



CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

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October 9, 2013 (Agenda)

October 9, 2013
Agenda Item 9

Contra Costa Local Agency Formation Commission
651 Pine Street, Sixth Floor
Martinez, CA 94553

Policies and Procedures Update

Dear Members of the Commission:

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 requires each LAFCO to establish written policies and procedures. Presently, Contra Costa LAFCO has the *Commissioner Handbook*, which contains a mix of policies and procedures. In addition, we have various applications and related forms. Periodically, the Commission adopts updates and revisions to these documents in accordance with changes in State law or Commission policy.

Contra Costa LAFCO is currently developing procedures specific to each kind of change of organization. Once we have procedures in place, policy development will follow.

In August, the Policies & Procedures Committee - Commissioners Burke and Tatzin - presented the Commission with draft procedures for city annexations/detachments, district annexations/ detachments, district mergers and establishment of subsidiary districts, LAFCO-initiated proposals, new or different services, and district dissolution, which the Commission adopted.

The Committee met again on September 30th to continue its work on procedures, and is pleased to present draft policies on the following: district formation, district consolidation, city consolidation, disincorporation, reorganization and out of agency service.

RECOMMENDATION

Approve the attached procedures with any changes as desired.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachment 1 – Section 3.10 – District Formation
Attachment 2 – Section 3.11 - District Consolidation
Attachment 3 – Section 3.12 – City Consolidation

Attachment 4 – Section 3.13 - Disincorporation
Attachment 5 – Section 3.14 – Reorganization
Attachment 6 – Out of Agency Service

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3.10 District Formation

When evaluating the formation of a new district, the Commission is required to determine whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. In accordance with LAFCO law (56001) and local LAFCO policies, a multipurpose government agency accountable for community service needs and financial resources may be the best mechanism for establishing community service priorities, particularly in urban areas. If a new single-purpose agency is deemed necessary, the Commission must consider reorganization with other single-purpose agencies that provide related services (56886.5).

The principal acts under which special districts are formed vary widely both in terms of the nature of the agency that is formed, and the procedures that are followed in the formation. The individual, agency, or community group that is initiating a formation should explore this diversity to find a special district that fulfills their specific set of needs. ~~Please refer to Section Six, Appendix, for a table of the types of services that various special districts may provide. Section Five of this guide briefly outlines the principal acts for some common special districts and should be helpful. However, there is no substitute for a review of the actual statutes or enabling acts.~~

Comparison of Enabling Acts

The following ~~discussion~~ outlines the statutory provisions that vary from one principal act to another:

1. **Initiation Procedure:** Formation may be initiated by a petition of registered voters or landowners, or by a resolution of an existing special district board, school district board, a city council, or a county board of supervisors. The principal act may ~~limited~~ initiation to one of the above, or allow a choice among several or all of the above. The number of signatures required on a petition ~~may~~ also ~~may~~ vary.
2. **Representation:** The basis of representation is most often voter registration. However, some districts in rural areas may allow representation to be based upon landownership. ~~Voters~~ in landowner districts are cast on the basis of the assessed valuation of land (without regard to improvements) compared to the total assessed valuation of the district. As landowner districts become urbanized, they ~~are encouraged to~~ should convert to registered voter representation, or face potential legal challenges.
3. **Governing Board:** Wide variation exists in the makeup and means of selection for special districts' governing boards. The first distinction is whether the district board is comprised of or appointed by the board of supervisors (or sometimes, city council) in whose jurisdiction the special district exists. This is the means of selection for a "dependent" district – one that exists as a subsidiary agency of the county or a city. An "independent" district ~~typically~~ has an elected board. When boards are elected, the principal act may provide for either elections by district, elections at large, or a choice between the two. Even more complex means for selecting board members are sometimes specified when a district includes two or more cities or counties within its boundaries.

The number of board members also varies widely, and choices as to the number of board members may be available or may depend upon other factors decided during formation.

