IT'S TIME TO DRAW THE LINE

A Citizen's Guide to LAFCOs

California's Local Agency Formation Commissions

Second Edition

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INTRODUCTION

No state is as geographically and demographically diverse as California. From the Siskiyou Mountains to San Diego Bay, California's over 5,000 local governments serve more than 35 million residents. With so many governments, many people wonder whether anybody actually oversees their numbers, powers, and jurisdictions. Rest assured, local agencies can't change their boundaries on a whim. Cities and special districts need permission from Local Agency Formation Commissions (LAFCOs).

Most Californians, however, don't know much about LAFCOs. Most of us don't know:

- What they are (independent regulatory commissions)
- How many exist (58)
- Who serves on them (your county supervisor, city council member, or you!)
- What they cost ($11.5 million a year)

This Citizen's Guide to Local Agency Formation Commissions answers many of your questions about LAFCOs. In plain language, this guide explains what LAFCOs are, where they came from, their legal powers, and how to understand them. This guide also tells you where to get more information about LAFCOs, and how you can become more involved with their decisions.

Democracy works best when people are informed about the governments that serve them. This citizen's guide will make you more aware about the unique and influential governmental entities known as LAFCOs.

WHAT'S A LAFCO?

LAFCOs are the Legislature's watchdog over the boundaries of cities and special districts.

LAFCO stands for Local Agency Formation Commission. LAFCOs are independent regulatory commissions created by the California Legislature to control the boundaries of cities and most special districts.

The **Cortese-Knox-Hertzberg Act** directs LAFCOs to achieve two main purposes:
1. Discourage sprawl.
2. Encourage orderly government.

Boundaries are important because they assign physical space and define the identities of local governments. LAFCOs have both planning and regulatory powers. LAFCOs plan by adopting and revising "spheres of influence," which are planning documents that show a city or special district's future boundary and service areas. They regulate by reviewing and acting on proposals to change boundaries. LAFCOs control nine types of boundary changes: annexations, detachments, disincorporations, dissolutions, formations, incorporations, mergers, consolidations, subsidiary districts, and reorganizations.

Controlling boundaries means LAFCOs control the timing and location of development. For instance, LAFCOs regulate boundaries for the following services:

- Water, sewer, fire protection, flood control (*growth inducing* facilities and services).
- Parks, libraries, airports (*growth supporting* facilities and services).
- Hospitals, cemeteries, pest abatement (*non-growth related* facilities and services).

The power of LAFCOs to determine these lines comes from the United States Constitution. The Tenth Amendment says, "The powers not delegated to the United States by the Constitution… are reserved to the states respectively, or to the people." In other words, the federal constitution allows each state to determine how to organize its local governments.

The California Constitution requires the Legislature to "prescribe [a] uniform procedure for city formation and provide for city powers" (Article XI, §2 [a]). The Legislature has the complete authority to create, dissolve, or change the governing jurisdiction of special districts because they receive their powers only through state statutes. The Legislature prescribed this "uniform procedure" for boundary changes through a series of state laws, starting as early as 1850.

In 2000, then-Assembly Speaker Robert M. Hertzberg authored the most important LAFCO reforms since the Legislature created LAFCOs in 1963. The revisions resulting from AB 2838 are reflected in the Act's new title: "The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000." The Cortese-Knox-Hertzberg Act delegates the Legislature's boundary powers to LAFCOs.

The Legislature has the exclusive power to regulate local boundaries. This constitutional provision means that no local government has the right to change its own boundary without state approval. Further, voters can't use an initiative or referendum to vote upon a boundary change as an attempt to get around LAFCO approval.

The Legislature divided the state into counties that serve as the local administrators of state services. All of California's 58 counties, even San Francisco, have LAFCOs. For example, Santa Barbara County has the Santa Barbara LAFCO and Yuba County has the Yuba LAFCO.

LAFCOs regulate all city and most special district boundaries, including:

- Airport districts
- California water districts
- Community services districts
- County sanitation districts
- County service areas
- County water districts
- County waterworks districts
- Fire protection districts
- Harbor and port districts
- Healthcare districts
- Irrigation districts
- Library districts
- Mosquito abatement districts
- Municipal utility districts
- Municipal water districts
- Pest control districts
- Police protection districts
- Public cemetery districts
- Public utility districts
- Reclamation districts
- Recreation and park districts
- Resource conservation districts
- Sanitary districts
- Sewer districts
- Sewer maintenance districts
- Vector control districts

LAFCOs *do not* regulate boundaries for counties and the following local governments:

- Air pollution control districts
- Air quality management districts
- Bridge or highway districts
- Community college districts
- Community facilities districts (Mello-Roos districts)
- Improvement districts
- Joint power agencies
- Joint highway districts
- Metropolitan water districts
- Unified or union high school library districts

- Permanent road divisions
- Redevelopment agencies
- School districts
- Separation of grade districts
- Service zones of special districts
- Special assessment districts
- Transit or rapid transit districts

Instead of using LAFCOs, the Legislature has passed alternative procedures to create and dissolve these agencies, and to change their boundaries.

LAFCOs are Local Agency Formation Commissions. Although the Legislature has the constitutional power to control city and special district boundaries by itself, it prefers to have these county-level commissions regulate local boundaries because they are closer to the people. Counties have vastly different people, geography, and governing institutions. Regulating local boundaries at the local level recognizes this diversity. Therefore, the Legislature authorizes a LAFCO in each county to determine the boundaries of the cities and special districts in that county.

WHAT A LAFCO IS NOT

Local governments in California are divided into five categories: counties, cities, special districts, school districts, and miscellaneous. Each category has certain powers and duties.

Entity	Power
Counties	Police, Corporate, Tax
Cities	Police, Corporate, Tax
Special Districts	Corporate, Tax
School Districts	Corporate, Tax
Miscellaneous	Police, Corporate, or Tax depending on their functions.

Police powers: ability to regulate private behavior to protect the public health, safety, or welfare.
Corporate powers: ability to deliver public services and programs and build public works projects.
Tax powers: ability to raise public revenue with taxes, assessments, or fees.

A LAFCO is not a *county* agency. The state's 58 counties are governmental entities that administer state programs and provide additional services. The governing body for every county is an elected board of supervisors, usually with five members. No county has a "Department of LAFCO" or "LAFCO agency." To contrast, Riverside County has the Department of Building and Safety, which answers to the county board of supervisors. The Department inspects buildings to make sure that they are seismically safe and that they comply with state and local building codes. Riverside LAFCO, however, does not fall under the jurisdiction of the board of supervisors, and it is not a subsidiary of the county.

