

COMMISSION POLICIES

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.

POLICY #1 - PURPOSE (Adopted June 14, 1978 and legislatively amended in 1985 and 2000.)

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;
- Develop spheres of influence for each local governmental agency.

POLICY #2 - POWERS (Adopted June 14, 1978; Amended December 20, 2000.)

The powers of LAFCO include the following:

- a. REVIEW AND APPROVE OR DISAPPROVE PROPOSALS with or without amendment, wholly, partially, or conditionally:
 - 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 formed under the same principal act.
 - 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 city or special district contracts for service outside of their boundaries (as of January 1, 1994).
 - Review and approve proposals that would extend services into previously unserved territory within unincorporated areas. (*Added by statutes effective January 1, 2001.*)
 - Conduct service reviews of the municipal services provided in the county on a regional or subregional 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. (*Added by statute effective January 1, 2001.*)
 - Initiate and make studies of existing governmental agencies, which may include inventorying such agencies.
 - 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.
- b. ADOPT EVALUATION STANDARDS and procedures for the evaluation of proposals which shall include, but are not limited to, the following factors identified in Government Code Section 56668:
- Conformity of the proposal and its anticipated effects on Commission policies on providing planned, orderly, efficient patterns of urban development and priorities.
 - Conformance with local city or county general plans.
 - The sphere of influence of any local agency which might be affected.
 - Effect of the proposed action and of alternative actions on adjacent areas, mutual social and economic interests, and local governmental structure of the county.
 - Land area and land use.
 - Population and population density.

- Determine if the area is inhabited or uninhabited.
- Proximity to other populated areas.
- Likelihood of significant growth during the next ten years.
- Effect of proposal on maintaining physical and economic integrity of lands in agricultural preserves and open space uses.
- The proposed boundaries in relation to lines of assessment or ownership; the creation of islands or corridors of unincorporated territory.
- Natural boundaries and drainage basins.
- Assessed value.

c. PLAN FOR SERVICE (*Amended May 17, 1989 and December 20, 2000.*)

The plan for service shall be prepared and submitted by each local agency affected by a proposed change of organization, regardless whether that proposal is initiated by resolution or petition. In the case of a proposed annexation, the plan for service must demonstrate that the range and level of services currently available within the study area will, at least, be maintained by the annexing agency. For those proposals involving a reorganization consisting of annexations to multiple agencies, the plan for service shall also be required for each affected agency.

(A complete copy of the Commission's adopted "Policy, Procedures, and Standards for Review" for Plan for Service is available as "Exhibit A" to this Section, on file in the LAFCO staff office, or available on the LAFCO website [www.sbclafco.org].)

d. SPHERES OF INFLUENCE: Government Code Section 56425 requires that LAFCO establish spheres of influence for each city and special district in the county, and may establish spheres for unincorporated communities, open space use, or agricultural preserves.

(A complete copy of the Commission's adopted "Policy for Spheres of Influence" is available as "Exhibit B" to this Section, on file in the LAFCO staff office, or available on the LAFCO website [www.sbclafco.org].)

e. TWO OR MORE PROPOSALS FOR THE SAME AREA: If two or more proposals pending before the Commission shall conflict or be inconsistent with each other, the Commission may determine the relative priority for

- conducting further proceedings on these proposals. In the absence of any such determination, priority shall be given to that action which was first filed with the Executive Officer.
- f. REORGANIZATION COMMITTEE: The Commission may require the establishment of a reorganization committee for reorganization proposals and to adopt standards and procedures for the evaluation of any plan of reorganization or alternate plan reported on by such committee.
- g. CONDUCT SPECIAL STUDIES: The Commission may initiate and make studies of existing governmental agencies including, but not limited to, inventorying such agencies and determining their maximum service area and service capacities.
- h. OPEN SPACE: It is the intent of the Legislature that Commissions establish policies and exercise their powers so as to encourage and provide planned, well ordered, efficient urban development patterns with appropriate consideration of preserving open space lands within such patterns.
- i. CONDUCTING AUTHORITY: *This policy formerly prescribed the Commission's policies with respect to designation of a "conducting authority" for the protest hearings following LAFCO approval of a proposal. The Cortese-Knox-Hertzberg Local Government Reorganization Act, taking effect on January 1, 2001, assigned the responsibility of conducting protest proceedings to the Commission itself. The Commission has determined to delegate this authority to the Executive Officer. Accordingly, this policy was rescinded on December 20, 2000, since this policy was superseded by state law.*
- j. NONCONTIGUOUS TERRITORY ANNEXATION: The Commission has the authority to approve the annexation of unincorporated noncontiguous territory, not exceeding 300 acres in area, located in the same County, and which is owned by the annexing city and used for municipal purposes and to authorize this annexation without notice or hearing.
- k. INHABITED ANNEXATION: In an inhabited annexation to a city, where the area to be annexed equals 50% or more of the assessed value of the city, or the number of registered voters in the area to be annexed is 50% or more than the number of registered voters in the city, the reorganization (annexation) shall be subject to the confirmation of the voters in the area to be annexed and the voters of the city.
- l. DISTRIBUTION OF ASSETS AND LIABILITIES: The Commission may determine the distribution of all assets and liabilities, including recommendations for retaining employees, for all consolidations, mergers,