4. **Functions:** The powers of special districts to perform specific functions are set forth in the principal or enabling act. Some districts are limited to performing a single function; others are multi-purpose special districts that can perform nearly the same functions as a city. However, only cities and counties can assume the power to make land use planning decisions.
5. **Inclusion of Territory:** The territory that may be included within a district upon formation and by annexation is also set forth in the districts' enabling act. Territory that may be included upon formation may differ from territory that may be annexed. Districts can be empowered to include territory in two or more counties, may be required to include all of a city if it is to include any part, or may be required to include only contiguous territory. Again, the variation is significant.

Initiation of Proceedings

Requirements vary according to the principal act under which the formation would occur.

Application

In addition to the petition or resolution initiating the formation and all other information required in a Contra Costa San Diego LAFCO “change of organization” application: (see Section Two), an application for formation should include a “plan for providing services” to include the following information:

1. The statutory section under which the formation would occur;
2. An enumeration and description of the services to be extended accompanied by a justification;
3. The level and range of those services;
4. An indication of when those services would be extended;
5. A discussion of any improvement or upgrading of structures, sewer or water facilities, or other conditions the new district would impose or require within its boundaries upon formation;
6. Information about how improvements would be financed, an operating budget for the proposed district, and revenues and expenditures; and
7. A discussion of alternative boundaries and rationale for the boundaries proposed.

Commission Proceedings

After receiving a formation proposal by petition or resolution of application, ~~San Diego~~-LAFCO staff conducts an analysis of the proposal. The Commission conducts a hearing to review this analysis and to receive oral or written testimony (56666). The Commission then adopts a resolution approving, ~~with or without conditions~~, or disapproving the proposal (56880). If the formation is approved, the Commission determines the final boundaries, and appropriations limited (56811) if necessary, and any terms and conditions for approval. If the district ~~is~~would be assuming the service responsibilities of another agency or agencies, the Commission will also determine the amount of property taxes to be exchanged (56810). If the Commission wholly disapproves a proposal, no new proposal involving the same or substantially the same territory shall be initiated for one year after the date of the Commission's resolution, unless this provision is waived by the Commission (56884).

Conducting Authority (Protest) Proceedings

~~Generally, the~~ The Commission serves as the conducting authority for the formation of a district. ~~Please refer to Section 56036 for list of the exceptions to this procedure.~~ Unless there is a conflict between the procedural requirements of the district principal act and the Cortese-Knox-Hertzberg Act, when forming a district, the procedural requirements of the principal act are followed. In the event of a conflict, the requirements of the Cortese-Knox-Hertzberg Act are followed (56100).

The range of actions that may be taken by the conducting authority depends upon the principal act under which formation is proposed. Under some provisions, the conducting authority may determine the formation is infeasible and terminate the proceedings. ~~Pursuant to IF processed under~~ the Cortese-Knox-Hertzberg Local Government Reorganization Act, the Commission may take one of the following three actions:

1. Approve the formation without an election, if the formation is part of a reorganization or consolidating where two or more districts are proceeding under the adoption of substantially similar initiating resolutions (56853 & ~~56854~~);
2. Approve the formation subject to confirmation at an election; or
3. Terminate the formation proceedings if protests are filed by (~~57077 &~~ 57078);
 - A. In the case of uninhabited territory – landowners owning 50% or more of the assessed value of the land within the territory.
 - B. In the case of inhabited territory – 50% or more of the registered voters within the territory.
 - C. In the case of landowner-voter districts – 50% or more of the voting power of the voters entitled to vote as a result of owning land within the proposed district.

Election

If an election is held and a majority of the votes is cast for formation of the district, the ~~conducting authority~~ Commission shall pass a resolution confirming the order of formation. The election may also decide the membership of the district's governing body, and any other issues provided for in the principal act under which formation is occurring (57115).

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3.11 District Consolidation

Definition

Consolidation means the uniting or joining of two or more districts into a single new successor district ([56030](#)). The districts consolidating do not need to be formed under the same principal act ([56030](#)). [Districts consolidating which are formed under different principal acts are subject to special provisions \(56700 & 56826.5\)](#).