A LAFCO is not a *city* department or *city* agency. California's 478 cities are municipal corporations that regulate and serve relatively small territories. The governing body for a city is a city council, which has five or more elected members. Although city officials sit on LAFCOs, no city or group of cities has direct authority over a LAFCO.

A LAFCO is not a *special district*. California's 3,400 special districts are government entities that provide specific services in defined locations. The governing body for a special district is a board of directors, sometimes called a board of trustees. Special districts deliver diverse services, including irrigation water, closed captioned television, and fire protection. Districts' service areas range from a single city block to a multi-county region. For example, the Metropolitan Water District of Southern California serves 16 million people in over 5,200 square miles of six counties, while County Service Area #2 in Los Angeles County serves only 25 acres. To learn more about Special Districts, the Senate Local Government Committee has another Citizen's Guide called What's So Special About Special Districts.

A word about *school districts*. California has about 1,100 school districts (including community college districts) that provide just one service: public education. Though schools share similar characteristics with special districts, they differ in that the state government has a long history of ensuring public education at a state-wide level. Further, the state government primarily finances schools, whereas special districts receive their primary funding from taxes, fees, and assessments. LAFCOs do not regulate boundaries for school districts.

Other *miscellaneous* local governments that may sound familiar include:

- Joint powers authorities (JPAs) are formed by any two or more governmental entities (federal, state, or local) to provide a common service. Many are financing tools that let governmental agencies pool their scarce resources. Some run programs jointly. Councils of government (COGs) are JPAs.
- Special financing districts, such as Mello-Roos Act community facilities districts and benefit assessment districts, raise revenue from specific areas. Counties, cities, special districts, and schools districts use these financing districts to pay for public works and some public services.
- Redevelopment agencies are state agencies run by cities and counties to eliminate blight by promoting affordable housing and economic development.
- Regional agencies and state commissions that focus on a defined public topic in a specific regional area. Examples include air quality management districts and the California Coastal Commission.
- LAFCOs are not any of these.

LAFCOs fall into this category of ***miscellaneous*** local governments because they don't fit anywhere else. They have a specific purpose to regulate boundaries, but they are *not* counties, cities, or special districts.

POWERS OF LAFCOs

LAFCOs have both ***regulatory*** and ***planning*** powers. They do not have corporate powers.

- LAFCOs use their regulatory powers to control city and special district boundaries.
- LAFCOs use their planning powers to influence land use.

State law forbids LAFCOs from making *direct land use decisions*. They cannot regulate the use of land, property development, or subdivisions design. For instance, Mendocino LAFCO cannot force the Mendocino County Board of Supervisors to zone land in the unincorporated Anderson Valley for agricultural use nor can the LAFCO overturn a subdivision decision made by the Fort Bragg city council.

State law, however, requires LAFCOs to make *indirect land use decisions*. When LAFCOs approve or deny proposed boundary changes, they influence land use. In other words, LAFCOs control the timing and location of land use because they control the boundaries of those local governments that make land use decisions and provide services for development. For example, if Tulare LAFCO approves the annexation of farmland to Lemon Cove Sanitary District, it indirectly promotes the conversion of agricultural land to urban uses by giving the landowner access to a public sewer service that is necessary for development.

LAFCOs engage in indirect land use decisions by controlling access to three types of public facilities and services:

1. **Growth inducing.** Growth inducing land use decisions provide infrastructure and services are essential to suburban and urban development: sewers, domestic water, structural fire protection, and flood control facilities. Without these growth inducing services and facilities, urban and suburban development is not feasible. By controlling where and when these services and facilities are available, LAFCOs influence development patterns.

2. **Growth supporting.** Growth supporting facilities and services affect the quality of life in developed areas. Where growth inducing decisions help and uninhabited area to develop, growth supporting decisions make development more attractive. Parks, libraries, harbors, and airports are a few of these nice amenities that improve the quality of life in developed areas. LAFCOs oversee the boundaries of cities and special districts that provide these growth supporting services.

3. **Non-growth related.** Non-growth related facilities and services do not influence patters of suburban, urban, and rural growth. Hospital, mosquito abatement, and public cemetery districts all fall under this category. Again, LAFCO has the ability to regulate the boundary lines of cities and special districts that operate these facilities.

LAFCOs' planning activities include adopting and revising planning documents called ***spheres of influence*** for every city and for those special districts under the commissions' jurisdiction.

What's a Sphere of Influence?

A Sphere of Influence designates an agency's probable future physical boundary and service area. It is territory that a city or special district will annex in the future. It's also the area where the local government will build facilities and deliver services sometime in the future. A sphere of influence is often bigger than a local government's current jurisdiction.

LAFCOs must consider these factors when determining spheres of influence:

- Present and planned land uses.
- Present and probable need for public facilities and services.
- Present and probable future capacity of public facilities and services.
- Existence of any social or economic communities of interest, if relevant.

LAFCOs may recommend boundary changes based on spheres of influence. Any person or local government may also request an amendment to a sphere of influence. The request reserves a chance to be heard at a public hearing, and the commissioners have the final vote on whether or not to amend the sphere of influence.

Whenever LAFCOs review boundary changes for cities or special districts, the commissioners consider whether the boundary changes (and the proposed land use decisions that would result from the change) are consistent with the local governments' spheres of influence. Moreover, LAFCOs can recommend and suggest conditional additional boundary changes, based upon the spheres of influence.

Before a commission revises cities and special districts' sphere of influence, a municipal service review (MSR) is prepared. In conducting an MSR, LAFCOs must review all of the agencies that provide the public services within the study area.

The Hertzberg bill required LAFCOs to revise the *spheres of influence* every five years. Logically, LAFCOs must also revise the MSRs every five years – some time before revising a *sphere of influence*.

A diagram showing the relationship between a city's existing boundary and its sphere of influence appears on page 9.

THE REASONS FOR BOUNDARIES

Why should LAFCOs regulate boundaries in the first place?

Boundary lines have importance because they:
- Assign physical space.
- Designate land use authority.
- Define taxing powers.
- Establish corporate powers.

LAFCOs assign *physical space* to local governments and thereby define a city's or special district's identity.
For example, the City of Redding lies along the Sacramento River and the foothills of the Coastal and the Cascade Ranges surround the city. The eastern side of the city is relatively flat while the western edge has hills as tall as 1,200 feet and ravines as deep as 200 feet. Redding's geography and physical space play a role in policy decisions that its city council must make.

