

Senate Committee on Local Government

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Dear Friend,

City limits and district boundaries shape California's future. Drawing these lines controls who gets to develop land, who pays which taxes, and who receives public services.

Few of us, however, know much about the institutions that draw those lines. Although the Legislature created Local Agency Formation Commissions four decades ago, few Californians understand what LAFCOs are and how they do what they do.

When the Committee 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 2000, legislators passed AB 2838 (Hertzberg, 2000), the most important reform to the state's local boundary laws in 40 years. To improve our understanding of LAFCOs, I asked Tami Bui, a Senate Fellow working with me in 2002-03, to review, research, and revise this report. Her second edition explains the changes found in the "Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000," contains more information sources, and offers current figures and examples.

Californians' interest in LAFCOs continues to grow. I know that the hard work that Tami invested in this second edition will help you sort out the complexities that surround LAFCOs.

Sincerely,

Tom Torlakson
Chair

IT'S TIME TO DRAW THE LINE

A Citizen's Guide to LAFCOs

California's Local Agency Formation Commissions

Second Edition

Tami Bui & Bill Ihrke

May 2003

TABLE OF CONTENTS

Introduction.....	5
What's a LAFCO?.....	6
What a LAFCO is Not.....	10
Powers of LAFCOs.....	12
The Reasons for Boundaries.....	15
Types of Boundary Changes.....	16
Procedures of LAFCOs.....	18
Who Serves on LAFCOs?.....	23
Who Pays for LAFCOs?.....	25
The History of LAFCOs.....	26
LAFCOs and the Courts.....	27
Common Questions about LAFCO.....	28
Appendices.....	32
References.....	36
Bibliography.....	38
Acknowledgments.....	40

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INTRODUCTION

No state is as geographically and demographically diverse as California. From the Siskiyou Mountains to San Diego Bay, California's over 5,000 local governments serve more than 35 million residents. With so many governments, many people wonder whether anybody actually oversees their numbers, powers, and jurisdictions. Rest assured, local agencies can't change their boundaries on a whim. Cities and special districts need permission from Local Agency Formation Commissions (LAFCOs).

Most Californians, however, don't know much about LAFCOs. Most of us don't know:

- What they are (independent regulatory commissions)
- How many exist (58)
- Who serves on them (your county supervisor, city council member, or you!)
- What they cost (\$11.5 million a year)

This Citizen's Guide to Local Agency Formation Commissions answers many of your questions about LAFCOs. In plain language, this guide explains what LAFCOs are, where they came from, their legal powers, and how to understand them. This guide also tells you where to get more information about LAFCOs, and how you can become more involved with their decisions.

Democracy works best when people are informed about the governments that serve them. This citizen's guide will make you more aware about the unique and influential governmental entities known as LAFCOs.

WHAT'S A LAFCO?

LAFCOs are the Legislature's watchdog over the boundaries of cities and special districts.

LAFCO stands for Local Agency Formation Commission. LAFCOs are independent regulatory commissions created by the California Legislature to control the boundaries of cities and most special districts.

The **Cortese-Knox-Hertzberg Act** directs LAFCOs to achieve two main purposes:

1. Discourage sprawl.
2. Encourage orderly government.

Boundaries are important because they assign physical space and define the identities of local governments. LAFCOs have both planning and regulatory powers. LAFCOs plan by adopting and revising "spheres of influence," which are planning documents that show a city or special district's future boundary and service areas. They regulate by reviewing and acting on proposals to change boundaries. LAFCOs control nine types of boundary changes: annexations, detachments, disincorporations, dissolutions, formations, incorporations, mergers, consolidations, subsidiary districts, and reorganizations.

Controlling boundaries means LAFCOs control the timing and location of development.

For instance, LAFCOs regulate boundaries for the following services:

- Water, sewer, fire protection, flood control (*growth inducing* facilities and services).
- Parks, libraries, airports (*growth supporting* facilities and services).
- Hospitals, cemeteries, pest abatement (*non-growth related* facilities and services).

The power of LAFCOs to determine these lines comes from the United States Constitution. The Tenth Amendment says, "The powers not delegated to the United States by the Constitution... are reserved to the states respectively, or to the people." In other words, the federal constitution allows each state to determine how to organize its local governments.

The California Constitution requires the Legislature to "prescribe [a] uniform procedure for city formation and provide for city powers" (Article XI, §2 [a]). The Legislature has the complete authority to create, dissolve, or change the governing jurisdiction of special districts because they receive their powers only through state statutes. The Legislature prescribed this "uniform procedure" for boundary changes through a series of state laws, starting as early as 1850.