Initiation of Proceedings

Proceedings for consolidation of special districts shall be initiated by petition or by resolution of the governing body of an affected local agency or school district. Effective July 1, 1994, the Commission may initiate proposals for consolidation of districts ([56375](#)). For a discussion of the consolidation process associated with LAFCO initiated proposals, please refer to Section [3.7Four, LAFCO Initiated ProposalsMiscellaneous Procedures](#). Petitions for consolidation of two or more districts shall be signed as follows:

1. For **registered-voter** districts, by not less than 5% of the registered voters within each of the [affected several](#) districts; or
2. For **landowner-voter** districts, by [not less than 5% of the number of landowner-voters owning land within the affected districts](#), who also own not less than 5% of the assessed value of land within each of the [affected several](#) districts ([56865](#)).

Commission Proceedings

After receiving a consolidation proposal by petition or resolution of application, [San Diego](#) LAFCO staff conducts an analysis of the proposal. The Commission conducts a hearing to review this analysis and to receive oral [or and](#) written testimony ([56666](#)). The Commission then adopts a resolution approving or disapproving the proposal ([56880](#)). If a majority of the members of each of the governing bodies of two or more districts adopt substantially similar resolutions of application for a consolidation, LAFCO shall approve, or conditionally approve, the proposal ([56853](#)). As part of the approval process, the Commission [may adopts any](#) terms and conditions of approval. If the Commission wholly disapproves a proposal, no new proposal involving the same or substantially the same territory shall be initiated for one year after the date of the Commission's resolution, unless this provision is waived by the Commission.

Conducting Authority Protest Proceedings

[Please refer to Reorganization Procedures and LAFCO Initiated Proposals in Section Four and Election Requirements/Protest Provisions in Section Six of this Guide for additional information on the criteria used to determine the geographic area of elections and protest thresholds.](#)

The Commission is the conducting authority for a district consolidation. [The protest provisions, election requirements and voting area vary depending on the nature of the application \(i.e.,](#)

petition, resolution, LAFCO initiated), whether the subject territory is inhabited or uninhabited, and whether any/all of the affected districts have objected to the proposed consolidation (57077.2).

In general, Tthe conducting authorityCommission shall adopt a resolution making a finding regarding the value of the written protests filed and not withdrawn, and take one of the following actions (57077.2):

1. Order the consolidation without an election; or
2. Order the consolidation subject to confirmation of the voters if protests have been a petition is submitted signed by at least 25% of the landowners (owning at least 25% of the assessed value of land) or by at least 25% of the voters requesting an election (57081); or
3. In the case of a LAFCO initiated consolidation, order the consolidation subject to confirmation of the voters if protests have been signed by either a petition requesting an election is submitted by 10% of the landowners within any subject agency owning at least 10% of the assessed value of land within the territory, or at least 10% of the voters within any subject agency within the affected territorydistrict (57113); or
4. Terminate proceedings if a majority protest exists in accordance with Section (57078).

Election

After the election, the Commissioneconducting authority shall take one of the following actions (57177.5):

1. Adopt a resolution confirming the order of consolidation if, within the territory of each district ordered to be consolidated, a majority of the votes cast favored consolidation; or
2. Terminate proceedings if, in one of the districts ordered to be consolidated, the votes cast in favor did not constitute a majority.

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3.12 City Consolidation

Definitions

Consolidation means the uniting or joining of two or more cities ([or “towns”](#)) located in the same county into a single new successor city (56030).

Initiation of Proceedings

Proceedings for consolidation can be initiated by petition, or by resolution of an affected local agency or school district.

A petition for consolidation of two or more cities must be signed by not less than 5% of the registered voters in each city (56766).

Current law does not allow LAFCO to initiate the consolidation of cities.