Land use* in California is *mutually exclusive.
That's legalese for "what's my turf is on my turf, and what's on your turf is your turf." Mutual exclusivity explains why the Redding City Council can approve a new subdivision in its jurisdiction but not in the unincorporated territory of Shasta County.

Boundaries define which local governments have *taxing powers* over a certain area.
For example, the City of Sausalito is located in the County of Marin. Both the city and the county charge a 10% transient occupancy tax, commonly known as a "hotel tax." If a tourist stays at a hotel in Sausalito, the City receives the revenue from the tax. If, however, someone stays at a hotel in the unincorporated part of Marin County, the County gets the tax revenue. These "site-specific taxes" are known as ***situs*** taxes because local governments impose and collect them within their defined boundaries.

Boundary lines decide which local governments have *corporate powers*, or the authority to "do things," in a certain area.
For example, the Richvale Irrigation District (Butte County) has the corporate power to build and maintain water facilities for agricultural irrigation. The District, however, cannot provide water to farmers outside its jurisdiction.

TYPES OF BOUNDARY CHANGES

Sometimes, local officials want to change their boundaries so they can serve additional areas, gain taxing powers, or encourage new development. Before a boundary change can occur, a person, group, or local government must submit a proposal to LAFCO. The Cortese-Knox-Hertzberg Act calls a single boundary change in one proposal a ***change of organization***. State law defines all nine changes of organization.

1. Annexation
An annexation occurs when a city or district *attaches* additional territory to its boundary.

The City of Laguna Hills (Orange County) annexed territory because the property owners benefited from an increase in municipal services while the City gained more revenues through situs-based taxes.

2. Detachment
A detachment happens when territory *leaves* a city or district. If property owners become dissatisfied with their current provider of services, they may wish to separate themselves from their local government.

In 2002, the proposed detachments of the San Fernando Valley and Hollywood from the City of Los Angeles failed when the ballot measures didn't get enough votes. Detachments of inhabited areas from cities are pretty rare.

3. Incorporation
Incorporation means the *formation* of a new city. Most cities incorporate for two reasons: to control land use decisions and to receive local revenue. At least 500 people must live in the area to be incorporated.

Some of California's oldest cities existed before the state joined the union; San Diego was founded in 1769. Others incorporated as recently as 2002, such as Rancho Cordova in Sacramento County. Today the state has 478 incorporated cities, and 90% of all Californians live in cities.

4. Disincorporation
Disincorporation *terminates* a city's official existence. This rarely occurs because people generally identify with their cities and prefer keeping land use decisions at the local level.

The last disincoporation was the City of Cabazon in Riverside County in the early 1970s.

5. Formation
Formation of a special district is analogous to a *city incorporation*. Special districts come into existence because people want a specific service and decide that a special district would be the most effective provider.

In 1887, a group of farmers in Stanislaus County formed the state's first special district, the Turlock Irrigation District, to meet their agricultural needs. The number of special districts increased dramatically over the last 115 years because of population growth and service demands.

Dissolution
The dissolution of a special district parallels the *disincorporation of a city.* A district gets the axe and no longer has corporate powers.

The Fallbrook Sanitary District used to provide sewer services in San Diego County. When the District dissolved in 1994, the Fallbrook Public Utilities District took over the former District's services.

7. Consolidation
A consolidation occurs either when two or more cities join together into a single city, or when two or more special districts of the same type unite into a single district. A consolidation may not occur with two districts formed under different principal acts.

The Fire Protection District Law of 1987 is the principal act for most fire districts. Because the Freedom Fire Protection District and the Salsipuedes Fire Protection District (Santa Cruz County) share the same principal act, they could consolidate. Although the Ventura Fire Protection District and the Simi Valley Cemetery District are both in Ventura County, Ventura LAFCO can't approve a consolidation of these districts because they have different principal acts. The last cities to consolidate were Alviso and San Jose in the early 1970s.

8. Merger
A merger happens when a special district loses its autonomy and a city takes over its service operations. A city may establish a separate department to maintain the former special district's services, or the district's services may be absorbed into a current agency or department.

The Encinitas Fire Protection District (San Diego County) merged with the City of Encinitas in 1995. The District disappeared and the City now runs its own fire department.

9. Subsidiary District
Cities can also establish subsidiary districts, where the city council serves as the district's board of directors. The city council becomes the *ex officio* board of directors. Although the subsidiary district has the same governing body as the city, the district remains a separate governmental entity with its own corporate powers.

The Oceanside Small Craft Harbor District is a subsidiary district of the City of Oceanside (San Diego County). The members of the Oceanside City Council serve as the District's board of directors.

Merging a district into a city occurs only when the district's territory is entirely within city limits. A city can establish a subsidiary district if at least 70% of the district's territory is within the city's limits.

A final note:

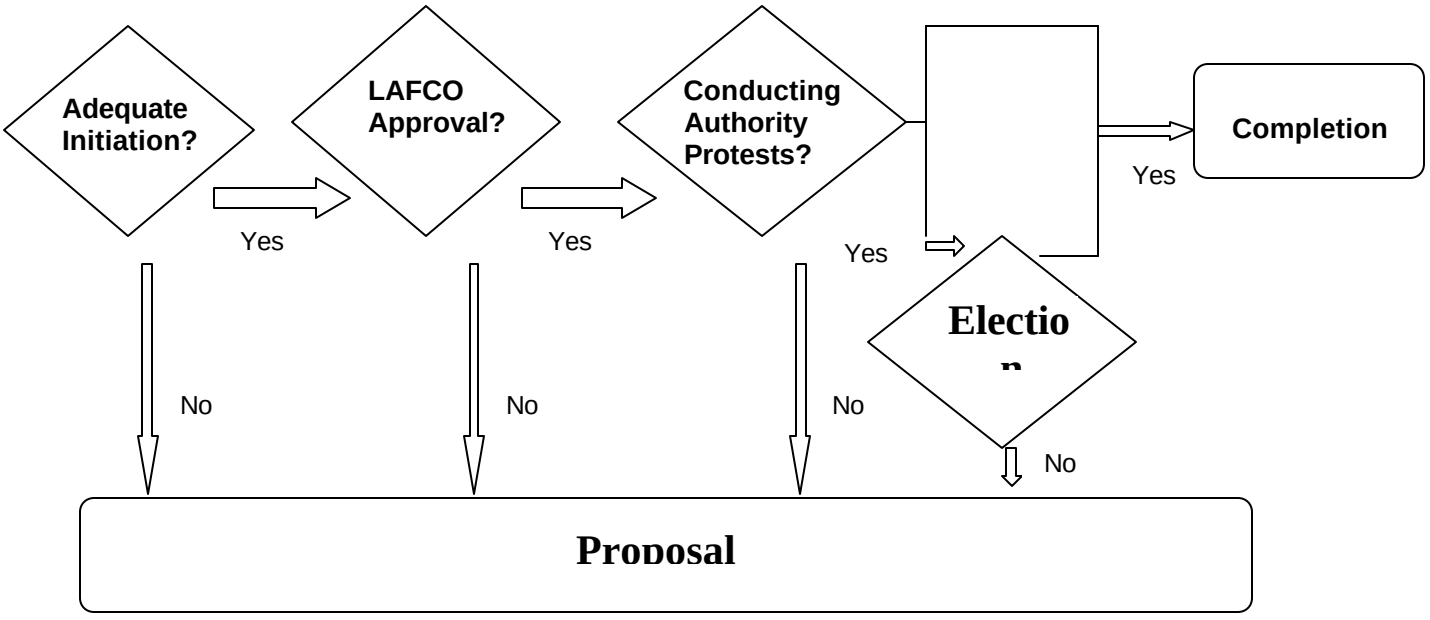
Combining two or more boundary changes in one proposal is a ***reorganization***. If the City of Bishop (Inyo County) wanted to annex an acre of unincorporated land, and simultaneously detaches that acre from the fire district and the flood control district, the Inyo LAFCO would collect all three boundary changes into a single reorganization. In other words, a reorganization is merely a way to package several related changes of organization into a single proceeding.

PROCEDURES OF LAFCO

Every change of organization or reorganization requires four, sometimes five, steps:

- Initiation
- LAFCO Review
- Conducting Authority Actions
- Possible Election
- Completion

Simple LAFCO Procedure



Initiation

Initiation begins the process for a change of organization or reorganization. An initiation may begin in one of three ways: *by petition, by resolution, or by LAFCO.*

Initiation by petition:
Occurs when either registered voters or landowners in the affected territory request a boundary change. Usually registered voters sign a petition circulated in an inhabited area while landowners do so in uninhabited areas. However, for landowner-voter special districts only landowners sign the petitions, even if the area is inhabited.

Before a LAFCO reviews any proposal, anywhere from 5% to 25% of the affected voters or landowners, depending upon the type of boundary change, must sign a petition. For example, a city annexation requires at least 5% of the registered voters who live within the annexation area to sign the petition, and an incorporation needs at least 25% of the voters within the proposed incorporated area to sign a petition.

Petitioners for a reorganization must get the required number of signatures to satisfy all voter requirements. For example, a petition for a reorganization that involve both a district annexation (5%) and a city incorporation (25%) requires signatures from both affected areas. In practical terms, the higher minimum requirement, or 25%, applies.

Initiation by resolution:
Occurs when the governing body of an affected local agency proposes a change of organization or reorganization. Any city or special district that overlaps the affected territory is an affected local agency. A county is always an affected agency because its boundaries include all of the cities and special districts in that county. Therefore, the county board of supervisors can initiate any boundary change in its county.

Initiation by LAFCO:
May occur for special district consolidations, dissolutions, mergers, subsidiary districts, or related reorganizations. LAFCOs can't initiate district annexations or detachments, and can't initiate any city boundary changes. Originally, LAFCOs had only a reactive role regarding boundary changes because the commissions acted on proposals submitted by other agencies or voters. During the recession in the early 1990s, however, the Legislature decided that reducing the number of special districts could save scarce revenues. Few LAFCOs have used this power.

LAFCO Review

Once a group of voters, an affected local agency, or LAFCO submits a proposal, the commission reviews it. LAFCO review has three stages: *staff report and recommendation, a public hearing, and a final decision.*

Staff Report:
Every LAFCO has an executive officer (chief staff person) who prepares reports and recommendations for the commissioners. LAFCOs support their own executive officer; most LAFCOs appoint their own staff, but some contract with their county governments for these staff services.

Before LAFCO can consider a proposal, its staff must determine two things:

- If initiated by petition, whether the proposal obtained the required number of signatures.
- If the affected local governments have agreed to an exchange of property taxes.

When LAFCO reviews a proposed city incorporation, it must look at the fiscal effect on the county government. Under the state's *situs* laws, a newly incorporated city receives local taxes instead of the county (including property taxes, transient occupancy taxes, and others). If LAFCO determines that an incorporation is *revenue neutral*, meaning a county would not substantially suffer from revenue losses, the incorporation may proceed. If LAFCO determines an incorporation would substantially cut a county's tax base, LAFCO must deny the proposal and the city cannot incorporate. However, LAFCO can approve a city incorporation if it imposes terms and conditions that achieve revenue neutrality.

The California Environmental Quality Act (CEQA) requires LAFCOs to review the environmental effects of proposed boundary changes. Depending upon the change of organization, LAFCO might require an environmental impact report (EIR).

Within 30 days of receiving of a proposal, LAFCO staff decides that an application is either:

- Not complete, and sends the proposal back to the proponents.
- Complete, and issues a certificate of filing, and set a LAFCO hearing within 90 days.

Before the LAFCO hearing, the executive officer prepares a written report and recommendation for the commission. The report goes to all LAFCO commissioners, all affected local agencies, and other persons named in the application to receive a report. LAFCO's staff must give public notice at least 15 days before a public hearing.

Public Hearing:
At the public hearing, the LAFCO commissioners listen to testimony and debate the proposed boundary change. The LAFCO can approve or deny the application. If LAFCO approves, it can attach *terms and conditions.* Terms and conditions spell out the boundary changes, details, such as property tax transfers, water use priorities, and other necessary details. Terms and conditions cannot directly regulate land use, property development, or subdivision requirements, but they can indirectly regulate land use, as explained on pages 7 and 8.

LAFCO doesn't need to hold a public hearing for annexations, detachments, or reorganizations consisting of annexations and detachments if all of the affected landowners consent to the boundary change.

Final Decision:
The commission must make its final decision within 35 days of the hearing's conclusion. The commissioners have three choices:

- Approve the proposal.
- Approve the proposal with conditions.
- Deny the proposal.