dissolutions, and creations of subsidiary districts, or any other proposal, and shall note such distribution in its resolutions.

- m. CONSOLIDATION OF CITIES: After approval for the consolidation of two or more cities, the Commission will determine which shall be the consolidated successor city.
- n. FINANCIAL ASSISTANCE: The Commission, or the Board of Supervisors on behalf of the Commission, is authorized to apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state and federal governments or from a local government.

POLICY #3 - COUNTY RULES AND REGULATIONS (Adopted January 1, 1977; Amended February 20, 2002.)

In San Bernardino County, the Commission has determined that for purposes of economy and convenience it chooses to use the rules and regulations of the County as those relate to working rules of staff and to allocation of space and supporting equipment and facilities necessary to accomplish its purpose, except as the Commission may determine otherwise.

- a. EXCEPTIONS TO COUNTY RULES AND REGULATIONS: County rules and regulations shall apply except in those specific situations in which the Commission has approved a policy which establishes a procedure which differs from County rules and regulations. Specifically, such exceptions are:
 - 1) The authority of the Executive Officer to have a credit card to charge to the Commission accounts routine official costs of Commission activities.
 - 2) The authority to spend minimal amounts for plaques and certificates of appreciation for those for whom such expressions are deemed to be appropriate by the Commission.

POLICY #4 - ENVIRONMENTAL ASSESSMENT (Adopted June 14, 1978; Guidelines adopted June 22, 1990; Amended January 18, 1995.)

The Commission will insure that all proposals are reviewed in compliance with the California Environmental Quality Act (CEQA) and Commission adopted CEQA guidelines.

(A complete copy of the Commission's "Environmental Review Guidelines: Administrative Policies and Procedures" for the implementation of the California Environmental Quality Act is published as a separate document and is on file in the LAFCO staff office or available on the LAFCO website [www.sbclafco.org.]

POLICY #5 - PRIORITIES FOR ANNEXATION AND FORMATION (Adopted April 12, 1972; Amended August 27, 1986.)

The Commission will consider the following priorities or guidelines for annexation and formation with the provision that overriding circumstances must be stated in exceptions:

- a. Annexation to an existing city or district instead of formation of a new agency.
- b. Annexation to a city rather than a district if both can provide comparable services.
- c. Annexation to a multi-purpose district in preference to annexation to a single purpose district.
- d. Formation of a new political entity as the last and least desirable alternative.

POLICY #6 – PRE-ZONING FOR CITY ANNEXATIONS (Adopted June 14, 1978; legislatively amended January 1, 2001).

Effective January 1, 2001, pre-zoning is mandated by Government Code Section 56375. All pre-zoning designations shall remain in effect for at least two years unless the City Council makes specified findings relating to changed conditions and circumstances. No city annexation application will be deemed complete unless the pre-zoning process has been completed.

The adopted procedure for pre-zoning is as follows:

Such pre-zoning shall also require that the city become the lead agency for environmental review for the proposed change and shall prepare and submit to LAFCO the environmental assessment forms in sufficient time for LAFCO's environmental consultant to comment before a determination of environmental effects is made.

POLICY #7 - REHEARING OR APPEAL (Adopted June 14, 1978; Statutorily repealed as of January 1, 2001)

POLICY #8 - DISTRICT CONSOLIDATION OR MERGER WITH NEW CITIES (Adopted April 12, 1972. Superseded by Policy #25 adopted March 30, 1994.)

POLICY #9 - CONCURRENT CITY-DISTRICT ANNEXATION (Adopted April 12, 1972; Amended December 12, 1979, May 16, 1980 and April 16, 1997.)

For any annexation within a community served by a variety of community-based local agencies, the Commission shall require concurrent annexation to all of the local agencies serving the community (concurrent city/district annexations).

POLICY #10 - SPECIAL DISTRICT REPRESENTATION (Adopted November 10, 1976)

The Commission has adopted "Rules and Regulations" pursuant to Government Code Section 56332 which permits Special District Representation on the Commission. The Rules and Regulations are included in Section Five of this manual.

