

CHANGES IN LAFCO POLICIES

1. LAFCO's enabling statute has a new name

The change adds Assembly Member Hertzberg's name in the title of LAFCO's Law.

2. LAFCO purposes; how to best accommodate growth

Section 56301 amends LAFCO's purpose. To the long-standing goals of discouraging urban sprawl and encouraging the orderly formation of local agencies, it adds "preserving open space and prime agricultural lands" and "efficiently providing government services." It retains the direction that this is to be achieved "based on local conditions and circumstances."

Section 56300 is amended to:

- State that goals to discourage urban sprawl, preserve open space and agriculture and provide efficient governmental services may sometimes compete with the need for orderly development.
- State providing housing is an important factor in promoting orderly development
- Add a preference to accommodate growth within or through the expansion of local agencies that can "best accommodate" services and housing for all incomes in "the most efficient manner feasible."
- Promote multi-purpose governments, especially in urban areas, but recognizes the critical role of limited purpose agencies, especially in rural communities.
- Add a preference that service responsibility be allocated to government agencies that can "best provide government services."

New Section 56668.5 states that LAFCOs may, but are not required to, consider regional growth goals and policies established by a collaboration of elected officials.

3. New agencies vs. existing agencies to provide services

Sections 56301 and 56886.5 require new LAFCO, when considering new governmental entities, to determine whether existing agencies can feasibly provide the needed service in a more and accountable manner.

If a new single-purpose agency is deemed necessary LAFCO must consider reorganizing with other single-purpose agencies that provide related services.

4. Standard for legal challenge to LAFCO decisions

Section 56107 makes it clear that any legal attack on LAFCO decisions is limited to whether there was fraud or a prejudicial abuse of discretion. LAFCO's is a quasi-legislative agency whose decisions must only be supported by substantial evidence in light of the whole record

5. Written LAFCO policies and procedures

The change establishes January 1, 2002 is the deadline for LAFCOs to adopt written policies and procedures. The staff recommends that the Commission's written policies be modified based on AB2838 and other considerations.

6. Disclosure of contributions to support or oppose proposals

Section 56100.1 allows LAFCO to require the disclosure of contributions, expenditures and independent expenditures made in support of or in opposition to a proposal. Disclosures may be made to the Executive Officer or a County officer designated by the Board of Supervisors. These disclosures are in addition to any other disclosures that are required.

Yet section 56700.1 requires disclosing and reporting expenditures for "political purposes" related to boundary changes that have been submitted to LAFCO.

Section 56300 directs LAFCO to consider adopting procedures to require the disclosure of contributions, expenditures and independent expenditures authorized by Section 56100.1 and to hold a public hearing to discuss this not later than March 31, 2001.

LAFCO can adopt written policies and procedures requiring lobbying disclosure and reporting for persons attempting to influence pending decisions by LAFCO Commissioners, staff or consultants. Disclosures made to LAFCO will be posted on the Commission web site or may be made to the County Recorder, Registrar of Voters or Clerk of the Board of Supervisors.

7. Posting LAFCO notices to the Internet

LAFCO must allow access to notices and Commission information through an Internet web site. This is something the Santa Barbara LAFCO is already doing.

8. LAFCO powers and duties – Part 1

Section 56375 directs LAFCO to act consistently with its written policies and guidelines.

9. LAFCO powers and duties – Part 2

The change requires cities to prezone territory and indicates that LAFCO decisions regarding annexation to a city must be based on the general plan and pre zoning. The Commission already requires pre zoning or a similar action before considering an annexation to a city.

10. LAFCO powers and duties – Part 3

The change authorizes LAFCO to approve annexations to cities consistent with the probable use of the property based on the city general plan and rezoning.

The change prohibits cities from making a subsequent change in the general plan or zoning for the annexed territory that would differ from the rezoning designation for a period of two years after completion of the annexation. A city council can make a change within two years if it finds that a substantial change occurred in the circumstances that necessitate departing from the rezoning as reviewed by LAFCO.

11. LAFCO powers and duties – Part 4

The change allows LAFCOs in adjoining counties to agree on procedures for processing proposals that cross county boundaries.

12. Periodic review and adoption of spheres of influence

LAFCO is required to update adopted spheres of influence as necessary, but not less than every five years.

13. City spheres of influence

Section 56425 requires cities to discuss proposed sphere changes with the County at least 30 days prior to submitting an application to LAFCO to determine a new sphere or update an existing sphere.

The city and county should explore methods to reach agreement on boundaries, development standards and zoning requirements in the proposed sphere area to ensure development within the sphere occurs in a manner that reflects the concerns of the city and promotes the logical and orderly development of the area.