If LAFCO denies a proposal, it fails and all proceedings cease. If LAFCO approves a proposal or approves with conditions, the commission adopts a resolution that spells out the terms and conditions for the boundary change. The proposal moves to the next stage, a hearing by the conducting authority to measure protests.

Conducting Authority Actions

Once LAFCO approves a boundary change, it acts as the conducting authority and holds another public hearing to measure protests. LAFCO can either hold this hearing or allow its executive officer to run the hearing.

LAFCO can waive this additional public hearing if all three conditions are met:

- The affected territory is uninhabited.
- All of the landowners in the affected territory give their written consent.
- All affected local agencies give their written consent.

At the conducting authority's public hearing, any registered voter or landowner within the affected territory can protest the proposed boundary change. When the hearing ends, the conducting authority counts the protests and adopts a formal resolution that does one of the following:

- Orders the boundary change without an election.
- Orders the boundary change, subject to voter approval.
- Stops the boundary change because of the protests.

The number of protests determines whether or not the boundary change requires voter approval. The level of protest required for an election follows the "0-25-50% rule."

- If less than 25% of the registered voters or landowners protest, the conducting authority orders the boundary change without an election.
- If the protests are between 25% and 50%, the conducting authority must approve the boundary change, but the proposal must also go to an election for voter approval.
- If 50% or more of the registered voters or landowners protest, the conducting authority must terminate the boundary change and the proposal fails.

Possible Election

Although the courts say that there is no constitutional right to vote on local boundary changes, state law requires an election in some cases. City incorporations, disincorporations, and consolidations always require voter approval. Annexations, detachments, district consolidations, dissolutions, mergers, and subsidiary districts may require elections, if enough voters protest at the conducting authority's public hearing. District formations may require an election depending on the district's principal act. A vote to confirm a boundary change may occur at a primary, general, or special election.

If there was enough protest, the conducting authority calls for an election and the voters decide the fate of a proposed boundary change. If a majority (50% or more) of voters approve, the proposal passes and the boundary change occurs. If less than a majority (less than 50%) of voters confirm, the proposal fails and no boundary change occurs. Only voters in the affected territory vote. For a proposed city annexation, only the registered voters in the area proposed to be annexed to the city can vote. If a proposal is a reorganization that affects several local agencies, the registered voters in each of the affected areas participate.

Completion

Completion of a boundary change happens only if LAFCO, the conducting authority, and, if necessary, the voters, approve. Most of the completion process involves paperwork. The executive officer makes sure that the conducting authority's resolution complies with LAFCO's resolution. If it is in compliance, the executive officer issues a certificate of completion, which the County Recorder then files. The affected local agencies recognize completion of the jurisdictional changes, which includes property and sales tax transfers, police and fire protection responsibilities, planning and inspection controls, and other terms and conditions.

For any change of organization or reorganization to occur, four, or sometimes, five steps must occur:

- Initiation
- LAFCO Review
- Conducting Authority Actions
- Possible Election
- Completion

Several LAFCOs offer guidebooks that contain useful information about local practices and additional requirements. LAFCOs are required to post their policies, procedures, and forms on Internet websites. One way to find a specific LAFCO's website is to search the website maintained by the California Association of LAFCOs at www.calafco.org.

WHO SERVES ON LAFCOs?

Because LAFCOs control local boundaries, they indirectly influence the state's political and the physical landscape. Yet, very few Californians actually know who governs LAFCOs. Fortunately, the membership of most LAFCOs is easy to understand.

Standard Membership

LAFCO members are called *commissioners*. LAFCO commissioners are not directly elected to serve on these commissions, but most of them are locally elected officials. When the Legislature created LAFCOs in the 1960s, the standard membership was five commissioners: two county supervisors, two city council members or mayors, and one public member. In the 1970s, state law made it possible for LAFCOs to expand this membership by adding two representatives of independent special districts. Now, about half of the LAFCOs have commissioners representing special districts.

> Each county's board of supervisors appoints two of its members to serve on LAFCO. The county supervisors also select a third supervisor as an alternate.
>
> In counties with two or more cities, there is a "city selection committee" composed of the cities' mayors. The city selection committee appoints two elected city officials (city council members or mayors) and one alternate to serve on LAFCO.
>
> In 28 counties, the LAFCOs also have special district members. An "independent special district selection committee" composed of the presiding officers of each independent district appoints two district board members and one alternative to serve on LAFCOs.

The four (or six) appointed LAFCO commissioners choose the fifth (or seventh) commissioner, a public member, and one alternate. Professors, civic activists, and former elected officials often serve as public members on LAFCOs.

Special Membership

Rules always have exceptions. Some LAFCOs have special membership formulas. Three counties, Alpine, Mariposa, and Trinity have no incorporated cities, so their LAFCOs consist of three county supervisors and two public members. The three supervisors appoint the other two commissioners and one alternate.

Some counties, such as Sierra County, have only one incorporated city. Their LAFCOs have two county supervisors, one city council member, and two public members. The three elected officials appoint the two members of the public and one alternate.

Sparsely populated counties sometimes combine these special formulas. Trinity LAFCO, for example, has seven commissioners even though Trinity County has no incorporated cities. Three commissioners come from the board of supervisors, two commissioners come from special districts, and two commissioners, appointed by the other five, come from the public at large.

Specified Membership

Of course, exceptions also have exceptions. For reasons relating to local politics, geography, and population, some LAFCOs have unique membership formulas. For example:

Santa Clara LAFCO has five members, with one of the city seats reserved for the City of San José. *Sacramento* LAFCO has seven commissioners, with one of the city seats reserved for the City of Sacramento. *San Diego* LAFCO has eight members, with an extra city seat for the City of San Diego. *Los Angeles* LAFCO has nine commissioners, with an extra city seat for the City of Los Angeles and an extra public member from the San Fernando Valley.

Most LAFCOs have five or seven commissioners. Most commissioners are locally elected officials, who are appointed to serve on LAFCO.

- Two LAFCO commissioners come from a county's board of supervisors.
- Two LAFCO members are mayors or council members of cities within the county.
- In about half of the LAFCOs, two commissioners come from the independent special districts in the county.
- One member comes from the public at large.

LAFCO membership changes. The best way to find out the composition of your LAFCO is to call the commission's executive officer. Or, check the CALAFCO website.

WHO PAYS FOR LAFCOs?

