

LAFCO'S POWER TO REORGANIZE SPECIAL DISTRICTS

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CONSOLIDATION

“Consolidation” means the uniting or joining of ... two or more districts into a single new successor district.

Gov. Code, § 56030

DISSOLUTION

“Dissolution” means the disincorporation, extinguishment, or termination of the existence of a district and the cessation of all its corporate powers, except as the commission may otherwise provide pursuant to Section 56886 or for the purpose of winding up the affairs of the district.

Gov. Code, § 56035

MERGER

“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 as a result of proceedings taken pursuant to this division.

Gov. Code, § 56056

DISTRICT

“District” or “special district” are synonymous and mean an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries and in areas outside district boundaries when authorized by the commission pursuant to Section 56133. Gov. Code, § 56036

EXCLUSIONS FROM “DISTRICT”

“District” or “special district” includes a county service area, but excludes

(1) The state.

(2) A county.

(3) A city.

(4) A school district or a community college district.

Gov. Code § 56036

EXCLUSIONS FROM “DISTRICT”

“District” also excludes:

(5) An assessment district or special assessment district.

(6) An improvement district.

(7) A Mello-Roos District.

(8) A permanent road division.

Gov. Code, § 56036

EXCLUSIONS FROM “DISTRICT”

“District” also excludes:

(9) An air pollution control district or an air quality maintenance district.

(10) A zone of any special district.

Gov. Code § 56036

DISTRICTS OUTSIDE LAFCO PROCESS

Principal Act controls change of organizations for:

(1) A unified or union high school library district.

(2) A bridge and highway district.

(3) A joint highway district.

(4) A transit or rapid transit district.

(5) A metropolitan water district.

(6) A separation of grade district.

Gov. Code, § 56036.5

DISTRICTS OUTSIDE LAFCO PROCESS

“For other districts, where the principal act provides, the procedures in the principal act shall supersede the procedures set forth in [the LAFCO law].”

Gov. Code, § 56036.5

“NON-DISTRICTS”

LAFCO can decide the following are “non-districts” and changes of organization governed by principal act rather than LAFCO law:

- (1) A flood control district.**
- (2) A flood control and floodwater conservation district.**
- (3) A flood control and water conservation district.**
- (4) A conservation district.**
- (5) A water conservation district.**

Gov. Code, § 56036.6

“NON-DISTRICTS”

More “non-districts”:

- (6) A water replenishment district.**
- (7) The Orange County Water District.**
- (8) A California water storage district.**
- (9) A water agency.**
- (10) A county water authority or a water authority.**

Government Code § 56036.6

WHO INITIATES CHANGE OF ORGANIZATION?

An “affected local agency,” – “any local agency that contains, or would contain, or whose sphere of influence contains or would contain, any territory for which a change of organization is proposed or ordered, either singularly or as part of a reorganization or for which a study is to be reviewed by the commission.”

Gov. Code, §§ 56654, 56014

WHO INITIATES?

Petition of landowners or registered voters

Government Code § 56700 et seq.

Signature requirement varies by proposal and range upwards from 5%

WHO INITIATES?

LAFCO “may initiate proposals by resolution of application for any of the following:

- (A) The consolidation of a district
- (B) The dissolution of a district.
- (C) A merger.
- (D) The establishment of a subsidiary district.
- (E) The formation of a new district or districts.
- (F) A reorganization that includes any of the changes specified [above].”

Gov. Code, § 56375(a)(2)

WHO INITIATES?

LAFCO “may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378 [study], 56425 [sphere of influence], or 56430 [municipal service review], and the commission makes the determinations specified in subdivision (b) of Section 56881.

Gov. Code, § 56375

ONLY LAFCO & DISTRICT CAN INITIATE SOME PROPOSALS

“[A] proposal for a change of organization that involves the exercise of new or different functions or classes of services, or the divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, shall only be initiated by the legislative body of that special district

Gov. Code, § 56654(b)

WHAT FINDINGS ARE REQUIRED?

To approve a change of organization initiated by LAFCO, Commission must find:

“(1) Public service costs ... are likely to be less than or substantially similar to the costs of alternative means of providing the service.

(2) A change or organization or reorganization ... promotes public access and accountability for community services needs and financial resources.”

Gov. Code, § 56881

THE GENERAL PROCESS

- **Complete application**
 - resolution or petition
 - map
 - plan for services
 - application fee
 - CEQA compliance
- **LAFCO notice to affected agencies**
- **Noticed hearing and decision**
- **Protest proceeding (unless waived)**

LAFCO'S DECISION IS:

- **Legislative**
- **Discretionary**
- **Subject to very deferential judicial review**

PROTEST PROCEEDINGS

Can be waived if:

- **no affected agency objects**
- **Unanimous petition of voters**
- **Unanimous petition of landowners**

PROTEST PROCEEDINGS

- **Known as “conducting authority proceedings” and now conducted by LAFCO or its Executive Officer**
- **In general, these involve:**
 - 45-day mailed notice
 - hearing in / near affected area
 - opportunity for written protests

PROTEST PROCEEDINGS

- **Generally, 25% or greater protest is sufficient to require an election**
- **50% or greater protest is sufficient to kill the proposal for 2 years**
- **Election is among registered voters if there are 12 or more in the affected territory; among property owners voting in proportion to landholding otherwise**

ELECTION

Gov't Code § 57077.1 defines when an election is required on a dissolution

- **25% protest of landowners**
- **25% protest of registered voters**
- **Any written protests trigger election on LAFCO-initiated proposal**

Dissolution consistent with study, SOI study or MSR and initiated by district board does not require election requires public hearings but not an election

Gov't Code 57077.2 – 577077.4 govern need for election on consolidation, reorganization, and annexations affecting districts

A LITTLE ADVICE

- **LAFCO has considerable power to put your continued existence on the public agenda**
- **A District can “defend itself” only by maintaining credibility with the voters and landowners it serves**
- **It is unwise to ignore LAFCO’s requests for information, because your side of the story will not be told in SOI plan, MSR or other study and that frees LAFCO to find a change of organization is consistent with that study**
- **While it is tempting to ignore the outside world, regional cooperation is essential to government that is, and appears to be, effective, efficient and transparent**

CONCLUSION

Yes, we can all get along, but we have to talk to one another and try to understand each other's perspective

The turtle-in-its-shell approach is not effective