Commission Proceedings

After receiving a consolidation proposal by petition or resolution of application, LAFCO staff conducts an analysis of the proposal. The Commission conducts a hearing to review this analysis and to receive oral and written testimony (56666). The Commission then adopts a resolution approving or disapproving the proposal (56880). As part of the approval process, the Commission may adopt terms and conditions of approval. If the Commission wholly disapproves a proposal, no new proposal involving the same or substantially the same territory shall be initiated for two years after the date of the Commission’s resolution, unless this provision is waived by the Commission.

Any resolution of the Commission ordering a consolidation of cities subject to an election shall do all of the following (57117):

- (a) Provide for the election of officers of the successor city required to be elected.
- (b) State that the voters may express their preference as to the name of the successor city.

Protest Proceedings

An election is required unless terminated by a majority protest (57078). The election shall be held within the territory of each city proposed to be consolidated (57118).

Election

After the election, the Commission shall take one of the following actions (57177.5):

- (a) Adopt a resolution confirming the order of consolidation if, within the territory of each city ordered to be consolidated, a majority of the votes cast favored consolidation; or

- (b) Terminate proceedings if, in one of the cities ordered to be consolidated, the votes cast in favor did not constitute a majority.

In addition, the LAFCO certificate of completion confirming an order of consolidation of cities shall do all of the following:

- (a) Give the name of the new or successor city favored by the electors.
- (b) Declare the persons receiving the highest number of votes for the several offices of the successor city to be elected to those offices.

The expenses incurred in conducting elections for a consolidation of cities shall be paid, unless otherwise provided by agreement between the commission and the proponents, by the successor city ~~or district~~ or by the local agencies proposed to be consolidated, to be paid by those local agencies in proportion to their respective assessed values, if proceedings are terminated (57150).

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3.13 City Disincorporation

Definitions

Disincorporation means the dissolution, extinguishment, or termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city (56034).

Disincorporations are generally a measure of last resort, and do not relieve a city of debt. Municipal bankruptcy provides some legal protection to financially-stressed municipalities from its creditors through excusing or adjusting debt. Municipal bankruptcy and disincorporation are currently not connected to each other under State law.

Initiation of Proceedings

Proceedings for disincorporation can be initiated by petition, or by resolution of an affected local agency or school district. LAFCO can raise awareness of fiscal instability and malfeasance through municipal service reviews; however, current law does not allow LAFCO to initiate the disincorporation of a city.

A petition for the disincorporation of a city shall be signed by not less than 25% of the registered voters residing in the city proposed to be disincorporated (56765).

In preparation for a disincorporation, the applicant and the affected city should work with the county and other service providers to develop a plan for services, which is a required component of the LAFCO application (56653).

Commission Proceedings

After receiving a disincorporation proposal by petition or resolution of application, LAFCO staff conducts an analysis of the proposal. The Commission conducts a hearing to review this analysis and to receive oral and written testimony (56666). The Commission then adopts a resolution approving or disapproving the proposal (56880). As part of the approval process, the Commission may adopt terms and conditions of approval. If the Commission wholly disapproves a proposal, no new proposal involving the same or substantially the same territory shall be initiated for one year after the date of the Commission's resolution, unless this provision is waived by the Commission.

If a disincorporation proposal is approved by the Commission, the Commission shall order the disincorporation subject to confirmation of the voters. A protest proceeding shall not be conducted (57077).

Election

The election shall be conducted in accordance with the LAFCO statutes and election law.

In the case of disincorporation, the election expenses shall be paid from the remaining assets of the disincorporated city, or by the city proposed to be disincorporated, if disincorporation proceedings are terminated (57150).

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3.14 Reorganization

Definition

A reorganization means any two or more changes of organization within initiated in a single proposal (56073).

Initiation of Proceedings

A reorganization may be initiated with San Diego-LAFCO by petition, or by resolution of the governing body of an affected local agency or school district. A petition for reorganization shall be signed so as to comply with the applicable signatures requirements for each of the various changes of organization proposed in the petition (56864.1).