In 2000, then-Assembly Speaker Robert M. Hertzberg authored the most important LAFCO reforms since the Legislature created LAFCOs in 1963. The revisions resulting from AB 2838 are reflected in the Act's new title: "The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000." The Cortese-Knox-Hertzberg Act delegates the Legislature's boundary powers to LAFCOs.

The Legislature has the exclusive power to regulate local boundaries. This constitutional provision means that no local government has the right to change its own boundary without state approval. Further, voters can't use an initiative or referendum to vote upon a boundary change as an attempt to get around LAFCO approval.

The Legislature divided the state into counties that serve as the local administrators of state services. All of California's 58 counties, even San Francisco, have LAFCOs. For example, Santa Barbara County has the Santa Barbara LAFCO and Yuba County has the Yuba LAFCO.

LAFCOs regulate all city and most special district boundaries, including:

- Airport districts
- California water districts
- Community services districts
- County sanitation districts
- County service areas
- County water districts
- County waterworks districts
- Fire protection districts
- Harbor and port districts
- Healthcare districts
- Irrigation districts
- Library 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
- Sewer districts
- Sewer maintenance districts
- Vector control districts

LAFCOs *do not* regulate boundaries for counties and the following local governments:

- Air pollution control districts
- Air quality management districts
- Bridge or highway districts
- Community college districts
- Community facilities districts (Mello-Roos districts)
- Improvement districts
- Joint power agencies
- Joint highway districts
- Metropolitan water districts
- Unified or union high school library districts
- Permanent road divisions
- Redevelopment agencies
- School districts
- Separation of grade districts
- Service zones of special districts
- Special assessment districts
- Transit or rapid transit districts

Instead of using LAFCOs, the Legislature has passed alternative procedures to create and dissolve these agencies, and to change their boundaries.

LAFCOs are Local Agency Formation Commissions. Although the Legislature has the constitutional power to control city and special district boundaries by itself, it prefers to have these county-level commissions regulate local boundaries because they are closer to the people. Counties have vastly different people, geography, and governing institutions. Regulating local boundaries at the local level recognizes this diversity. Therefore, the Legislature authorizes a LAFCO in each county to determine the boundaries of the cities and special districts in that county.

WHAT A LAFCO IS NOT

Local governments in California are divided into five categories: counties, cities, special districts, school districts, and miscellaneous. Each category has certain powers and duties.

Entity	Power
Counties	Police, Corporate, Tax
Cities	Police, Corporate, Tax
Special Districts	Corporate, Tax
School Districts	Corporate, Tax
Miscellaneous	Police, Corporate, or Tax depending on their functions.

Police powers: ability to regulate private behavior to protect the public health, safety, or welfare.

Corporate powers: ability to deliver public services and programs and build public works projects.

Tax powers: ability to raise public revenue with taxes, assessments, or fees.

A LAFCO is not a county agency. The state’s 58 counties are governmental entities that administer state programs and provide additional services. The governing body for every county is an elected board of supervisors, usually with five members. No county has a “Department of LAFCO” or “LAFCO agency.” To contrast, Riverside County has the Department of Building and Safety, which answers to the county board of supervisors. The Department inspects buildings to make sure that they are seismically safe and that they comply with state and local building codes. Riverside LAFCO, however, does not fall under the jurisdiction of the board of supervisors, and it is not a subsidiary of the county.

A LAFCO is not a city department or city agency. California’s 478 cities are municipal corporations that regulate and serve relatively small territories. The governing body for a city is a city council, which has five or more elected members. Although city officials sit on LAFCOs, no city or group of cities has direct authority over a LAFCO.

A LAFCO is not a special district. California’s 3,400 special districts are government entities that provide specific services in defined locations. The governing body for a special district is a board of directors, sometimes called a board of trustees. Special districts deliver diverse services, including irrigation water, closed captioned television, and fire protection. Districts’ service areas range from a single city block to a multi-county region. For example, the Metropolitan Water District of Southern California serves 16 million people in over 5,200 square miles of six counties, while County Service Area #2 in Los Angeles County serves only 25 acres. To learn more about Special Districts, the Senate Local Government Committee has another Citizen’s Guide called What’s So Special About Special Districts.

