

Notice of Public Hearing and Request for Comments

DATE: February 14, 2020
TO: Affected Agencies and Interested Parties
FROM: Sara Lytle-Pinhey, Executive Officer
SUBJECT: **STANISLAUS LAFCO POLICIES AND PROCEDURES UPDATE**

NOTICE IS HEREBY GIVEN that the Stanislaus Local Agency Formation Commission (LAFCO) will hold a public hearing on **Wednesday, March 25, 2020**, at a meeting starting at **6:00 P.M.** in the Basement Chambers at Tenth Street Place (1010 10th Street, Modesto) for the following:

Stanislaus LAFCO will consider an update to its Policies and Procedures document. The update affects Sections 2 and 4 of the document and includes several non-substantive changes to reflect consistency with State law. These include additional factors that the Commission must consider during the review of a proposal and an additional constraint on annexations that are contiguous to a disadvantaged unincorporated community.

The sections with proposed changes are attached to this notice for your review and are also available on Stanislaus LAFCO's website at:

<http://www.stanislauslafco.org/info/PublicNotices.htm>

The proposed updates are being made in accordance with the Cortese-Knox-Hertzberg Act (Government Code Section 56000 et. seq.), which requires LAFCOs to adopt written Policies and Procedures. Staff regularly updates the Policies and Procedures document to reflect current laws. The adoption of this Policies and Procedures update is considered to be a continuing administrative or maintenance activity and is therefore not a "project" for the purposes of the California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(2).

Stanislaus LAFCO is soliciting comments from all affected agencies and interested parties. Your comments should emphasize potential impacts in areas which your agency has expertise and/or jurisdictional responsibilities.

Please return all written comments as soon as possible or no later than **March 17, 2020** in order to be included with the printed staff report for the Commission. Comments will also be accepted prior to and at the public hearing on **March 25, 2020**. All interested parties are invited to attend the public hearing. The staff report for the item will be available online at least five (5) days before the hearing date at: www.stanislauslafco.org

Comments may be sent to Stanislaus LAFCO, 1010 10th Street, 3rd Floor, Modesto, CA 95354 or by e-mail to lafco@stancounty.com. If you have any questions, please call (209) 525-7660.

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SECTION 2—STATUTES GOVERNING LAFCO

CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT

The statutes governing the activities of the Local Agency Formation Commission are found under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act). The declared state policy for LAFCO is found in Section 56301 of the Government Code:

Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, ~~efficiently providing~~ encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for present and future needs of each county and its communities.

Commented [SL1]: Consistent with update to Government Code Section (GCS) 56301

The Cortese-Knox-Hertzberg Act gives LAFCO the authority to approve (with or without amendment, wholly, partially, or conditionally) or disapprove, a wide variety of proposals for jurisdictional change (Government Code Section 56375). These include, but are not limited to, proposals for:

- Annexation of territory to cities or special districts.
- Exclusion of land from cities or special districts.
- The consolidation of two or more cities, or two or more special districts.
- The formation of new special districts and the incorporation of new cities.
- The dissolution of special districts and disincorporation of cities.
- The merger of cities and special districts.
- Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
- Review and approval or denial of city or special district contracts for service outside their boundaries.

In addition to these review powers, the Commission has the authority to initiate and make studies of existing governmental agencies, which may include inventorying such agencies. As of July 1, 1994, based upon the findings of its special studies, the Commission has the authority to initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary special district, or a reorganization, which includes any of these outlined changes. (Government Code Section 56378)

The Act provides the following powers and duties, among others, to LAFCO:

1. To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the Commission. A Commission shall have the authority to initiate only any of the following proposals: (1) consolidation of districts, as defined in Government Code Section 56036, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, (5) formation of a new district or districts, or (6) a reorganization that includes any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to state law (Government Code Sections 56378, 56425 or 56430, and 56881). (*Amended January 23, 2008*)
2. To determine whether territory proposed for annexation or detachment, or municipal reorganization is inhabited or uninhabited. ("Inhabited" means an area that contains twelve or more registered voters.)
3. With regard to a proposal for consolidation of two or more cities or special districts, to determine which city or district shall be the consolidated, successor city or district.
4. To waive the statutory restrictions against creation of islands (unincorporated areas totally or substantially surrounded by city boundaries) if the Commission finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area would be enclosed as a result of incorporation or annexation and is so located that it cannot reasonably be annexed to another city or incorporated as a new city.
5. To approve the annexation of unincorporated, noncontiguous territory not exceeding 300 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the annexation of such territory without notice or hearing. In addition, the Commission has the authority to approve the annexation of noncontiguous territory that is used as a state correctional facility, with no acreage limitation.
6. To establish spheres of influence for all cities and special districts within the county, and to review those spheres of influence ~~at least once every five years~~ every five years thereafter, as necessary.
7. To conduct "municipal service reviews" on a regional or sub-regional basis, evaluating infrastructure needs or deficiencies, growth and population projections, financing constraints and opportunities, and other issues. These reviews ~~can occur in conjunction with sphere of influence studies, and must be conducted as least once every five years~~ shall be conducted before or in conjunction with the establishment or update of a sphere of influence.

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FACTORS LAFCO MUST CONSIDER

State law provides a wide variety of factors that the Commission must consider in the review of a proposal. These are specified in Government Code Section 56668, and include, but are not limited to the following:

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- (a) Population and population density; land area and land use; ~~per capita~~ assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; and the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; and probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services area services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377 (open space land conservation).
- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- ~~(g)~~ (g) A regional transportation plan adopted pursuant to Section 65080, ~~and~~
- ~~(g)(h)~~ (h) The proposal's consistency with city or county general and specific plans.
- ~~(h)(i)~~ (i) The sphere of influence any local agency ~~which that~~ may be applicable to the proposal being reviewed.
- ~~(i)(j)~~ (j) The comments of any affected local agency or other public agency.
- ~~(j)(k)~~ (k) The ability of the newly formed or receiving entity to provide the services ~~which that~~ are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

~~(k)~~(l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

~~(j)~~(m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

~~(m)~~(n) Any information or comments from the landowner or landowners, voters, or residents of the affected territory.

~~(n)~~(o) Any information relating to the existing land use designations.

(p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, and incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities. *(Amended January 23, 2008)*

~~(e)~~(q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is subject of the proposal.

CONDITIONS WHICH MAY BE IMPOSED

In the approval of boundary change proposals, LAFCOs have strong powers to attach conditions. Government Code Section 56885.5 through Section 56890 provides a broad range of conditions that the Commission may impose in approving an application. Those conditions range from the authority to impose special assessments to the transfer of employees among districts in a consolidation. The reader is referred to the specific Code Sections for the complete conditions authorized by statute.

The following are a few examples of how authorized conditions may be applied:

- LAFCO can require as a condition of approval, that the territory being annexed shall be responsible for payment of existing fees, charges, or assessments currently in place by the annexing agency.
- LAFCO can require as a condition of its approval that another change of organization for a related or overlapping agency be initiated, conducted, and completed. For example, if a proposal is for annexation of territory to a city, LAFCO can require that the territory also be annexed to or detached from special districts.
- LAFCO can require establishment of special assessments or improvement districts to finance capital facilities or improvements needed in affected territory.

SECTION 4—GENERAL POWERS AND POLICY GUIDELINES

The Local Agency Formation Commission is a state-mandated entity, established for each county in the State and is independent of local county, city, or district governmental jurisdiction. (Government Code Section 56001 and 56300)

The Cortese-Knox-Hertzberg (CKH) Act requires that each LAFCO establish policies and procedures. The CKH Act also states that LAFCOs are to exercise their powers consistent with those policies and procedures.

The policies and procedures in this document are intended to reflect the legislative intent of the CKH Act and provide for the consistent implementation based upon local conditions and circumstances and are intended to supplement state law. To the extent that any portion of this document conflicts with any provisions of state law, the applicable state law takes precedence. (*Amended August 27, 2003*)

POLICY 1 - PURPOSE

The purposes of the Local Agency Formation Commission are provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and include the following:

- Discourage urban sprawl.
- Encourage orderly formation and development of local governmental agencies, based on local conditions and circumstances.
- Initiate and make studies of governmental agencies.
- Adopt spheres of influence for each local governmental agency.

