to the current service provider of performing those services which will be transferred to the new city or district if the proposal is approved;
- (d) Based upon the above calculations and estimations, the Commission will determine the fiscal effect of the proposal. Appendix D contains more detailed guidelines for determining the fiscal impact of applications for incorporation.

4. Commission Hearing of the Proposal

- a. Following the issuance of the Certificate of Filing, the Executive Officer shall set the proposal for a public hearing before the Commission on a date not more than 90 days after the issuance of the Certificate of Filing.
- b. Except as specified in Sections 56837 and 56838 of the Cortese-Knox Act, the Commission shall not make any determinations upon any proposal, plan of reorganization, or report and recommendation of a reorganization committee until after a public hearing has been held on that proposal, plan, or report and recommendation.

- c. The hearing date will be included as part of the Certificate of Filing. The hearing date will be further publicized, in accordance with Sections 56834 and 56835 of the Cortese-Knox Act. In summary, such notice shall include:
- (1) Publication at least 15 days prior to the hearing date in one or more newspapers of general circulation within affected territories or agencies;
 - (2) Notice posted at least 15 days prior to the hearing date on or near the doors of the meeting room of the legislative body or commission or upon any official bulletin board used for posting public notices pertaining to the legislative body or commission; and
 - (3) Mailed notice, first class, postage prepaid, at least 15 days prior to the hearing date to:
 - (a) each affected local agency;
 - (b) the chief petitioners, if any;
 - (c) each person who has filed a written request for special notice with the Executive officer;
 - (d) each city within three miles of the subject territory's boundaries, if the proposal is for an annexation or detachment, or for a reorganization which includes the formation of a new district;
 - (e) the County, if the proposal includes incorporation of a new city or formation of a new district;
 - (f) the Director of Forestry and Fire Protection, if the proposal includes formation of or annexation of territory to a fire protection district formed pursuant to the Fire Protection District Law of 1987 and part or all of the area has been classified as a state responsibility area;
 - (g) all owners of parcels which are located within 500 feet of the project site if so designated by the LAFCo; and
 - (h) when required by law.

- d. The hearing shall be held on the date, and at the place and time specified in the various notices. The hearing may be continued from time to time, but not more than 70 days after the originally scheduled hearing date.
- e. At the hearing, the Commission shall receive any oral or written protests, objections, or evidence which shall be made, presented, or filed, and consider the report of the Executive Officer.

5. Commission Actions

- a. The LAFCo has the power to review and approve or disapprove, with or without amendment, wholly, in part or conditionally, proposals for changes of organization or reorganization, with limited exceptions described in Section 56375 and 56839 and elsewhere in the Cortese-Knox Act.
- b. LAFCo may amend an application to affect proposed boundaries, and LAFCo may approve a proposal with a variety of conditions, which are limited to:
 - (1) Payment of a fixed or determinable amount of funds for acquisition of any agency's real or personal property;
 - (2) Levying, or fixing, and collecting taxes, assessments, ser-vice charges, rentals and/or rates for the purpose of funding any payment required by condition (1);
 - (3) Local Agency acceptance of liability for repayment of any authorized or outstanding bonds, contracts, or other obligations, including such revenue measures as may be appropriate to fund those liabilities;
 - (4) The formation of a new improvement district, or the annexation or detachment of territory to, or from, any existing improvement district;
 - (5) The incurring of new indebtedness by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency.
 - (6) The issuance and sale of any bonds by a local agency or by that agency's designated successor;
 - (7) The acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal;

- (8) The disposition, transfer, or division of any monies or funds, including cash and any receivables;
- (9) The fixing and establishment of priority of use, or right of use, of water, or capacity rights in any public improvement or facilities, or of any other real or personal property;
- (10) The establishment, continuation, termination, transfer, consolidation, or separation of any office, department or board or any function of an office, department or board only if authorized by the principal act;
- (11) The employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employees benefits and rights;
- (12) The designation of a city, district or county as the successor to any local agency that is dissolved as a result of any change of organization or reorganization;
- (13) The designation of the method of selection and/or the number of members of the legislative body of a district if the proceedings include a consolidation or formation of a new district, and the method of selection and/or number of those members is specified in the principal act;
- (14) The initiation, conduct, or completion of proceedings on a proposal made pursuant to the Cortese-Knox Act;
- (15) Any terms or conditions required or authorized by the principal act with respect to any change of organization or reorganization;
- (16) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency;
- (17) The levying of assessments, including the imposition of a fee pursuant to Sections 50029 or 66484.3 of the Government Code, or the approval by the voters of general or special taxes;
- (18) The continuation of any previously authorized charge, fee, assessment, or tax by a successor local agency; and