POLICY #11 - NOTICE OF VACANCY FOR PUBLIC MEMBER (Adopted June 14, 1978; Amended April 16, 1997, legislatively amended as of January 1, 2001.)

Upon announcement that a vacancy for the public member or alternate public member will exist, the Executive Officer shall:

- a. Post a vacancy notice inviting all interested citizens of San Bernardino County to apply within thirty (30) days of posting. The Notice shall be posted at the following locations:
 - 1) LAFCO staff office and hearing chambers;
 - 2) Board of Supervisors hearing chambers;
 - 3) Any other location directed by the Commission;
 - 4) Provide a Notice of Vacancy to all City Clerks and the Clerk of the Board of Supervisors; and,
 - 5) Issue a press release for the purpose of further advertising the vacancy.
- b. The Executive Officer shall accept no application after the expiration of the thirty (30) days, and shall forward all applications to the members of the Commission. Only applications received by the Executive Officer may be considered for appointment. A review period of not less than ten (10) days shall follow the thirty-day application period.
- c. The Commission may select a personnel committee from among its membership for the purpose of reviewing applications and bringing its recommendations to the full Commission.
- d. The nominee receiving a majority of the votes cast by eligible Commission members will be appointed to the vacant position for either the unexpired or full term and/or until appointment and qualification of a successor.
- e. Effective January 1, 2001, Government Code Section 56325 requires that the Public and Alternate Public Member candidate must receive an affirmative

vote from at least one County Member, one City Member, and one Special Districts member for appointment to that position.

POLICY #12 - SUFFICIENCY OF SIGNATURES ON PETITIONS AND NUMBER OF REGISTERED VOTERS (Adopted November 9, 1977; Amended June 14, 1978 and April 16, 1997.)

The Commission recognizes that the review and approval process for many proposals may be changed, and the number of registered voters affected:

1. For proposals which require petitions to be circulated, after LAFCO approval, the number of registered voters residing in an area on the date of LAFCO approval is the number of registered voters on which the sufficiency of any petition is based.
2. For proposals in which petitions are circulated prior to LAFCO approval and for the determination of inhabited or uninhabited actions, the date of the Notice of Filing issued by LAFCO shall be the determining date for the number of registered voters residing within the affected area.

POLICY #13 - DISQUALIFICATION OF A MEMBER FROM DISCUSSION ON AN ACTION (Adopted April 11, 1979; policy repealed by Commission action on April 16, 1997.)

POLICY #14 - EFFECTIVE DATE AS A FUNCTION OF THE CERTIFICATE OF COMPLETION (Adopted June 13, 1979.)

Unless otherwise specified by the Commission, the effective date for all actions shall be the date of issuance of the Certificate of Completion.

POLICY #15 - RESOLUTIONS OF APPRECIATION (Adopted September 12, 1979.)

The Commission authorizes expenditure for mounting and framing of resolutions of appreciation for retiring LAFCO Commissioners and LAFCO staff personnel who have rendered outstanding service.

In respect to retiring Commissioners, the public purpose being served by such expenditure is that through publicly adopted resolutions of appreciation, appropriately framed, other members of the public will also be encouraged to render public service by becoming members of various public agencies and commissions.

The public purpose of the framed resolutions of appreciation for the LAFCO staff is to give recognition for outstanding services rendered, with the purpose of maintaining high morale while at the same time providing further incentive for efficiency and productivity.

POLICY #16 - REQUESTS FOR RECONSIDERATION (Adopted January 24, 1979; Amended April 9, 1980, June 8, 1983, May 18, 1988, August 29, 1990 and legislatively amended January 1, 2001.)

Requests for reconsideration will be granted only when the petitioner can present some compelling new evidence, or show that significant factors relative to the situation were overlooked or have changed. The request shall be submitted in writing to the Executive Officer within thirty (30) days of the Commission's decision.

No request shall be deemed filed unless appropriate filing fees are submitted. In the event multiple requests for reconsideration are filed, the Executive Officer will divide a single reconsideration fee among the various petitioners for reconsideration.

The adopted procedure for reconsideration requests is as follows:

Upon receipt of a legally filed request for reconsideration, the Executive Officer shall place the request on the agenda of the next Commission meeting for which notice can be provided. At the hearing, the Executive Officer will present the staff report and recommendations to the Commission and respond to questions. The Commission will then allow submission of any oral or written testimony on the issue; however, at the Chair's discretion, time limits may be placed on those wishing to provide an oral presentation. At the close of the hearing, the Commission may take one of the following actions:

1. The Commission may approve the request, and adopt a resolution superseding the resolution previously issued;
2. The Commission may deny the request; or
3. The Commission may continue the hearing for a maximum of seventy (70) days.

