

ITEM 2

**APPEAL OF EXECUTIVE DIRECTOR'S DECISION TO
DISALLOW TEST CLAIM AMENDMENT**

TO ADD: Government Code Section 56326.5, Statutes 1991, Chapter 439 (AB 748); Government Code Sections 56001, 56029, 56036, 56046, 56067, 56069, 56100, 56101, 56107, 56123, 56124, 56133, 56150, 56154, 56156, 56157, 56159, 56300, 56301, 56325, 56326.5, 56329, 56332, 56375, 56375.3, 56375.5, 56377, 56380, 56381, 56381.6, 56383, 56384, 56386, 56425, 56425.5, 56429, 56430, 56434, 56653, 56654, 56658, 56660, 56662, 56663, 56664, 56665, 56666, 56667, 56668, 56668.3, 56668.5, 56700.1, 56700.4, 56705, 56706, 56708, 56710, 56720, 56730, 56737, 56738, 56742.5, 56743, 56744, 56745, 56751, 56752, 56753, 56753.5, 56754, 56755, 56756, 56757, 56758, 56759, 56760, 56764, 56800, 56801, 56803, 56810, 56811, 56812, 56815, 56820, 56820.5, 56820.7, 56821, 56821.1, 56821.3, 56821.5, 56821.7, 56822, 56822.3, 56822.5, 56823, 56824, 56824.1, 56824.3, 56824.5, 56824.7, 56826, 56827, 56828, 56829, 56830, 56831, 56833, 56834, 56835, 56840, 56843, 56844, 56846, 56847, 56848, 56853, 56854, 56855, 56857, 56859, 56860, 56861, 56862, 56863, 56864, 56864.1, 56876, 56880, 56881, 56882, 56885.5, 56886, 56886.3, 56889, 56895, 56897, 57000, 57001, 57002, 57008, 57025, 57026, 57050, 57052, 57075, 57075.5, 57077, 57078, 57078.5, 57080, 57081, 57100, 57102, 57103, 57105, 57106, 57107, 57108, 57109, 57113, 57114, 57115, 57116, 57117, 57118, 57119, 57120, 57125, 57129, 57144, 57145, 57150, 57176, 57167.1, 57177, 57177.5, 57179, 57200, 57201, 57302, 57384, 57402, 57404, Statutes 2000, Chapter 761 (AB 2838); Government Code Section 56381, Statutes 2002, Chapter 493 (AB 1948); LAFCO Municipal Services Review Guidelines, and LAFCO Municipal Services Review Guidelines Appendices (07-TC-02)

TO: *Local Agency Formation Commission (LAFCO) Test Claim (02-TC-23)*
Government Code Sections 56001, 56326.5, 56381, 56381.6, 56425, 56426.5, 56430,
Statutes 1991, Chapter 438 (AB 748); Statutes 2000, Chapter 761 (AB 2838);
Statutes 2002, Chapter 493 (AB 1948)
LAFCO Municipal Services Review Guidelines (Final Draft, October 3, 2002;
Governor's Office of Planning and Research), LAFCO Municipal Services Review
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Sacramento, Metropolitan Fire District, Claimant and Appellant

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TO: *Local Agency Formation Commission (LAFCO)* Test Claim Government Code Sections 56001, 56326.5, 56381, 56381.6, 56425, 56426.5, 56430, Statutes 1991, Chapter 438 (AB 748); Statutes 2000, Chapter 761 (AB 2838); Statutes 2002, Chapter 493 (AB 1948) LAFCO Municipal Services Review Guidelines (Final Draft, October 3, 2002, Governor's Office of Planning and Research), LAFCO Municipal Services Review Guidelines Appendices (Final Draft, October 3, 2002, Governor's Office of Planning and Research) (02-TC-23)

Sacramento, Metropolitan Fire District, Claimant and Appellant

EXECUTIVE SUMMARY

This is an appeal of the Executive Director's decision of February 15, 2008, to disallow a test claim amendment to the *Local Agency Formation Commission (LAFCO)* test claim, 02-TC-23. The test claim amendment was disallowed, pursuant to Government Code section 17553,

subdivision (c), and section 1183, subdivision (g), of the Commission's regulations because a complete test claim amendment was not timely received by the Commission.

The proposed test claim amendment was filed on September 25, 2007, and alleges 178 code sections *in addition* to the statutes and alleged executive orders pled in the original *LAFCO* test claim. The proposed amendment was severed from the original *LAFCO* test claim and a separate Statement of Decision was adopted and issued on the original *LAFCO* test claim in September 2007.