Until 2000, state law required the county governments to pay for LAFCOs. Based on the recommendations of the Commission on Local Governance for the 21st Century, the Legislature required cities and independent special districts to share the counties' fiscal burden. Each sector (county, city, district) pays one-third of a LAFCO's budget. Where there is no independent special district representation on the LAFCO, the county and cities split the funding; fifty-fifty. Statutory formulas allocate the cities' share among the cities and the independent special districts' share among the districts. Local officials can negotiate alternative formulas.

State law allows a LAFCO to charge ***fees*** to recover its costs of reviewing boundary changes. Most LAFCOs require the proponents to pay these fees when they apply for the boundary change, regardless if the applicants are voters, property owners, or local agencies.

Fees vary depending upon the change of organization involved and the size of the affected area, but they can't exceed the reasonable cost of providing the service. For example, the Orange County LAFCO charges $1,150 for a simple, small annexation, but $7,900 for annexations of 100 acres or more.

- LAFCOs can charge fees.
- Fees can't exceed the reasonable cost of the service.

To find out what your LAFCO charges, contact the executive officer or check the website.

THE HISTORY OF LAFCOs

California's population exploded during and after World War II. With the increased number of people, an increased demand for government services naturally followed. Unfortunately, the rapid growth led to poorly planned or hastily formed cities and special districts. Agricultural land quickly converted to urban use without proper research and review. The poor planning resulted in inefficient and expensive systems for delivering public services by too many small units of local government.

In 1959, Governor Edmund G. "Pat" Brown appointed the Commission on Metropolitan Area Problems. The Governor's commission studied the complexities of local government boundaries and recommended ways to solve the misuse of land resources. In 1963, the Legislature translated the commission's recommendations into the Knox-Nisbet Act, creating LAFCOs.

Three laws previously governed cities and special districts boundaries:

- ***The Knox-Nisbet Act of 1963***, which established LAFCOs with regulatory authority over local agency boundary changes.
- ***The District Reorganization Act of 1965 (DRA),*** which combined separate laws governing special district boundaries into a single law.
- ***The Municipal Organization Act of 1977 (MORGA)***, which consolidated various laws on city incorporation and annexation into one law.

Acknowledging that the three acts were not always consistent, the Legislature repealed them and enacted the ***Cortese-Knox Local Government Reorganization Act of 1985*** in their place. The Cortese-Knox Act brought the state's boundary laws for cities and districts together in a single, unified statute.

In 1997, the Legislature set up the Commission on Local Governance for the 21st Century. The legislation directed the Commission to review current statues, and recommend revisions to the laws that govern city, county, and special district boundary changes. In 2000, the Commission released its recommendations in a report entitled Growth Within Bounds.

The Legislature responded to Growth Within Bounds by passing the most important boundary reform bill since creating LAFCOs. Authored by Assembly Speaker Robert M. Hertzberg, AB 2838 (2000) incorporated many of the Commission's recommendations. A summary of the key changes appears in Appendix A on pages 28 and 29.

LAFCOs AND THE COURTS

Because LAFCOs are the Legislature's agents with control over local boundaries, overturning a LAFCO's decision is not easy. There is no statewide boundary commission or appeals board. The main way to challenge a LAFCO decision is through the courts.

Before filing a lawsuit, however, any person or affected agency can ask a LAFCO to reconsider its boundary change decision. The commission hears the reconsideration request at a public meeting, and then decides to approve or deny the appeal. If LAFCO denies the appeal, the decision stands and the conducting authority's actions begin. If LAFCO approves the appeal, the commissions' new decision supersedes the old one. The new decision can completely terminate the proposed boundary change. Once LAFCO decides, there is no second appeal to the commission. A person or an agency then needs to go to the courts.

Property owners, voters, and public agencies can sue LAFCOs if they think the commissioners have violated state law. Some lawsuits have challenged the way that LAFCOs have followed the statutory procedures. Other suits challenged LAFCOs' compliance with the California Environmental Quality Act (CEQA). Another way to attack a boundary change is through a "validation action," which asks a judge to rule on the validity of an annexation or other boundary change. In unusual cases, the California Attorney General can file a "quo warranto" lawsuit. Overruling a LAFCO decision in court is rarely easy.

The complex legal terms involved with court review can be confusing. The main thing to remember is that LAFCO decisions are very difficult to overrule because the courts often defer to a LAFCO because it's the Legislature's creation. The courts do not consider benefits, pitfalls, or alternatives (evidence) to a particular boundary change when someone sues a LAFCO.

COMMON QUESTIONS ABOUT LAFCOs

1. What's a LAFCO?

LAFCOs are independent regulatory commissions that receive their powers directly from the California Legislature. LAFCOs regulate the boundaries of cities and most special districts. LAFCOs oversee local boundaries on behalf of the state government because they are closer to the people and because they are more efficient than having multiple local agencies controlling their own boundaries.

2. What do LAFCOs do?

They regulate and they plan.

Regulate.
LAFCOs are the Legislature's "watchdogs" over boundary changes to encourage and provide well-ordered urban development. Whenever there's a proposal for a change of organization or reorganization (see "TYPES OF BOUNDARY CHANGES," page 11), LAFCO must review the proposal. The commission holds a public hearing and either approves or denies the proposal. LAFCO may attach additional terms and conditions. If LAFCO approves a proposal, there is another public hearing to measure protests and a possible election (see "PROCEDURES OF LAFCOs," page 13).

Plan.
LAFCOs adopt "spheres of influence" for cities and special districts, identifying those local agencies' future service areas and boundaries. Before LAFCOs adopt these spheres of influences they conduct "municipal service reviews." LAFCOs' regulatory decisions on boundary changes must be consistent with the adopted spheres of influence.

3. What's a "sphere of influence?"

A sphere of influence is a planning document adopted by LAFCO that shows a city or special district's future boundary and service area (see "POWERS OF LAFCOs," page 7). In effect, a sphere of influence tells landowners, residents, and public officials where the LAFCO thinks a city or district will annex in the future. All boundary changes must be consistent with spheres of influence.

4. What's a "municipal service review?"

A municipal service review (MSR) is a LAFCO study prepared before a commission revises cities and special districts' sphere of influence. In conducting an MSR, LAFCOs must review all of the agencies that provide the public services within the study area.

The Hertzberg bill required LAFCOs to revise the *spheres of influence* every five years. Logically, LAFCOs must also revise the MSRs every five years --- some time before revising a *sphere of influence*.

The website www.opr.ca.gov contains the Office of Planning and Research's (OPR) advisory "Service Review Guidelines."