A word about school districts. California has about 1,100 school districts (including community college districts) that provide just one service: public education. Though schools share similar characteristics with special districts, they differ in that the state government has a long history of ensuring public education at a state-wide level. Further, the state government primarily finances schools, whereas special districts receive their primary funding from taxes, fees, and assessments. LAFCOs do not regulate boundaries for school districts.

Other miscellaneous local governments that may sound familiar include:

- Joint powers authorities (JPAs) are formed by any two or more governmental entities (federal, state, or local) to provide a common service. Many are financing tools that let governmental agencies pool their scarce resources. Some 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. Counties, cities, special districts, and schools districts use these financing districts to pay for public works and some public services.
- Redevelopment agencies are state agencies run by cities and counties to eliminate blight by promoting affordable housing and economic development.
- Regional agencies and state commissions that focus on a defined public topic in a specific regional area. Examples include air quality management districts and the California Coastal Commission.
- LAFCOs are not any of these.

LAFCOs fall into this category of *miscellaneous* local governments because they don't fit anywhere else. They have a specific purpose to regulate boundaries, but they are *not* counties, cities, or special districts.

POWERS OF LAFCOs

LAFCOs have both **regulatory** and **planning** powers. They do not have corporate powers.

- LAFCOs use their regulatory powers to control city and special district boundaries.
- LAFCOs use their planning powers to influence land use.

State law forbids LAFCOs from making direct land use decisions. They cannot regulate the use of land, property development, or subdivisions design. For instance, Mendocino LAFCO cannot force the Mendocino County Board of Supervisors to zone land in the unincorporated Anderson Valley for agricultural use nor can the LAFCO overturn a subdivision decision made by the Fort Bragg city council.

State law, however, requires LAFCOs to make indirect land use decisions. When LAFCOs approve or deny proposed boundary changes, they influence land use. In other words, LAFCOs control the timing and location of land use because they control the boundaries of those local governments that make land use decisions and provide services for development. For example, if Tulare LAFCO approves the annexation of farmland to Lemon Cove Sanitary District, it indirectly promotes the conversion of agricultural land to urban uses by giving the landowner access to a public sewer service that is necessary for development.

LAFCOs engage in indirect land use decisions by controlling access to three types of public facilities and services:

1. **Growth inducing.** Growth inducing land use decisions provide infrastructure and services are essential to suburban and urban development: sewers, domestic water, structural fire protection, and flood control facilities. Without these growth inducing services and facilities, urban and suburban development is not feasible. By controlling where and when these services and facilities are available, LAFCOs influence development patterns.
2. **Growth supporting.** Growth supporting facilities and services affect the quality of life in developed areas. Where growth inducing decisions help and uninhabited area to develop, growth supporting decisions make development more attractive. Parks, libraries, harbors, and airports are a few of these nice amenities that improve the quality of life in developed areas. LAFCOs oversee the boundaries of cities and special districts that provide these growth supporting services.
3. **Non-growth related.** Non-growth related facilities and services do not influence patterns of suburban, urban, and rural growth. Hospital, mosquito abatement, and public cemetery districts all fall under this category. Again, LAFCO has the ability to regulate the boundary lines of cities and special districts that operate these facilities.

LAFCOs' planning activities include adopting and revising planning documents called **spheres of influence** for every city and for those special districts under the commissions' jurisdiction.

What's a Sphere of Influence?

A Sphere of Influence designates an agency's probable future physical boundary and service area. It is territory that a city or special district will annex in the future. It's also the area where the local government will build facilities and deliver services sometime in the future. A sphere of influence is often bigger than a local government's current jurisdiction.

LAFCOs must consider these factors when determining spheres of influence:

- Present and planned land uses.
- Present and probable need for public facilities and services.
- Present and probable future capacity of public facilities and services.
- Existence of any social or economic communities of interest, if relevant.

LAFCOs may recommend boundary changes based on spheres of influence. Any person or local government may also request an amendment to a sphere of influence. The request reserves a chance to be heard at a public hearing, and the commissioners have the final vote on whether or not to amend the sphere of influence.