The proposed test claim amendment filed on September 25, 2007, was deemed incomplete, and the claimant was given an additional 30 days to file a complete test claim amendment. Additional documents were filed on December 28, 2007, in an attempt to perfect the test claim amendment filing. On February 15, 2008, the Executive Director issued a letter disallowing the proposed test claim amendment because the documents filed as part of the proposed test claim amendment were not complete.

When determining whether the proposed amendment was complete, the Executive Director reviewed the filings in accordance with the current version of Government Code section 17553. The current version was amended by Assembly Bill 2856, effective January 1, 2005, to require test claims and test claim amendments to include the following information supported by declarations signed under penalty of perjury:

- the actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate;
- the actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

For the reasons stated in the analysis, staff finds that the proposed test claim amendment does not satisfy these requirements, and a completed test claim amendment has not been filed within the time requirements provided in Government Code section 17553 and section 1183 of the Commission's regulations.

Appellant, Sacramento Metropolitan Fire District contends that the proposed amendment should be deemed complete and that the Executive Director should have applied the requirements of Government Code section 17553, as they existed in 2003 when the original *LAFCO* test claim was filed. Appellant further argues that the record on the original *LAFCO* test claim should be used here as evidence to show that the claimant incurred actual increased costs.

Staff finds that the appellant's arguments are not consistent with the law. Government Code section 17553 and section 1183 of the Commission's regulations, as these provisions existed when the proposed test claim amendment was filed in 2007, is the law that must be applied to determine if the test claim amendment is complete.

Furthermore, the Commission cannot use the record of the original *LAFCO* test claim to support the alleged costs incurred as a result of the proposed test claim amendment because the test claim amendment pleads an additional 178 Government Code statutes that were *not* pled in the original test claim. The claimant has not complied with the requirements of Government Code section 17553 with respect to these additional statutes.

Government Code section 17553 and section 1183 of the Commission's regulations only provide potential claimants 30 calendar days from the date that an incomplete test claim amendment was returned to perfect the filing. The claimant has been given 30 days, after it was notified that its first filing was incomplete, to file a completed test claim amendment. The second document filed on December 28, 2007, still does not satisfy the filing requirements for test claim amendments. Since the law does not give the Commission jurisdiction to accept another filing to perfect the requirements of Government Code section 17553, the Executive Director, pursuant to the authority provided in Government Code section 17553, subdivision (c), properly disallowed the proposed test claim amendment.

Conclusion and Staff Recommendation

Accordingly, staff recommends that the Commission deny the appeal and uphold the Executive Director's decision to disallow the proposed test claim amendment to the original *LAFCO* test claim (02-TC-23).

STAFF ANALYSIS

Claimant and Appellant

Sacramento Metropolitan Fire District

Chronology

- 05/29/03 Sacramento Metropolitan Fire District files *Local Agency Formation Commission (LAFCO)* test claim (02-TC-23) with Commission
- 06/28/07 Draft staff analysis issued on the *LAFCO* test claim (02-TC-23)
- 08/09/07 Sacramento Metropolitan Fire District files comments on draft staff analysis on the *LAFCO* test claim (02-TC-23)
- 09/17/07 Final staff analysis on *LAFCO* test claim (02-TC-23) issued; hearing set for September 27, 2007
- 09/25/07 Sacramento Metropolitan Fire District files test claim amendment to *LAFCO* test claim (02-TC-23), pleading additional statutes for consideration by the Commission
- 09/26/07 Commission's Executive Director severs proposed test claim amendment from original *LAFCO* test claim (02-TC-23) pursuant to Government Code section 17530 to prevent a delay in the hearing of 02-TC-23
- 09/27/07 Commission heard *LAFCO* test claim (02-TC-23) and adopted Statement of Decision, partially approving the claim with a reimbursement period beginning July 1, 2001
- 10/03/07 Statement of Decision on *LAFCO* test claim (02-TC-23) issued
- 11/30/07 Test claim amendment was returned as incomplete
- 12/28/07 Sacramento Metropolitan Fire District files "corrected" test claim amendment
- 02/15/08 Commission's Executive Director disallows test claim amendment and returns filing because a completed test claim amendment was not timely received
- 02/25/08 Sacramento Metropolitan Fire District files appeal of the Executive Director's decision to disallow test claim amendment

Background

This is an appeal of the Executive Director's decision to disallow a test claim amendment to the *Local Agency Formation Commission (LAFCO)* test claim, 02-TC-23.¹ The test claim amendment was disallowed, pursuant to Government Code section 17553, subdivision (c), and section 1183, subdivision (g), of the Commission's regulations because a complete test claim amendment was not timely received by the Commission. The relevant facts of this appeal follow.