Effective July 1, 1994, LAFCO may initiate reorganizations that include (1) consolidation of districts; (2) dissolutions; (3) mergers; ~~or~~(4) the establishment of subsidiary districts; (5) district formations; (6) reorganizations that include any of the changes of organization specified in 1-5 above. For information associated with LAFCO initiated proposals please refer to the LAFCO-Initiated Proposals Section 3.7 of this Procedures Guide. A petition for reorganization shall be signed so as to comply with the applicable signatures requirements for each of the various changes of organization proposed in the petition (56864.1).

Commission Proceedings

If a majority of the members of each of the legislative bodies of two or more districts adopt substantially similar resolutions of application making proposals for either the consolidation of all the districts, or the reorganization of all or any part of the districts into a single district, the Commission shall approve, or conditionally approve, the proposal (56853).

If a proposal includes a city detachment, and the affected city adopts and transmits to LAFCO within the prescribed timeframe a resolution requesting termination of proceedings, the proceedings shall be terminated (56751).

If a proposal includes a district annexation, and was not initiated by the affected district, and the affected district adopts and transmits to the LAFCO within the prescribed timeframe a resolution requesting termination of proceedings, the proceedings shall be terminated (56857).

Conducting Authority Protest Proceedings

1. Protest proceedings shall be conducted pursuant to section 57000 et seq. and in compliance with the Commission's resolution of approval.
2. Unless waived, the Commission shall conduct a noticed public hearing not less than 21 nor more than 60 days after the notice is given.

3. Resolution of conducting authority (**registered voter districts and cities**) (57075):

Where a reorganization consists solely of annexations, detachments, or the exercise of new or different functions or class of services (including divestiture of services) ~~formation of county service areas~~, or any combination of those proposals, the Commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except when the San Diego LAFCO has authorized approval without notice, hearing and election:

A. In the case of **inhabited** territory:

- (1) Terminate proceedings if protests represent 50% of the registered voters within the territory; or
- (2) Order the reorganization subject to confirmation by the registered voters residing within the affected territory, if written protests have been filed and not withdrawn by either of the following:
 - (a) At least 25%, but less than 50%, of the registered voters residing in the affected territory; or
 - (b) At least 25% of the number of owners of land who also own at least 25% of the assessed value of land within the affected territory; or
- (3) Order the reorganization without an election, if written protests have been filed and not withdrawn by:
 - (a) less than 25% of the registered voters; or
 - (b) less than 25% of the number of owners of land owning less than 25% of the assessed value of land within the affected territory

B. In the case of **uninhabited** territory:

- (1) Terminate the proceedings if protests represent landowners owning 50% or more of the assessed value of land within the territory; or
- (2) Order the reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50% of the total assessed value of land within the affected territory.

4. Resolution of conducting authority (**landowner-voter districts**) (57076):

Where a reorganization consists solely of annexations or detachments, or the exercise of new or different functions or class of services (including divestiture of services), or any combination of those proposals, the Commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except when the Commission has authorized approval without notice, hearing and election.

- A. Terminate proceedings if protests represent either landowners owning 50% or more of the assessed value of land within the territory (uninhabited), or 50% or more of the voters within the territory (inhabited); or

B. Order the reorganization subject to an election within the affected territory if written protests have been filed and not withdrawn by either of the following:

- (1) 25% or more of the number of owners of land who also own 25% or more of the assessed value of land within the territory; or
- (2) 25% or more of the voting power of landowner voters entitled to vote as a result of owning property within the territory; or

C. Order the reorganization without an election, if written protests have been filed, and not withdrawn by less than 25% of the number of owners of land, who own less than 25% of the assessed value of land within the affected territory.

5. Resolution of conducting authority (57077):

Where a reorganization includes consists of one or more an incorporations, or disincorporations, or formations, the Commission shall order the reorganization subject to confirmation of the voters. A protest proceeding shall not be conducted.

Certain types of reorganizations as described in sections 56853 and 57111 do not require an election. Other types of reorganization that are subject to confirmation of the voters are described below.

, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

- A. Order the reorganization subject to confirmation of the voters, or in the case of landowner voter districts, subject to confirmation by the landowners unless otherwise stated in the formation provisions of the enabling statute of the district; or
- B. Terminate the proceedings if [same as 5 A].

6. Resolution of conducting authority (consolidation, dissolution, merger, subsidiary district) (56854):

If Where a reorganization proposal consists of a reorganization not described in sections 57075, 57076, 57077, 57077.4, or 57111one or more consolidations, dissolutions, mergers, or establishment of subsidiary districts, the Commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

A. In the case of a proposal submitted by a resolution of a majority of the members of the legislative bodies of two or more local agencies (56853), Order the reorganization subject to confirmation of the voters as follows:

- (1) In the case of inhabited territory, protests have been signed by either of the following:
 - (a) 25% or more of the number of owners of land who also own 25% or more of the assessed value of land within the territory; or
 - (b) 25% or more of the voter entitled to vote as a result of residing within or owning property within the territory.

(2) In the case of a landowner-voter district, that the territory is uninhabited, and that protests have been signed by at least 25% or more of the number of owners within the territory of land who own at least 25% or more of the assessed value of land within the territory.

A. Order the reorganization subject to confirmation of the voters, if the Commission has approved a proposal without an election;

B.

C. Order the reorganization subject to an election if:

D.

E-B. The proposal was not initiated by LAFCO, and a subject agency ~~a~~ affected city or district has not objected by resolution, and a written protest petitions requesting an election ~~has~~ve been submitted that meets the requirements specified in section (A) (1) and (2) above by:

(a) In the case of inhabited territory, 25% of the number of landowners within the territory who own at least 25% of the assessed value of land, or 25% of the number of voters.

(1) C. Order the reorganization subject to confirmation of the voters, if the Commission has approved aThe proposal that was not initiated by LAFCO, an affected agency city or district has objected by resolution, and written protests petitions requesting an election have been submitted by:

(2) (1) In the case of inhabited territory:

(a) (a), at least 25% of the number of landowners within any subject agency ~~district~~ within the affected territory who own at least 25% of the assessed value of land within the territory, or

(b) (b) at least 25% of the number of voters entitled to vote as a result of residing within, or owning land, within any affected district within the ~~affected territory~~ subject territory.

(2)(3) (2) In the case of a landowner-voter district, the territory is~~n~~ uninhabited, and landowner voter district, protests have been signed by at least 25% of the number of landowners within any subject agency ~~affected district~~ within the affected territory owning 25% of the assessed value of land within the subject agency ~~territory of that district~~.

F-C. D. Order the reorganization subject to confirmation of the voters, The if the proposal was initiated by LAFCO, regardless of whether an affected city or district has objected by resolution, and written protests petitions requesting an election have been submitted that meet the requirements of 57113.

by:

In the case of inhabited territory, 10% of the number of landowners within any affected district within the affected territory who own at least 10% of the assessed value of land within the territory (if the number of landowners is less than 300, the petition must be signed by at least 25% of the landowners owning at least 25% of the assessed value of land within the territory of the affected district), or at least 10% of the voters within any affected district within the affected territory (if the number of

~~voters is less than 300, the petition must be signed by at least 25% of the number of voters).~~

~~In the case of an uninhabited landowner voter district, 10% of the number of landowners within any affected district within the affected territory owning at least 10% of the assessed value of land within the territory (if the number of voters is less than 300, the petition must be signed by 25% of the voters); or~~

~~Terminate the proceedings if {same as 5 A};~~

7. Resolution of conducting authority (57077.4)

If reorganization consists of the dissolution of one or more districts and the annexation of all or substantially all the territory to another district not initiated pursuant to 56853 or by the Commission pursuant to 56375, the Commission shall order the reorganization without confirmation by the voters.

The commission shall order the reorganization subject to confirmation by the voters as follows:

A. In the case of inhabited territory, protests have been signed by either of the following:

- (1) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory, or
- (2) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory

B. In the case of a landowner-voter district, the territory is uninhabited, and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency.