If the city and county agree on development standards within the proposed sphere, the agreement is forwarded to LAFCO to consider and adopt the sphere. LAFCO must give “great weight” to the city/county agreement.

If LAFCO’s decision is consistent with the city/county agreement it must be adopted by the city and county after public hearings. After the city and county adopt the agreement, and their respective general plans reflect the agreement, any development approved by the county within the sphere must be consistent with the agreement.

Without an agreement the Commission must consider the sphere of influence application in light of LAFCO’s adopted policies.

14. Special District spheres of influence, specified special district services

The legislature provides LAFCO with the authority to regulate the exercise of latent powers but separately from seating special districts on the Commission. Section 56425 requires that in adopting or amending special district spheres of influence LAFCO must:

- Require districts to file written statements specifying the functions or classes of service provided by the districts.
- Establish the nature, location and extent of the services provided and
- Determine that unless otherwise authorized by LAFCO's rules, the district except upon LAFCO approval shall provide no new or different services.

15. Exclusions from city spheres of influence; Redlands "doughnut hole" bill

The change allows removal of land from a city sphere of influence without LAFCO consent under certain circumstances upon petition by the affected landowners.

Based on a situation with the City of Redlands a bill removed the San Bernardino LAFCO's authority to deny a petition by landowners to exclude their property from the City's sphere. Landowners representing more than 50% of the assessed value of the affected territory must sign the petition.

This provision, however, applies to all city spheres of influence.

16. Municipal Service Reviews

The significant change obligates LAFCO to "conduct a service review of municipal services" whenever preparing or updating a sphere of influence and describes in detail the requirement for a written statement of determinations. The Commission is required to "comprehensively review all of the agencies which provide the identified services within the designated geographic area" of the municipal service review.

Coupled with the requirement to update spheres of influence each five years, this requirement may significantly expand LAFCO's workload and responsibilities.

The State Office of Planning and Research is obligated, in consultation with LAFCOs, to prepare by July 1, 2001 guidelines for conducting service reviews.

17. Review extension of urban services into unincorporated areas

The change specifies LAFCO's authority includes reviewing proposals to extend services to previously unserved unincorporated areas and is intended to ensure the extension of services is consistent with the statute and local LAFCO policies.

18. New factors that LAFCO must consider in reviewing proposals

Section 56668 lists factors that LAFCO must consider in reviewing proposals. New factors added to the section include:

- The ability of the entity to provide the services and sufficiency of revenues for those services.
- Timely availability of adequate water supplies.
- The extent to which the proposal will assist the agency in achieving its fair share of regional housing needs.

LAFCO will need assistance to consider these factors, resulting in greater coordination with the Commission, agencies that provide water and the Santa Barbara County Association of Governments with regard to determining fair share housing needs in the region.

19. Mandatory factors to consider for city detachments and district annexations

If a proposal includes a detachment from a city or an annexation to a special district, and the proceeding is not terminated by the affected agency, LAFCO must consider specific factors in reviewing the proposal.

LAFCO must give great weight to city or district objections and base its consideration solely on financial or service related concerns expressed in the protest by the affected agency.

20. Task force to create guidelines for city incorporations

Section 56815.2 requires the State Office of Planning and Research in consultation with the State Controller to convene a task force to create statewide guidelines for the incorporation process. The task force will include representatives of cities, counties, special districts and LAFCOs. It is to convene by July 1 and complete the guidelines by January 1, 2002.

21. Regulations limiting latent powers

The change allows a majority of the independent special districts to cause LAFCO to repeal any previously adopted regulations limiting the exercise of latent powers by special districts as a condition of their membership on LAFCO.

22. Calculating annexation protests by “distinct communities”

Section 57078.5 provides for annexation confirmation elections to be accounted separately if the proposal area consists of two or more “distinct communities” and one has at least 250 registered voters. This provision does not apply to “island” annexations.

23. Definition of “feasible”

Section 56038.5 defines “feasible,” as used in 56001 to describe ways to accommodate and provide necessary governmental services and housing and in 56064 to describe irrigation.

24. Definition of “prime agricultural land”

Section 56064 amends the definition with reference to whether land can be feasibly irrigated.

25. Property tax exchange negotiation

A change in the Revenue and Taxation Code clarifies that while the Board of Supervisors negotiates on behalf of special districts whose service area or service responsibility would be changed, the Board must consult with the affected districts before the negotiation.

