

# CONTRA COSTA LAFCO

## 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.

### Comparison of Enabling Acts

The following 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 limit 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 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. Votes 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 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 LAFCO application, 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, including 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, 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, an appropriations limit (56811) if necessary, and any terms and conditions for approval. If the district is 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**

The Commission serves as the conducting authority for the formation of a district. 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 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);
2. Approve the formation subject to confirmation at an election; or
3. Terminate the formation proceedings if protests are filed by (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 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).