POLICY #17 - REVIEW OF ENVIRONMENTAL APPEALS (Adopted August 13, 1980.)

Where the published notice of the LAFCO agenda items includes notice of a hearing on any possible appeal from an environmental review determination, the LAFCO may hear the appeal on the same date it hears the agenda item, if:

1. The appeal was timely filed;
2. The time for filing an appeal has run;
3. The appellant and/or applicant have received personal notice of the hearing;

4. Any party who has requested in writing to be notified has received personal notice of the hearing; and
5. The appeal is heard in advance of the agenda item.

POLICY #18 – FEE WAIVER PROVISIONS (Adopted June 10, 1981; effective July 1, 1981. Amended March 20, 1996, July 18, 2001, May 17, 2006 and May 16, 2007.)

1. Automatic Waivers:

The LAFCO filing fee for proposals that correct a boundary alignment problem (i.e., a divided assessor's parcel or inadvertent exclusion) will be automatically waived provided, however, that a deposit will be required for the anticipated direct costs for environmental review and the required registered voter and landowner notification. Compliance with these conditions is to be determined by the LAFCO Executive Officer.

2. Automatic Reductions:

City annexations of island areas that comply with Government Code Section 56375.3 will be assessed one-half of the LAFCO filing fee for each area of consideration within the proposal. All other fees and deposits will be assessed at full cost.

3. Request for Waiver or Reduction of Fees (to be reviewed by the Commission):

Any applicant may appeal for a waiver or reduction of the LAFCO filing fee to be charged. An appeal must be submitted in writing and accompany the submission of the application to the LAFCO Executive Officer. The Executive Officer shall present the waiver/reduction request at the next regular hearing for Commission consideration on the consent calendar. The Commission may waive the filing fee if it first determines that payment would be detrimental to the public interest (required by Government Code Section 56383). A waiver of fees is limited to those costs incurred by the Commission in processing the proposal. The Commission may authorize a reduction in the LAFCO filing fee based upon the special circumstances of the proposal, if any. Processing of the application shall be held in abeyance until a decision is rendered by the Commission regarding the appeal of fees.

Automatic Reduction: The realignment of city or special district boundaries required by the realignment of a roadway will be reduced to a single change of organization fee per entity involved no matter how many changes or separate areas are included in the proposal. The Executive Officer is

authorized to notify the entities involved and no further action is required for this reduction.

POLICY #19 - ROTATION OF CHAIRMAN AND VICE CHAIRMAN (Adopted June 9, 1982)

The Chairman and Vice Chairman positions shall be limited to two consecutive one-year terms.

POLICY #20 - NOMINATION COMMITTEE Policy repealed by Commission action on January 16, 1985

POLICY #21 - PUBLIC COMMENT PORTION OF THE COMMISSION'S AGENDA (Adopted February 18, 1987)

The Commission encourages the public to attend its hearings and address the Commission during the "public comment" item on the agenda. Comments must be limited to issues which are under the jurisdiction of the Commission. Oral and written comments may be presented; however, the length of oral comments may be limited by the Chair.

The Commission cannot take any action on the comments except to direct staff to review the issue and submit a report at a future public hearing.

POLICY #22 - DISQUALIFICATION OF MEMBERS FROM VOTING (Adopted June 8, 1983; Amended April 16, 1997)

No member of the Commission is disqualified from voting on any item being considered by the Commission, except in those instances in which the member has a financial conflict of interest.

In any situation in which the member disqualifies himself (or herself) for whatever reason or is absent, the Alternate member will vote.

POLICY #23 - RETENTION OF MATERIALS UTILIZED DURING COMMISSION HEARINGS (Adopted January 16, 1991.)

Any person utilizing or presenting any audio, visual, or written materials at the LAFCO public hearing must be prepared to provide a copy of every item to the Clerk of the Commission at the time the presentation is made.

POLICY #24 - LEGAL DEFENSE FEE RESPONSIBILITY (Adopted May 19, 1993; effective June 1, 1993; Amended May 17, 2006.)

It is the policy of this Commission that the costs for legal defense of an issue, which has been approved by the Commission, should be the primary responsibility of the

agency or person seeking that approval. Therefore, as a condition of approval for any action taken by the Local Agency Formation Commission, the Commission may impose a condition within its resolution of approval that requires the applicant to defend, indemnify, hold harmless, and provide for reimbursement or assumption of all legal costs in connection with that approval.