5. Why are boundary changes important?

Boundaries assign physical space and define the identities of local governments. For example, community leaders proposed to incorporate the City of Rancho Cordova (Sacramento County) partially because the new city limits help to define the community's identity.

Boundaries also determine which local government can tax an area. If a city's boundaries change by annexing more territory, the city's sales tax applies to the stores in that area.

Local governments have corporate powers, or the powers to "do stuff," within their defined boundaries. Local residents may ask LAFCO to annex their neighborhood to a mosquito abatement district so the district's programs can protect them from the West Nile virus (see "THE REASONS FOR BOUNDARIES," page 9).

6. Who controls the local boundaries that LAFCO doesn't?

The state government has the ultimate control over the boundaries of all local governments and regional agencies. The Legislature has delegated to LAFCOs its power over city and district boundaries. For counties, however, the rules are different. County boards of supervisors can adjust their boundaries by agreeing to minor boundary changes. Forming a new county is more complicated because it involves a special County Boundary Review Commission appointed by the Governor.

For school districts, there is a committee on school district organization in every county that regulates their dividing lines.

State law allows counties, cities, school districts, and special districts to form their own internal financing district boundaries, such as Mello-Roos Act districts and benefit assessment districts.

Regional governments and commissions are established by statute to respond to a defined public policy interest. The Legislature creates these governments and can dissolve them or alter their boundaries.

7. Who runs LAFCOs?

The Cortese-Knox-Hertzberg Act spells out LAFCO's membership. The standard membership for a LAFCO is two county supervisors, two city council members, and one public member. Half of the LAFCOs have two special district commissioners. Every LAFCO has an executive officer who prepares reports for the commissioners. To find out who serves on your LAFCO and who does the staff work, contact your commission.

8. Can I be on a LAFCO?

Yes, in several ways. Any registered voter may run for county supervisor and city residents may run for the city council. Special districts also have elected governing boards . These local officials sit on LAFCO. If you don't wish to run for elected office, every LAFCO has at least one public member chosen by the other members. The commissioners probably won't pick a name out of a hat, so your best bet is to be politically involved in local affairs.

9. What if I don't like a proposed boundary change? Can I protest or appeal?

When voters, landowners, or some local government proposes a boundary change, LAFCO conducts an open and public hearing. If LAFCO approves the proposal, there is another public hearing to measure protests. You can oppose the proposal at both hearings. Some boundary changes require elections while others don't need voter confirmation unless there is a lot of protest (see "PROCEDURES OF LAFCOs," page 12). If LAFCO approves a boundary change, you can ask LAFCO to reconsider its decision (see "LAFCOs AND THE COURTS," page 24).

If there's an election on the boundary change, you can campaign and vote against the ballot measure. If there's no election or if the measure passes, it is possible to sue and challenge the boundary change in court (see "LAFCOs AND THE COURTS," page 24). To find out the details for filing a lawsuit, you will probably want to consult an experienced attorney.

10. Does CEQA affect LAFCO?

Yes. Though LAFCOs do not directly regulate land use, their decisions strongly influence land use. As a result, city annexations, certain detachments, and revisions to a local agency's sphere of influence are all subject to environmental review under the California Environmental Quality Act (CEQA).

11. Where can I get a copy of the Cortese-Knox-Hertzberg Act?

The Cortese-Knox-Hertzberg Local Government Reorganization Act starts with Section 56000 of the California Government Code. You can get the code at your county law library or over the internet at www.sen.ca.gov under "Legislation." The California Assembly Local Government Committee publishes the Guide to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. A copy costs about $10 and you can order one from Assembly Publications by calling (916) 319-3997.

12. What did the Hertzberg bill do?

Assembly Bill 2838 (Hertzberg, 2000) was the most important LAFCO reform bill in 40 years. The Hertzberg bill amended the statutes that give LAFCOs power over the boundaries of cities and special districts. Once known as the Cortese-Knox Act, the statute is now the "Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000." For a review of the bill's key changes, see Appendix A on pages 28 and 29.

13. Where can I get more information about LAFCOs?

The best place to start is with your LAFCO's executive officer or staff. You can usually find LAFCO's number in the government pages of your telephone book. The commissions' office is generally in the county civic center or in close proximity, and most LAFCOs have a public hearing at least once a month. Another place to get good information is from the California Association of Local Agency Formation Commissions (CALAFCO). The directory on CALAFCO's website lists the names and phone numbers of the commission's executive officers: www.calafco.org.

IT'S TIME TO DRAW THE LINE

A Citizen's Guide to LAFCOs

California's Local Agency Formation Commissions in California

APPENDICES

Appendix A

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
AB 2838 (Hertzberg, 2000)

AB 2838 contained the most important revisions to the state's law for local boundaries in 40 years. Here are the 10 most significant changes in AB 2838:

1. **Written Policies.** The Growth Within Bounds report recommended that legislators enact new statutory priorities to give more direction to LAFCOs. AB 2838 enacted more explicit statewide policies to guide LAFCOs (Government Code §56001). LAFCOs had until January 1, 2002 to adopt written policies and procedures to implement those statutory policies (Government Code §56300 [a]). Because many LAFCOs had already adopted written policies before the Hertzberg bill passed in 2000, some of them did not need to adopt new policies. Some LAFCOs with older policies decided to revise their written statements in light of AB 2838.

2. **Special District Representation.** When the Legislature created LAFCOs in 1963, the standard membership consisted of five members: two county supervisors, two city councilmembers or mayors, and one public member. In the early 1970s, the Legislature made it possible for LAFCOs to expand their membership by adding two representatives of independent special districts. The Commission on Local Governance for the 21st Century recommended that special districts have an automatic option to add representatives. AB 2838 made it easier for special districts to gain LAFCO representation (Government Code §56332.5).

3. **Contribution Disclosure.** When the Commission on Local Governance for the 21st Century learned that proponents of the San Fernando Valley secession attempt did not have to disclose the identity of their financial backers, it recommended that the Legislature require proponents to report campaign contributions. Instead, AB 2838 required each LAFCO to hold a public hearing to discuss the adoption of rules for the disclosure of contributions. LAFCOs with active boundary change proposals had until March 31, 2001, to hold their public hearings; the other LAFCOs had to hold their hearings within 90 days of receiving a proposal (Government Code §56100.1 and §56300 [b]).