- (19) The transfer of authority and responsibility for the administration, levying, and collecting of special tax and assessment districts;
- c. The Commission, in order to coordinate multiple proposals for the same geographical areas may, as a condition of its approval, hold further action in abeyance for up to 6 months until all proposals are ready for hearing, require that elections for different proposals be held on the same date, before, or after the date of any other election regarding a change of organization or reorganization.
- d. Finally, the Commission may require that voters consider questions of annexation and district reorganization, or questions of incorporation and district reorganization at the same time, through use of a single ballot question.

5. Reconsideration

- a. Any person or affected agency may file, within 30 days of a resolution's adoption, a written request with the Executive Officer requesting amendments to or reconsideration of any resolution adopted by the Commission making determinations.
- b. After complying with notice and hearing requirements described in Section 56857 of the Cortese-Knox Act, the Commission may approve or deny with or without amendment, wholly, partially, or conditionally, the request.
- c. The determination of the Commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change for a period of one year, as determined by the Commission.
- d. Specific reconsideration requirements are described in the standards section of the LAFCo's policies, standards and procedures.

B. POST-LAFCo APPROVAL PROCESS

This Section describes the usual procedures generally followed by a conducting authority. However, each conducting authority complies with the Cortese-Knox Act in its own way, and is not required to follow those policies in this section that interpret the Cortese Knox Act. The conducting authority, determined pursuant to Section 56029 of the Cortese-Knox Act, means the legislative body of an affected city, district, or the County that is authorized by the Commission to conduct proceedings to

(b) in the same cases listed in subsection (2)(b) above, only if the special rules in sections 57081, 57083, 57087 or 57089 apply.

- C. If proceedings are terminated by the conducting authority because a majority protest or after a majority of electors do not confirm the change of organization or reorganization, no substantially similar proposal may be filed with the LAFCo within two years after the conducting authority's resolution to terminate proceedings per Section 57090 of the Cortese-Knox Act. The LAFCo may waive the waiting period if it finds that the requirement is detrimental to the public interest.

3. Election

- a. A conducting authority's resolution which calls for an election must comply with the requirements of section 57100 et seq. of the Cortese-Knox Act. All matters pertaining to elections must be coordinated with the Sacramento County Registrar of Voters. The conduct of the election must also be consistent with the recommendations of the Sacramento County Registrar of Voters.
- b. The election shall be conducted in accordance with Sections 57100 through 57179 of the Cortese-Knox Act. The requirements of these sections include:
- (1) The votes needed to confirm a change of organization or reorganization are generally in sections 51740 through 51743.
 - (2) The election shall take place within the territory to be consolidated, incorporated, disincorporated, formed into a district, or dissolved.
 - (3) Elections for annexations, detachments, mergers and subsidiary districts involve votes either in the changed territory and the remaining territory of the district or city, or in the changed territory only, depending on statutory requirements (section 57103(b), (d) and (e)).
 - (4) If the proposal would annex to a city territory with a population and assessed value of land equal to or exceeding 50 percent of the city's, an election must be held within both the territory to be annexed and the city.
- c. If the majority of votes cast in an election confirm the proposal, the conducting authority shall adopt a

resolution confirming the order of the change of organization or reorganization.

C. LAFCo Completion of Actions

1. The LAFCo Executive officer shall prepare and record a certificate of Completion after the conducting authority adopts a resolution ordering a change of organization or reorganization without election, or after the conducting authority confirms an order for a change after confirmation by the voters, unless the conducting authority's resolution is not in compliance with the boundaries, modifications and conditions specified by the LAFCo.
2. The Executive Officer shall record a certified copy of the Certificate of Completion with the County recorder and file a copy with the clerk of the legislative body of each local agency subject to the change.
3. The Executive officer shall file the Certificate of completion, resolutions, legal descriptions, and parcel maps with the following:
 - (a) The Board of Equalization;
 - (b) The County Assessor;
 - (c) The County Auditor; and
 - (d) The Secretary of State, if the LAFCo action involves a city.
4. Upon the execution of the certificate of completion by the Executive officer, the action is deemed completed.