The following Goals will guide the Commission in implementing the purposes of LAFCO (*Amended April 23, 2003*):

1. To encourage planned, well-ordered, efficient development patterns.
2. To encourage efficient and effective delivery of governmental services by the agencies who provide those services.
3. To encourage urban land use patterns which balance urban growth with the conservation of open space and prime agricultural land.
4. To encourage the cities and the County to plan urban land use patterns, which include a harmony between housing for residents and jobs provided by commercial and industrial development.

POLICY 2 - POWERS

~~The powers of LAFCO include the following:~~

A. ~~The Commission's powers include the ability to r~~Review and approve proposals with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the ~~C~~commission (Government Code Section 56375). Types of proposals include, but are not limited to:

- Annexation of territory to cities or special districts.
- Exclusion of land from cities or special districts.
- The consolidation of two or more cities, or two or more special districts.
- The formation of new special districts and the incorporation of new cities.
- The dissolution of special districts and disincorporation of cities.
- The merger of cities and special districts.
- Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
- ~~Review of c~~City or special district ~~contracts for service~~ extensions of service outside of their boundaries.
- ~~Review and approve p~~Proposals that would extend services into previously un-served territory within unincorporated areas.
- ~~The Commission shall not approve an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer. However, an application to annex a contiguous disadvantaged community shall not be required if either of the following apply: (i) A prior application for annexation of the same disadvantaged community has been made in the proceeding five years; or (ii) The commission finds, based upon written evidence, that a majority of the residents within the affected territory are opposed to annexation. (Government Code Section 56375 (8)(A)(B))~~
- The annexation of territory served by a mutual water company that operated a public water system to a city or special district. (Government Code Section 56375 (r))

1. Notwithstanding the above powers, the Commission shall not approve an annexation to a city of any territory greater than 10 acres where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged

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unincorporated community to the subject city has been filed with the executive officer. Additionally, the Commission shall not approve annexation of two or more areas within five years that would cumulatively exceed 10 acres unless such an application has also been made. However, an application to annex a contiguous disadvantaged community shall not be required if either of the following apply: (i) A prior application for annexation of the same disadvantaged community has been made in the proceeding five years; or (ii) The commission finds, based upon written evidence, that a majority of the residents within the affected territory are opposed to annexation. (Government Code Section 56375(8)).

Commented [SL2]: This additional constraint was added as a result of AB-600 (Chu).

B. The Commission shall also have the power to:

- Conduct service reviews of the municipal services provided in the county on a regional or sub-regional basis, and provide written statements with respect to infrastructure needs, growth and population projections, financing constraints, cost avoidance opportunities, opportunities for shared facilities, and other factors in Government Code Section 56430.
- Initiate and make studies of existing governmental agencies, which may include inventorying such agencies. (Government Code Section 56378)
- Initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary special district, or a reorganization, when consistent with a recommendation or conclusion of study prepared pursuant to Government Code Section 56378, 56425, or 56430, and the commission makes the required determinations, pursuant to Government Code Section 56881(b).
- Adopt Evaluation Standards and procedures for the evaluation of proposals which shall include, but are not limited to, the factors identified in Government Code Section 56668. (See also: Section 2—Statutes Governing LAFCO.)

C. **Plan for Service Requirement.** A plan for service shall be prepared and submitted for each local agency affected by a proposed change of organization, regardless of whether that proposal is initiated by resolution or petition. In the case of a proposed annexation, the plan for service must include information that the range and level of services currently available within the study area will, at least, be maintained by the annexing agency. Services include all those services currently provided or to be extended by the agency. For those proposals involving a reorganization consisting of annexations to multiple agencies, the plan for service shall include information for each affected agency. (Government Code Section 56653)

LAFCO will consider the ability of an agency to deliver adequate, reliable and sustainable services and will not approve a proposal that has potential to significantly diminish the level of service in the agency's current jurisdiction. The agency will be required to provide satisfactory documentation of capacity to provide the service within a reasonable period of time. (*Amended April 23, 2003*)