The adopted procedure for the Legal Defense Policy is as follows:

If the Commission determines that costs for litigation or legal defense should be borne by the applicant, the following procedures will be implemented:

1. The Commission will impose a condition of approval which requires the applicant to defend, indemnify, and hold harmless the Commission, its agents, and its employees from any claims, actions or proceedings against them to attack, set aside, void, or annul such approval.
2. The Executive Officer shall promptly notify the applicant of any legal action brought challenging the Commission's action, and the Commission, its agents, and employees shall cooperate fully in the defense of that action.
3. The applicant may provide his or her own counsel in the defense of the action taken, or the applicant may elect to use the services of LAFCO Counsel in that defense. In the latter case, the Executive Officer may require a deposit of funds sufficient to cover the anticipated expense of the litigation.

POLICY #25 - INCORPORATION POLICIES (Adopted March 30, 1994.)

The following are the policy statements that the Commission has adopted to assist in the guidance of unincorporated communities in their review of governmental options.

1. Incorporation proposals involving land within an existing city sphere of influence will not be accepted for filing. If a cityhood proposal would conflict with an established city's sphere of influence, the incorporation proponents must first initiate, and the Commission must approve, a sphere of influence amendment to exclude the study area from that sphere prior to circulation of formal incorporation petitions.
2. The Commission defines "financial feasibility" to mean the ability of a new city to maintain pre-incorporation service levels, with sufficient resources to provide a municipal-level law enforcement service consistent with the recommendations of the County Sheriff.
3. In determining feasibility, the Commission will consider only those revenues that are currently available to all general law cities. It will not consider revenues derived through special taxes or assessments, nor will it consider hypothetical revenues available through possible actions of a future city council (e.g., utility users taxes) in the determination of financial feasibility.

4. In determining feasibility, the Commission requires that proposed staff salary costs shall be based on an average of similar-sized cities or those cities which have the most comparable population within San Bernardino and Riverside Counties.
5. In determining compliance with Government Code Section 56720, the Commission finds that a "reasonable reserve" is a contingency fund equal to 10% of the projected general and special funds of the new city.
6. The Commission requires that a new city shall assume jurisdiction over all community-based special districts serving the incorporation area. A clear and compelling rationale must be provided if the continued overlay of a community-based district is proposed.
7. In order to qualify for incorporation, the community in question must contain a minimum of 10,000 people as determined by available census data or other reliable means (e.g., utility connections), and the sales tax revenues attributable to the study area must at least cover the expected administrative and legislative costs of the new city.

POLICY #26 - OUT-OF-AGENCY SERVICE CONTRACTS OR AGREEMENTS

(Adopted May 18, 1994; Amended December 20, 2000.)

1. The Commission has determined that the Executive Officer shall have the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries in cases where the service extension is proposed to remedy a clear health and safety concern. In addition, the Executive Officer shall have the authority to approve or conditionally approve service extensions where the services in question will not facilitate development (for example, an inter-agency contract for fire protection services). In cases where the Executive Officer recommends denial of a proposed service extension, that proposal shall be placed on the next agenda for which notice can be provided. After the public hearing, the Commission may approve, conditionally approve, or deny the contract.
2. In the case where a city or district has acquired the system of a private or mutual water company prior to the enactment of this legislation, those agencies shall be authorized to continue such service and provide additional connections within the certificated service area of the private or mutual water company defined by the Public Utilities Commission or other appropriate agency, at the time of acquisition without LAFCO review or approval as outlined in Government Code Section 56133. The continuation of service connections under this policy shall not be constrained by the sphere of influence of that local agency at the time.

Proposals to extend service outside this previously defined certificated area would come under the provisions of Govt. Code Section 56133 for the review and approval by the Commission prior to the signing of a contract/agreement for the provision of the service.

(A complete copy of the Commission’s administrative guidelines for the implementation of Government Code Section 56133 is published as a separate document and is on file in the LAFCO staff office or available on the LAFCO website [www.sbclafco.org].)

POLICY #27 – INDIVIDUAL NOTICE OF COMMISSION HEARINGS TO LANDOWNERS AND REGISTERED VOTERS *(Adopted February 19, 1997; Amended February 17, 1999, February 21, 2001{legislatively required}, April 17, 2002, January 17, 2007, and April 21, 2010)*

1. INDIVIDUAL NOTICE

In implementing the provisions of Government Code Section 56157, the Commission determines that LAFCO staff shall provide individual notice to all landowners and registered voters of Commission hearings within the boundaries of a proposal for change of organization, sphere of influence change, or development-related service contract. In addition, the distance requirements for providing notice to landowners and registered voters surrounding the exterior boundaries, as required by Section 56157, will be determined according to the following criteria:

<u>PROPOSAL AREA</u>	<u>DISTANCE</u>
Less than 20 acres	Four (4) parcels or 700 feet
20 acres or more	Four (4) parcels or 1,350 feet

For the periodic sphere of influence review and update program required by Government Code Section 56425, notice will be limited to the manner required by law unless specific sphere changes are identified.