C. If the reorganization has been initiated by the commission pursuant to Section 56375, protests have been submitted that meet the requirements of Section 57113.

7.8. Confirmation of election (57176):

The Commission shall execute, within 30 days of the canvass of the election, a Certificate of Completion confirming the order of the reorganization, if a majority of votes cast upon the question are in favor of the reorganization in either of the following circumstances:

- A. At an election called in the territory ordered to be reorganized; or
- B. At an election called within the territory ordered to be reorganized and within the territory of the affected agency.

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Provision of Services by Contract

Effective January 1, 1994, a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from LAFCO (56133). The definition of city and special district services can be found in the glossary of the procedures guide and is based on the classification system adopted by the San Diego LAFCO in section 4.4 of its rules pursuant to Government Code Section 56074. In accordance with these definitions, services include the public facilities necessary to perform the service function. Conditions of approval and exceptions include:

Conditions of Approval: LAFCO may approve, with conditions, a request for out-of-agency services if the affected territory is within the agency's sphere of influence (SOI) and is in anticipation of a later annexation/change of organization.

Exceptions: LAFCO authority over out-of-agency services does not apply to:

1. Contracts or agreements solely involving two or more public agencies where the public services to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.
2. Contracts for the transfer of nonpotable or nontreated water; and
3. Contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservations purposes, or directly support agricultural industries. However, prior to extending surplus water that will support or induce development, the agency must receive written approval from LAFCO.
4. An extended service that a city or district was providing on or before January 1, 2001.
- 3-5. LAFCO authority over out-of-agency services also does not apply to A local publicly owned electric utilityies providing electric services, which do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility outside of the utility's jurisdictional boundaryies.

Health or Safety Concerns: The Commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaryies and outside its SOI to respond to an existing or impending threat to the health and safety of the public or the affected residents if both of the following requirements are met:

1. Documentation of a threat to the health and safety of the public or the residents has been provided to the Commission (e.g., letter from the County Environmental Health Division of the Health Services Department); and

2. The Commission has notified any alternative service provider that has filed a map and statement of its service capabilities with the Commission.

Procedures

~~Unless the extension of services is in response to a health and safety threat to property outside an agency's SOI, applicants will be required to submit a boundary change or annexation/detachment application, under applicable other documentation demonstrating that the agreement is either in response to a public health and safety threat (e.g., letter from the County Environmental Health Division of the Health Services Department, deferred annexation agreement, etc.), or in anticipation of a subsequent jurisdictional change (e.g., deferred annexation agreement, etc.)irrevocable offer to annex). The proponents will be charged the LAFCO out-of-agency service review feeapplicable annexation/detachment fee prior to San Diego LAFCO's consideration of the out-of-agency service agreement. A 30% surcharge will be added to the annexation/detachment fee, and is due prior to the Commission consideration of the related annexation/detachment proposal. The surcharge will not apply in instances where the service agreement is in response to a health or safety problem, and where the annexation will be processed immediately following approval of the service agreement.~~

In the extension of services is in response to a health or safety threat to property outside an agency's SOI, applicants are encouraged, but not required, to submit an annexation application.

All of the requirements associated with processing an annexation/detachment proposal, such as rezoning, environmental review, etc., will apply when processing an out-of-agency service agreement.

~~In accordance with Contra Costa The San Diego LAFCO policies (Section 2.1 Policies and Standards, Section J), the Chair Executive Officer is authorized to administratively approve out-of-agency service agreements that are in response to health or safety threats, if all conditions of approval have been met in accordance with Government Code Section 56133, and the applicant has satisfactorily demonstrated the existence of public health, safety, or welfare impacts (e.g., letter from the County Environmental Health Division of the Health Services Department). The Executive Officer shall provide a report is required to update the Commission at the next regularly scheduled San Diego LAFCO meeting regarding administratively approved service agreements.~~