26. Coordination of school district boundary changes

A change in the Education Code promotes coordination by requiring the County Committee On School District Organization to notify LAFCO of proceedings for a reorganization plan of school district boundaries.

The change also requires the County Committee on School District Organization to hold a public hearing when requested by a city, county, special district or LAFCO with jurisdiction over any portion of a school district being considered for unification or other reorganization.

27. Election of an initial city council by or from districts

The change allows the initial city council to be elected by or from districts as provided in the petition or proposal. Presently the initial city council must be elected at-large with the voters in the city asked to determine whether future city councils should be elected at-large or by or from districts.

CHANGES IN LAFCO OPERATIONS

The synopsis of each change is full margin and the actual statute is indented. New legislative wording is underlined.

28. Selection of LAFCO members

The legislature directs the City Selection Committee to choose LAFCO members that “fairly represent the diversity of the cities in the county, with respect to population and geography.”

It also directs the Independent Special Districts Selection Committee to choose LAFCO members who fairly represent the diversity of independent special districts.

It requires that Public Members not be appointed without support of at least one city member, county member and special district member.

29. LAFCO Commissioners are appointed to represent the entire public

Section 56325.1 directs LAFCO Commissioners to exercise their independent judgment to represent the interests of the public as a whole and not solely the interests of the group that appointed them.

This is similar to Part 3, “Role of the LAFCO Commissioner,” in the Santa Barbara LAFCO Commissioner Handbook, which states, “Members are not appointed to be representative of a particular city’s, county’s or special district’s view point. The mixed membership is to ensure that various backgrounds and appreciations are reflected on the Commission.”

30. Terms of office of LAFCO members

Commissioner terms of office begin the first Monday in May. Section 56334 allows each LAFCO to specify an alternative term of office for its Commissioners. However the length of term of office for Commissioners cannot extended more than one time.

31. LAFCO quarters, equipment, supplies and personnel

The change requires LAFCO to arrange for quarters, equipment, supplies and personnel and authorizes LAFCO to contract with public or private parties for these facilities and services. Previously the County furnished the Commission with quarters, equipment and supplies.

32. LAFCO’s budget

Section 56381 requires the County, cities and independent special districts to share LAFCO costs. LAFCO adopts a “proposed budget” by May 1 and a “final budget” by June 15.

After LAFCO adopts its final budget the County Auditor apportions the operational costs in one-third shares to the cities, county and independent special districts based on a formula in the statute or by any alternative method approved by the funding parties.

The County will advance funds to cover LAFCO's first two months of operating expenses and will be repaid when city and district payments are received.

LAFCO may retain excess funds and use them to finance the following year's budget. The County may loan funds to LAFCO if it is without adequate funds to operate during the year.

33. LAFCO processing fees

Section 56383 allows LAFCO to waive processing fees if the payment would be detrimental to the public interest, and eliminates processing fees charged to verify signatures on petitions.

For city incorporations initiated by a petition, if the proponents certify they are unable to raise sufficient funds to reimburse LAFCO for its proceedings costs, the Commission may request a ban from the State General Fund of an amount sufficient to cover those expenses. The loan is subject to the availability of an appropriation for those purposes.

Repaying the loan is a condition of the approval of the incorporation. If it is successful the repayment becomes an obligation of the city to be repaid within two years. If LAFCO denies the incorporation or it is defeated at an election the loan is forgiven by the State.

34. Appointment of Executive Officer, Legal Counsel and staff

Section 56384 requires LAFCO to appoint its executive officer and legal counsel. The previous law allowed LAFCO to appoint an executive officer and legal counsel.

If staff has a conflict of interest the Commission can appoint an alternate executive officer and alternate legal counsel.

CHANGES IN BOUNDARY CHANGE PROCEDURES

The synopsis of each change is full margin and the actual statute is indented. New legislative wording is underlined.

35. LAFCO is the conducting authority for boundary changes

Prior to AB 2838 a city council, district board or Board of Supervisors was the “conducting authority” after LAFCO approved a proposal. Now LAFCO serves as conducting authority for all changes and will conduct the hearings to receive written protests.

Proposals will not be returned to local agencies for processing, except when a confirmation election is required.

This change requires new forms and procedures for conducting “protest” hearings and greatly expands LAFCO’s notice requirements.

36. LAFCO can delegate the conducting authority process to the Executive Officer

Section 57000 allows LAFCO to delegate conducting authority procedures to its executive officer, thereby expediting the boundary change process since the staff can conduct “protest” hearings at times other than regular Commission meeting dates.