The adopted procedure for Individual Notice is as follows:

- a. The proponents of a proposal or sphere of influence change shall be required to submit a completed “Assessor Parcel Number Listing” form for the area proposed for change.
- b. LAFCO staff shall utilize the parcel information provided by the applicant to prepare landowner information within and surrounding the proposal for change of organization, sphere of influence change or development-related service contract through data included on the most current Assessment Roll prepared by the County Assessor’s office. LAFCO staff

shall also utilize the parcel information to coordinate with the Registrar of Voters office to provide information on the registered voters within and surrounding the area proposed for change.

- c. The parameters for preparing the notice for surrounding landowners and registered voters by LAFCO staff shall include the distance requirement, or number of parcels, in a linear direction from all points of the area proposed for change.
- d. The individual notice of Commission proceedings shall be provided for all changes of organization, sphere of influence changes or development-related service contracts. Exceptions to this requirement are noted in Items 2 and 3 below.

2. AUTOMATIC WAIVER OF INDIVIDUAL NOTICE

In implementing Government Code Section 56157, the Commission determines that for a dissolution, merger, or establishment of subsidiary district; formation or consolidation of special districts; activation or divestiture of powers for special districts; consolidation of cities; or incorporation or disincorporation of a city proposal, the individual notice requirement will be waived on the basis that such items routinely exceed 1,000 notices. As required by §56157, an 1/8th page legal ad will be placed in a newspaper of general circulation within the area of consideration.

3. WAIVER OF INDIVIDUAL NOTICE

Pursuant to Government Code Section 56157, in cases where such a change would involve mailing more than 1,000 notices, the Commission may waive the individual notice requirement and direct its staff to publish a 1/8th page legal ad in a newspaper of general circulation within the area. However, the Commission directs that individual notice to landowners and registered voters shall not be waived for city island annexations filed pursuant to Government Code Section 56375.3, even if it includes more than 1,000 notices.

The adopted procedure for the publication of 1/8th page legal ad in lieu of individual notice to landowners and registered voters, is as follows:

- a. After consultation with the applicant, if the Executive Officer has identified controversy related to the proposal, no waiver shall be granted.
- b. Where no controversy has been identified by the Executive Officer, the waiver will be tentatively authorized subject to the following:
 - i. The Executive Officer is to provide individual notice to each Commission member identifying the determination of no

controversy and the preliminary determination to waive individual notice.

- ii. If the Executive Officer receives objection from any Commissioner to the tentative determination, no waiver shall be granted.

Regardless of the waiver of individual notice, the requirement for completion of the Assessor Parcel Number Listing form for the proposal area will be maintained.

POLICY #28 – PARTICIPATION OF ALTERNATE COMMISSION MEMBERS IN OPEN AND CLOSED SESSIONS OF THE COMMISSION *(Adopted May 19, 1999)*

Alternate members of the San Bernardino LAFCO are encouraged to attend and participate in discussion in all open and closed meetings of the Commission. Alternate members may not vote, however, unless a regular member, from the same representation category as the alternate, is absent or disqualifies himself or herself from participating in a meeting of the Commission.

POLICY #29 – ISLAND ANNEXATION PURSUANT TO GOVERNMENT CODE SECTION 56375.3 *(Policy #29 was repealed and replaced by action of the Commission March 31, 2005; Amended October 18, 2006)*

1. For the purpose of applying the provisions of Government Code Section 56375.3, the territory of an annexation proposal shall be deemed “substantially surrounded” if 52% of its boundary, as set forth in a boundary description accepted by the Executive Officer, is surrounded by (a) the affected City or (b) the affected City and adjacent Cities, or (c) the affected City and a service impediment boundary as defined by the Commission to include, but not be limited to, a freeway, a flood control channel or forest service land.
2. The Commission determines that no territory within an established County Redevelopment Area shall be included within an island annexation proposal, unless written consent has been received from the County Board of Supervisors and County Redevelopment Agency.
3. The Commission directs that a City that proposes an island annexation proposal as such is defined in Government Code Section 56375.3 shall be required to have conducted a public relations/education effort within the affected area prior to the placement of the item on a Commission agenda for consideration. Such outreach/education efforts shall include, but not be limited to, providing information on the grandfathering of existing legal County uses into the City, costs to the resident/taxpayer associated with annexation, and land use determinations. Documentation of these efforts shall be a part of the staff report presented for consideration by the Commission.