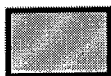
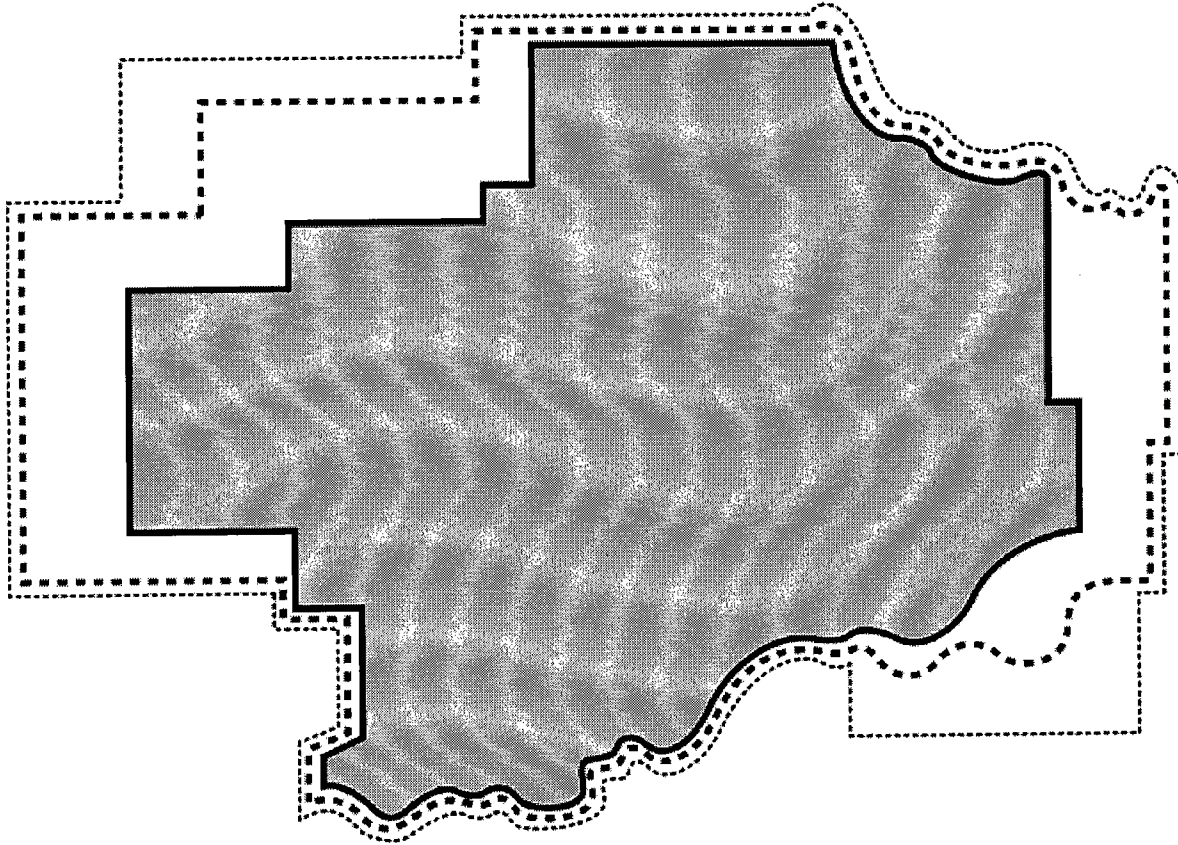
Whenever LAFCOs review boundary changes for cities or special districts, the commissioners consider whether the boundary changes (and the proposed land use decisions that would result from the change) are consistent with the local governments' spheres of influence. Moreover, LAFCOs can recommend and suggest conditional additional boundary changes, based upon the spheres of influence.

Before a commission revises cities and special districts' sphere of influence, a municipal service review (MSR) is prepared. In conducting an MSR, LAFCOs must review all of the agencies that provide the public services within the study area.

The Hertzberg bill required LAFCOs to revise the *spheres of influence* every five years. Logically, LAFCOs must also revise the MSRs every five years – some time before revising a *sphere of influence*.

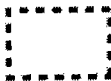
A diagram showing the relationship between a city's existing boundary and its sphere of influence appears on page 9.

Theoretical Relationship Between a City's Planning Area and Sphere of Influence



Current City Limits:

Encompasses incorporated territory where land use is controlled by the city.



City's Sphere of Influence:

Adopted by the LAFCO, encompasses the incorporated and unincorporated territory that is the city's ultimate service area.



City's Planning Area:

Encompasses incorporated and unincorporated territory bearing a relation to the city's planning. Where desirable, the planning area may extend beyond the sphere of influence.

THE REASONS FOR BOUNDARIES

Why should LAFCOs regulate boundaries in the first place?

Boundary lines have importance because they:

- Assign physical space.
- Designate land use authority.
- Define taxing powers.
- Establish corporate powers.

LAFCOs assign *physical space* to local governments and thereby define a city's or special district's 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. Redding's geography and physical space play a role in policy decisions that its city council must make.