4. **Lobbying Disclosure.** The Commission's Growth Within Bounds report also recommended that LAFCOs should follow uniform regulations regarding the disclosure of lobbying activities, similar to the regulations that apply to state appointed boards. AB 2838 authorized – but did not require – LAFCOs to adopt local lobbying disclosure and reporting requirements. LAFCOs with active boundary change proposals had until March 31, 2001, to hold their public hearings; the other LAFCOs had to hold their hearings within 90 days of receiving a proposal (Government Code §56300 [c]).

5. **Independent Executive Officer.** Before AB 2838, state law allowed each LAFCO to appoint its own Executive Officer. If LAFCO did not appoint an independent Executive

Officer, the former state law required the county administrator or county clerk to serve as the LAFCO Executive Officer. In Growth Within Bounds the Commission on Local Governance for the 21st Century declared that independent staffing would "allay any perceived bias." AB 2838 required each LAFCO to appoint its own Executive Officer (Government Code §56384 [a]). A LAFCO may appoint a county official to serve as its Executive Officer.

6. **Independent Legal Counsel.** Before AB 2838, state law allowed each LAFCO to appoint its own legal counsel. If the LAFCO did not appoint its own legal counsel, the former state law required the County Counsel to act as the LAFCO's legal counsel. In Growth Within Bounds the Commission on Local Governance for the 21st Century declared that independent staffing would "allay any perceived bias." AB 2838 required each LAFCO to appoint its own legal counsel (Government Code §56384 [b]). A LAFCO may appoint the County Counsel to serve as its legal counsel.

7. **Spheres of Influence.** For more than 30 years, state law required LAFCOs to adopt a *sphere of influence* for each city and special district in its county. A sphere of influence designates the city or district's future service area and boundaries. LAFCOs' boundary decisions must be consistent with the adopted spheres of influence. The Commission on Local Governance for the 21st Century noted that while the law required LAFCOs to periodically review and update their spheres of influence, there was no specific statutory schedule for these revisions. AB 2838 requires LAFCOs to update the spheres of influence for all cities and special districts every five years. The first deadline is January 1, 2006 (Government Code §56425 [f]).

8. **Municipal Service Reviews.** The Growth Within Bounds report also recommended that LAFCOs undertake periodic service reviews as they prepare to adopt and amend their spheres of influence. AB 2838 required LAFCOs to conduct service reviews of the municipal services provided by cities and special districts (Government Code §56430).

9. **Sharing LAFCOs' Budgets.** Until AB 2838, state law required the county governments to finance LAFCOs' budgets. Based on the recommendations of the Commission on Local Governance in the 21st Century, AB 2838 required cities and independent special districts to share this fiscal burden with the county governments. Under the standard statutory formula, each sector (county, city, district) pays one-third; where there is no independent special district representation on LAFCO, the county and the cities split the funding. Statutory formulas allocate the cities' share among the cities and the independent special districts' share among the districts. Local officials can negotiate alternative formulas (Government Code §56381).

10. **Processing Fees.** Even before AB 2838, state law allowed a LAFCO to charge processing fees to recover its costs. AB 2838 clarified a LAFCO's ability to charge fees to offset the costs of appointing its own Executive Officer and legal counsel (Government Code §56383 and §56384).

Appendix B: Web Resources on LAFCOs

The World Wide Web delivers a lot of information if you know where to look. Here are some useful websites if you want to learn more about LAFCOs:

California Association of Local Agency Formation Commissions
www.calafco.org

This website contains a directory that provides contact information for CALAFCO's 58 member LAFCOs. It also has useful documents and links under "Resources."

California State Legislature
www.leginfo.ca.gov
The Legislature's official and nonpartisan website gives you free access to legislative records and a full set of state statutes, including the Cortese-Knox-Hertzberg Act

California Senate Local Government Committee
www.sen.ca.gov/locgov
The Committee's website contains the text of this Citizen's Guide, plus a wide variety of useful information about local governments: counties, cities, special districts, redevelopment agencies, and joint powers agencies.

Governor's Office of Planning and Research (OPR)
www.opr.ca.gov

The Office of Planning and Research (OPR) is a part of the Governor's Office. Among other things, it assists the Governor and the Administration in land use planning, research, and liaison with local governments.

For information on LAFCO Reform, start by locating "Publications and Forms." After clicking on this link, select "LAFCO Reform." This section is divided into the following subheadings: LAFCO Reform General Background, LAFCO Service Review Guidelines, LAFCO Incorporation Guidelines. From there, select the appropriate document you wish to view.

References to Questions

The section entitled "Common Questions about LAFCOs" on pages 23-26 tries to anticipate many of your questions about LAFCOs. Here is a list of the references used to answer the questions.

Statutes are listed by code, followed by section. For example, "Government Code §56001" means that you can find the statute under Section 56001 of the Government Code. When reading the code, start by looking at the back of the book in the "pocket part." The pocket part has the latest versions of the statues, including recent amendments and deletions.

Question #1:

Government Code §56001.
Government Code §56325.

Question #2:

Government Code §56300.
Government Code §56426.
Government Code §56841.
Government Code §56843.
Government Code §56844.
Government Code §56852.
Timberidge Enterprises, Inc. v. City of Santa Rosa, 86 Cal. App. 3d 873 (1978).
City of Ceres v. City of Modesto, 274 Cal. App. 2d 545 (1969).

Question #3:

Education Code §35500.
Government Code §23200.
Government Code §23202.
Government Code §23233.
Government Code §23248.

Question #4:

Government Code §56325.
Government Code §56384.

Question #5:

Government Code §56325.
Government Code §56337.

Question #6:

Civil Procedure Code §860.
Civil Procedure Code §863.
Government Code §56840.
Government Code §57050.

Government Code §57051.
Government Code §57075.
Government Code §57077.
Government Code §57078.
Government Code §57081.

Question #7:

Government Code §56425.
Government Code §56428.

Question #8:

Public Resources Code §21000, et seq.
Bozung v. Local Agency Formation Com, 13 Cal. 3d 263 (1975).
Pistoresi v. City of Madera, 138 Cal. App. 3d 284 (1982).
People ex rel. Younger v. Local Agency Formation Com, 81 Cal. App. 3d 464 (1978).
Simi Valley Recreation & Park Dist. v. Local Agency Formation Com, 51 Cal. App. 3d 648 (1975).

Question #10:

Government Code §56000 et seq.

Question #11:

Government Code §56425
Government Code §56430

Question #12:

Government Code §56076

Question #13:

www.calafco.org

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