POLICY #30 – CONDUCT OF PROTEST HEARINGS (Adopted December 20, 2000; Amended November 21, 2001)

The Commission determines that the responsibility for conduct of protest hearings, including notice and evaluation of protest levels, is delegated to the Executive Officer. The Executive Officer shall issue the final resolution certifying the completion of the proceedings based upon the level of protest submitted.

POLICY #31 – COMMISSION STIPEND/PER DIEM PAYMENT (Adopted February 20, 2002; Amended May 19, 2004, and May 16, 2007)

1. Commission members shall receive a stipend payment of \$200 per posted Commission hearing.
2. Expenses:
 - a. Mileage -- Except as otherwise provided by Federal or State regulations, members of the Local Agency Formation Commission shall be reimbursed for private automobile mileage incurred in attending called meetings at the rate approved for LAFCO employees. All travel which is twenty (20) miles or less round trip from a member's home shall not be reimbursed. If the round trip exceeds twenty (20) miles, then all mileage is reimbursable as provided herein.
 - b. Conference Cost – Except as otherwise provided by Federal or State regulations, members of the Local Agency Formation Commission who attend annual or special conferences, seminars, meetings of professional organizations, or other meetings not classified as regular or specific board meetings, with the prior approval of the Commission, shall be reimbursed for their expenses in the same manner as LAFCO employees, but they shall not be paid a stipend for such meetings, conferences, etc.
 - c. Travel and Subsistence – Members of LAFCO may be reimbursed for approved travel and subsistence while on authorized LAFCO business. Said reimbursements shall be in accordance with Section 401 of the San Bernardino LAFCO Internal Operation Guidelines.

POLICY #32 – SERVICE REVIEW POLICIES (Adopted February 20, 2002; Amended May 21, 2003)

General Policy Statement:

The Commission recognizes that service reviews can, in many cases, be an important tool in promoting logical, orderly, and efficient service patterns for local agencies. The Commission also recognizes that such reviews, to be meaningful,

must be accomplished with the participation and cooperation of affected local agencies. Finally, the Commission recognizes that the applicability of specific factors required for such reviews may substantially vary based on the unique conditions and circumstances found in San Bernardino County.

Function-by-Function Approach:

In furtherance of the goals of Section 56430, the Commission will conduct such reviews on a sub-regional basis, using a function-by-function approach (e.g., water functions, fire functions, etc.), with the participation of management and/or board members responsible for delivering such services.

Responses to Statutory Findings:

The Commission recognizes that Section 56430 requires written responses to specific findings in the conduct of service reviews. The Commission also recognizes, however, that some or all of the factors listed may not be applicable to specific reviews. Based on discussions, testimony, and appropriate other input from affected agencies and interested parties, the Commission finds that its statutory obligation for written findings will be fulfilled by indicating that, “No substantive issues relative to this factor were identified” when appropriate.

The adopted service review procedures are:

It is the Commission’s position that service reviews must be conducted, whenever possible, through a participative and cooperative approach with affected agencies. As the Commission begins to undertake its sphere review/service review responsibilities, the first step shall be to convene a meeting with managers/board members of affected agencies.

Through those discussions, specific service review factors can be identified for further review, and some review factors might be set aside as not requiring further study. Where disagreements among agencies or LAFCO staff might exist as to the applicability of a specific factor, the matter will be brought back to the Commission for a public hearing and decision.

It would also be appropriate for the Commission to direct staff to incorporate its findings related to the service reviews within the staff report prepared for the required sphere of influence study. This would streamline the process and provide for a more efficient Commission hearing schedule. The Commission could then incorporate its sphere of influence review/service review findings within one resolution of approval.

POLICY #33 -- SERVICE REVIEW REQUIREMENT FOR SPHERE OF INFLUENCE AMENDMENTS (Adopted February 20, 2002; Amended May 21, 2003)

The Commission adopts the following policies relative to sphere of influence amendments:

1. An amendment to a retail water district sphere of influence will require a service review if both the following are met:
 - a. The area is currently outside the sphere of influence of the appropriate wholesale purveyor.
 - b. Objection is received from any agency that provides water service and whose SOI underlies or is adjacent to the subject territory.
2. Notwithstanding the foregoing, the Commission reserves the discretion to conduct a service review when it deems appropriate based upon unique conditions and circumstances.

POLICY #34 – WAIVER OF LAFCO LEGAL COUNSEL CONFLICTS OF INTEREST
(Adopted May 18, 2005)

Subject to procedures defined below, the Commission authorizes the Executive Officer to waive conflicts of interest under Rule 3.310 of the California Rules of Professional Conduct for LAFCO Counsel's public agency clients.