37. Revised definition of landowner

The change identifies landowner as those on the most recent assessment roll “being prepared by the County.” Prior language referred to the most recent completed assessment roll. The staff is working with the County Assessor to implement needed procedural changes.

38. School districts can initiate boundary changes

The change allows school districts to initiate proposals with LAFCO, an authority previously reserved to landowners, resident voters, cities, counties and districts.

39. LAFCO responsibilities when two counties are involved

Section 56123 creates notice requirements for proposals that affect two or more counties.

40. Out-of-agency service agreements; specified LAFCO duties

Section 56133 formalizes LAFCO procedures for proposed out-of-agency service agreements by establishing deadlines and processing requirements.

The change also expands LAFCO authority over out-of-agency service agreements to include those between public agencies (which were previously exempt from LAFCO review). Still

exempt are agreements when one agency is simply being substituted for another agency where a service is already being provided.

41. New LAFCO duty to post notices on the Internet

Section 56150 requires LAFCO to post notices on an Internet web site, provided the LAFCO maintains such a web site.

42. Extended LAFCO notice period – 21 days rather than 15 days

The change extends LAFCO's minimum notice requirement from 15 days to 21 days prior to the date of the hearing.

43. Broader LAFCO notice requirements – Part 1

Section 56157 requires LAFCO to mail notices to all registered voters and landowners within 300 feet of the boundaries of the affected property. While this process is typical for city and county land use permits it is a new requirement for LAFCOs.

44. Broader LAFCO notice requirements – Part 2

Section 56658 requires LAFCO to notify the County Committee on School District Organization and each affected school district superintendent of proposals that are received. This is a new obligation for LAFCO.

LAFCO is also required to notify "each local elected official, each member of the governing board and the executive officer" of each affected local agency. This is also a new notice obligation. Previously it was sufficient to mail a notice to the clerk of the affected agency.

The State Director of Conservation must be notified of proposed annexations of land that are included within a Williamson Act Contract.

45. Waiver of protest proceedings

Section 56663 makes waiving conducting authority procedures more difficult by requiring LAFCO to mail written notice to all property owners and registered voters within the subject territory and ensuring that no opposition is received prior to or during the LAFCO meeting.

Also it provides that proceedings can be waived only if all agencies that would gain or lose territory have consented in writing to waive the proceedings. Previously only agencies that would gain territory were required to consent to the waiver.

46. Publication before circulating petitions

Section 56700.4 obligates prospective petitioners for boundary changes to file with LAFCO a notice of intention to circulate the petition and written statements setting forth the reasons for the proposal. Upon receiving the notice LAFCO must notify any affected jurisdictions.

47. LAFCO may determine dual majority elections for qualified city annexations

Section 56737 allows LAFCO to determine if an election to confirm a city annexation where the annexation area represents 50% or more of the assessed value or registered voters of the existing city is to be held in the annexation area alone or in the existing city also.

48. City detachment and district annexation procedures

A city may not, on its own motion, terminate a detachment. Likewise, a special district may not terminate an annexation.

Sections 56751 and 56857 direct the LAFCO staff to place proposals for city detachments or district annexations on the next LAFCO agenda for informational purposes and to transmit a copy of the proposal to the subject city or special district. The city or district may, within 60 days of the date the proposal is on LAFCO's agenda, request termination of the proceedings and LAFCO must comply.

This new procedure could delay, by two months, these types of boundary changes.

49. Restrictions on "lame duck" governing boards

Section 56885.5 allows LAFCO to limit the ability of agencies whose dissolution has been approved from increasing compensation or benefits for district staff or board members or obligating agency revenues beyond that approved in the current budget at the time the dissolution was approved, unless an emergency exists.

50. Reconsideration of LAFCO decisions

Section 56895 requires requests for reconsiderations of LAFCO decisions to state the new or different facts that could not have been presented previously, or applicable new statutes, that are claimed to warrant the reconsideration.

51. Proceedings involving confirmation elections

Although LAFCO is the conducting authority, a city council or the Board of Supervisors, depending on the type of boundary change, will conduct any confirmation elections.

52. Abandonment of proceedings

Section 57001 specifies that time extensions to complete an approved boundary change may be for any period LAFCO deems reasonable. Without an extension proceeding becomes null and void one year from the date of LAFCO's approval.

53. Mandatory reconsideration period

Section 57002 requires the executive officer to wait for a thirty-day reconsideration period after LAFCO's approval before setting a proposal for hearing.

54. Time for public utilities to act

Section 57201 requires that LAFCO allow public utilities 90 days after completion of a proceeding to make changes to impact the utility customer accounts.