Land use in California is mutually exclusive.

That's legalese for "what's my turf is on my turf, and what's on your turf is your turf." Mutual exclusivity explains why the Redding City Council can approve a new subdivision in its jurisdiction but not in the unincorporated territory of Shasta County.

Boundaries define which local governments have *taxing powers* over a certain area.

For example, the City of Sausalito is located in the County of Marin. Both the city and the county charge a 10% transient occupancy tax, commonly known as a "hotel tax." If a tourist stays at a hotel in Sausalito, the City receives the revenue from the tax. If, however, someone stays at a hotel in the unincorporated part of Marin County, the County gets the tax revenue. These "site-specific taxes" are known as *situs* taxes because local governments impose and collect them within their defined boundaries.

Boundary lines decide which local governments have *corporate powers*, or the authority to "do things," 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.

TYPES OF BOUNDARY CHANGES

Sometimes, local officials want to change their boundaries so they can serve additional areas, gain taxing powers, or encourage new development. Before a boundary change can occur, a person, group, or local government must submit a proposal to LAFCO. The Cortese-Knox-Hertzberg Act calls a single boundary change in one proposal a *change of organization*. State law defines all nine changes of organization.

1. Annexation

An annexation occurs when a city or district *attaches* additional territory to its boundary.

The City of Laguna Hills (Orange County) annexed territory because the property owners benefited from an increase in municipal services while the City gained more revenues through situs-based taxes.

2. Detachment

A detachment happens when territory *leaves* a city or district. If property owners become dissatisfied with their current provider of services, they may wish to separate themselves from their local government.

In 2002, the proposed detachments of the San Fernando Valley and Hollywood from the City of Los Angeles failed when the ballot measures didn't get enough votes. Detachments of inhabited areas from cities are pretty rare.

3. Incorporation

Incorporation means the *formation* of a new city. Most cities incorporate for two reasons: to control land use decisions and to receive local revenue. At least 500 people must live in the area to be incorporated.

Some of California's oldest cities existed before the state joined the union; San Diego was founded in 1769. Others incorporated as recently as 2002, such as Rancho Cordova in Sacramento County. Today the state has 478 incorporated cities, and 90% of all Californians live in cities.

4. Disincorporation

Disincorporation *terminates* a city's official existence. This rarely occurs because people generally identify with their cities and prefer keeping land use decisions at the local level.

The last disincorporation was the City of Cabazon in Riverside County in the early 1970s.

5. Formation

Formation of a special district is analogous to a *city incorporation*. Special districts come into existence because people want a specific service and decide that a special district would be the most effective provider.

In 1887, a group of farmers in Stanislaus County formed the state's first special district, the Turlock Irrigation District, to meet their agricultural needs. The number of special districts increased dramatically over the last 115 years because of population growth and service demands.

Dissolution

The dissolution of a special district parallels the *disincorporation of a city*. A district gets the axe and no longer has corporate powers.

The Fallbrook Sanitary District used to provide sewer services in San Diego County. When the District dissolved in 1994, the Fallbrook Public Utilities District took over the former District's

7. Consolidation

A consolidation occurs either when two or more cities join together into a single city, or when two or more special districts of the same type unite into a single district. A consolidation may not occur with two districts formed under different principal acts.

The Fire Protection District Law of 1987 is the principal act for most fire districts. Because the Freedom Fire Protection District and the Salsipuedes Fire Protection District (Santa Cruz County) share the same principal act, they could consolidate. Although the Ventura Fire Protection District and the Simi Valley Cemetery District are both in Ventura County, Ventura LAFCO can't approve a consolidation of these districts because they have different principal acts. The last cities to consolidate were Alviso and San Jose in the early 1970s.

8. Merger

A merger happens when a special district loses its autonomy and a city takes over its service operations. A city may establish a separate department to maintain the former special district's services, or the district's services may be absorbed into a current agency or department.

The Encinitas Fire Protection District (San Diego County) merged with the City of Encinitas in 1995. The District disappeared and the City now runs its own fire department.

9. Subsidiary District

Cities can also establish subsidiary districts, where the city council serves as the district's board of directors. The city council becomes the *ex officio* board of directors. Although the subsidiary district has the same governing body as the city, the district remains a separate governmental entity with its own corporate powers.

The Oceanside Small Craft Harbor District is a subsidiary district of the City of Oceanside (San Diego County). The members of the Oceanside City Council serve as the District's board of directors.