The adopted procedure for the Waiver of LAFCO Legal Counsel Conflicts of Interest Policy is as follows:

LAFCO Counsel and the Executive Officer shall discuss each potential conflict and make the following determinations:

1. Where controversy is identified by either party, no waiver is approved.
2. Where no controversy is identified, a waiver will be tentatively approved subject to the following:
 - a. In each case where a waiver is tentatively approved, the Executive Officer shall individually notify the Commission members of his/her proposed decision.
 - b. In the event the Executive Officer receives no objection from any Commissioner, the waiver is approved.

POLICY #35 – LAFCO FEE REFUNDS (Adopted May 17, 2006)

If withdrawal of an application is requested, LAFCO filing fees paid to LAFCO for processing will be refunded in the following manner (Legal Counsel, Environmental Review, Registrar of Voters, Landowner Notification and Protest Proceeding fees are subject to their own refund procedures outlined on the Fee Schedule):

1. If withdrawal is requested prior to the processing of the property tax negotiations for the item, 75% of the LAFCO Filing Fee will be refunded.
2. If withdrawal is requested following commencement of the tax negotiations process but prior to the advertisement of the Commission's consideration, 50% of the LAFCO Filing Fee will be refunded.
3. If withdrawal is requested following advertisement of the Commission's consideration, 25% of the LAFCO Filing Fee will be refunded.
4. If withdrawal is requested following Commission continuance or deferral of the application, no refund shall be provided.

POLICY #36 – RESPONSIBILITY FOR PAYMENT OF SPECIAL LEGAL COUNSEL COSTS (Adopted May 17, 2006)

It is the policy of this Commission that the costs for Special Counsel shall be the responsibility of the applicant subject to the following determinations:

1. If Special Counsel is required due to a representation conflict with the applicant of the proposal, the applicant will be responsible for all Special Counsel charges.
2. If Special Counsel is required due a representation conflict outside the control of the applicant, the applicant will be responsible for paying the regular LAFCO Legal Counsel hourly rate. The balance of Special Counsel costs will be the responsibility of the Commission.

The adopted procedure for the Responsibility for Payment of Special Legal Counsel Costs Policy is as follows:

Once a determination has been made pursuant to Commission Policy #34 – Waiver of LAFCO Legal Counsel Conflicts of Interest – that Special Counsel is required, the following procedure will be followed:

1. The Executive Officer will promptly notify the proponents of the proposal that Special Counsel is required.

2. An item will be placed on the next available Commission Agenda to approve the contract for Special Counsel and to determine the method for apportioning the cost to the applicant.
3. Once a determination is made regarding the apportionment of the cost, the Executive Officer may require a deposit of the estimated costs for Special Counsel.
4. All Special Counsel costs that are the responsibility of the applicant shall be paid prior to issuance of the Certificate of Completion.

POLICY #37 – CAMPAIGN DISCLOSURE REQUIREMENTS (Adopted November 28, 2007; Rescinded effective January 1, 2009)

Pursuant to the provisions of AB1998, effective January 1, 2009, responsibility for enforcement of disclosure requirements transferred from LAFCO to the Fair Political Practices Commission.

POLICY #38 – RECORDS RETENTION POLICY (Adopted October 21, 2009)

It is the policy of this Commission to retain LAFCO's records of proceedings and financial documents and records in accordance with the Records Retention Schedule outlined below.

<u>TYPE OF RECORD</u>	<u>RETENTION PERIOD</u>
Records of Proceedings	Government Code § 56382
Financial:	
Expense Reports	7 years
Budgets	7 years
Billings/Accounting Reports	7 years
Budget Change Proposals	7 years
Budget Change Concepts	7 years
Audits	7 years
Invoices	7 years
Fees/Receipts	7 years
Checks/Ledgers/Registers	7 years
Cal Stars Reports	7 years
Cost Recovery – Federal	7 years
Cost Recovery – State	7 years
Grants	7 years
Resource: California Secretary of State. "Local Government Records Management Guidelines", Feb 2006. Under the authority established by Senate Bill 742 (1999), adding Section 12236 to the Government Code.	

The Commission has adopted the Financial portion of the "Local Government Records Management Guidelines", issued by the California Secretary of State

pursuant to Government Code Section 12236, as may be amended from time to time by the Secretary of State, as the Commission's official retention schedule. This policy shall be reviewed, and when necessary updated, at least every five years pursuant to the Secretary of State Guidelines.

To implement the retention and destruction of the records pursuant to the Schedule, the Commission designates the Executive Officer as the Records Management Coordinator who shall present a Commission agenda item once a year related to records to be destroyed.