Merging a district into a city occurs only when the district's territory is entirely within city limits. A city can establish a subsidiary district if at least 70% of the district's territory is within the city's limits.

A final note:

Combining two or more boundary changes in one proposal is a **reorganization**. If the City of Bishop (Inyo County) wanted to annex an acre of unincorporated land, and simultaneously detaches that acre from the fire district and the flood control district, the Inyo LAFCO would collect all three boundary changes into a single reorganization. In other words, a reorganization is merely a way to package several related changes of organization into a single proceeding.

Initiation

Initiation begins the process for a change of organization or reorganization. An initiation may begin in one of three ways: *by petition, by resolution, or by LAFCO.*

Initiation by petition:

Occurs when either registered voters or landowners in the affected territory request a boundary change. Usually registered voters sign a petition circulated in an inhabited area while landowners do so in uninhabited areas. However, for landowner-voter special districts only landowners sign the petitions, even if the area is inhabited.

Before a LAFCO reviews any proposal, anywhere from 5% to 25% of the affected voters or landowners, depending upon the type of boundary change, must sign a petition. For example, a city annexation requires at least 5% of the registered voters who live within the annexation area to sign the petition, and an incorporation needs at least 25% of the voters within the proposed incorporated area to sign a petition.

Petitioners for a reorganization must get the required number of signatures to satisfy all voter requirements. For example, a petition for a reorganization that involve both a district annexation (5%) and a city incorporation (25%) requires signatures from both affected areas. In practical terms, the higher minimum requirement, or 25%, applies.

Initiation by resolution:

Occurs when the governing body of an affected local agency proposes a change of organization or reorganization. Any city or special district that overlaps the affected territory is an affected local agency. A county is always an affected agency because its boundaries include all of the cities and special districts in that county. Therefore, the county board of supervisors can initiate any boundary change in its county.

Initiation by LAFCO:

May occur for special district consolidations, dissolutions, mergers, subsidiary districts, or related reorganizations. LAFCOs can't initiate district annexations or detachments, and can't initiate any city boundary changes. Originally, LAFCOs had only a reactive role regarding boundary changes because the commissions acted on proposals submitted by other agencies or voters. During the recession in the early 1990s, however, the Legislature decided that reducing the number of special districts could save scarce revenues. Few LAFCOs have used this power.

LAFCO Review

Once a group of voters, an affected local agency, or LAFCO submits a proposal, the commission reviews it. LAFCO review has three stages: *staff report and recommendation, a public hearing, and a final decision.*

Staff Report:

Every LAFCO has an executive officer (chief staff person) who prepares reports and recommendations for the commissioners. LAFCOs support their own executive officer; most LAFCOs appoint their own staff, but some contract with their county governments for these staff services.

Before LAFCO can consider a proposal, its staff must determine two things:

- If initiated by petition, whether the proposal obtained the required number of signatures.
- If the affected local governments have agreed to an exchange of property taxes.

When LAFCO reviews a proposed city incorporation, it must look at the fiscal effect on the county government. Under the state's *situs* laws, a newly incorporated city receives local taxes instead of the county (including property taxes, transient occupancy taxes, and others). If LAFCO determines that an incorporation is *revenue neutral*, meaning a county would not substantially suffer from revenue losses, the incorporation may proceed. If LAFCO determines an incorporation would substantially cut a county's tax base, LAFCO must deny the proposal and the city cannot incorporate. However, LAFCO can approve a city incorporation if it imposes terms and conditions that achieve revenue neutrality.

The California Environmental Quality Act (CEQA) requires LAFCOs to review the environmental effects of proposed boundary changes. Depending upon the change of organization, LAFCO might require an environmental impact report (EIR).

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

- Not complete, and sends the proposal back to the proponents.
- Complete, and issues a certificate of filing, and set a LAFCO hearing within 90 days.

Before the LAFCO hearing, the executive officer prepares a written report and recommendation for the commission. The report goes to all LAFCO commissioners, all affected local agencies, and other persons named in the application to receive a report. LAFCO's staff must give public notice at least 15 days before a public hearing.

Public Hearing:

At the public hearing, the LAFCO commissioners listen to testimony and debate the proposed boundary change. The LAFCO can approve or deny the application. If LAFCO approves, it can attach *terms and conditions*. Terms and conditions spell out the boundary changes, details, such as property tax transfers, water use priorities, and other necessary details. Terms and conditions cannot directly regulate land use, property development, or subdivision requirements, but they can indirectly regulate land use, as explained on pages 7 and 8.