Government Code section 17553 and section 1183 of the Commission's regulations govern the procedures and requirements for filing test claims and test claim amendments. A test claim

¹ Exhibit F.

amendment occurs whenever a claimant adds new allegations based on new statutes or executive orders to an existing test claim. The addition or substitution of parties and supporting declarations based on the original statutes or executive orders alleged in an existing test claim is not an "amendment."² An amendment to a test claim that has been deemed complete and is timely filed gets the benefit of the period of reimbursement of the existing test claim as long as the proposed amendment substantially relates to the original test claim.³

After the receipt of a test claim amendment, Commission staff is required to notify the claimant if the amendment is complete or incomplete. Test claim amendments are considered incomplete if the filing does not meet the requirements in Government Code section 17553 and section 1183 of the Commission's regulations.⁴ Under these circumstances, the proposed test claim amendment is returned to the claimant, and the claimant has 30 calendar days from the date the incomplete amendment is returned to file a completed test claim amendment.⁵ If a completed test claim amendment is not received within 30 calendar days, the executive director may disallow the original test claim filing date.⁶ A new test claim may be filed on the same statute or executive order claimed in the test claim amendment, with a new period of reimbursement based on the filing date of the new test claim, *if* the filing falls within the statute of limitations provided for in Government Code section 17551.⁷

In this case, Sacramento Metropolitan Fire District filed a test claim in 2003 addressing statutory changes to *Local Agency Formation Commissions (LAFCO)*, 02-TC-23. On September 25, 2007, after the final staff analysis was issued, and two days before the matter was set for hearing, the claimant filed a proposed amendment to the test claim. The proposed amendment added 178 Government Code sections to the existing test claim.⁸ On September 26, 2007, the Commission's Executive Director, pursuant to the duty provided in Government Code section 17530 to expedite all matters before the Commission, severed the proposed amendment from the existing test claim so that the existing test claim, with findings made on behalf of independent special districts, could be heard by the Commission.⁹ On September 27, 2007, the Commission heard the *LAFCO* test claim (02-TC-23) and adopted a statement of decision, partially approving the claim for independent special districts. The summary of findings in the statement of decision for 02-TC-23 states the following:

This test claim addresses changes to Local Agency Formation Commissions ("LAFCOs"), which are statutorily-created local administrative bodies that make determinations regarding formation and development of local agencies. The test

² California Code of Regulations, title 2, section 1181.1, subdivision (b).

³ Government Code section 17557, subdivision (e).

⁴ California Code of Regulations, title 2, section 1183, subdivision (g).

⁵ Government Code section 17557, subdivision (d); California Code of Regulations, title 2, section 1183, subdivision (g).

⁶ *Ibid.*

⁷ *Ibid.*

⁸ Exhibit A.

⁹ Exhibit B.

claim statutes modify representation on the Sacramento County LAFCO, mechanisms for funding LAFCO operations when independent special districts are represented, and the process for LAFCOs to adopt and update the “sphere of influence” for each local agency within all California counties. The claimant is an independent special district, thus the findings of this test claim apply to independent special districts only and *not* LAFCOs or other local government agencies. Furthermore, only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

The Commission finds that only one of the alleged test claim statutes – Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)) – constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6, and Government Code section 17514. That section requires independent special districts to file written statements with the LAFCO, specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

The Commission concludes that Government Code section 56001 declares legislative findings and is helpful to interpret the test claim statutes, but does not mandate any activities. The Commission further concludes that Government Code sections 56326.5, 56381, 56381.6, 56425 (except subdivision (h)(1), subsequently renumbered to subdivision (i)(1)), 56426.5, and 56430, and the Municipal Service Review Guidelines and Appendices developed by the Governor’s Office of Planning and Research, as pled, along with any other test claim statutes, alleged executive orders, guidelines and allegations not specifically approved above, do not mandate a new program or higher level of service subject to article XIII B, section 6.¹⁰

On November 30, 2007, the proposed test claim amendment was returned as incomplete because it did not include a written narrative, a statement of statewide estimated costs, and declarations from the claimant authenticating all documentary evidence, as required under Government Code section 17553 and section 1183 of the Commission’s regulations. To correct these omissions and to preserve the original test claim period of reimbursement, a complete test claim amendment was required to be filed no later than December 30, 2007.¹¹

On December 28, 2007, Sacramento Metropolitan Fire District filed a “corrected” test claim amendment in an attempt to complete the filing. This filing was determined to not comply with

¹⁰ Exhibit L.

¹¹ Exhibit C.

the filing requirements of Government Code section 17553 and section 1183 of the Commission's regulations and, thus, deemed incomplete. On February 15, 2008, the Executive Director issued a letter disallowing the test claim amendment, stating the following reasons:

On December 28, 2007, Sacramento Metropolitan Fire District filed a "corrected" test claim amendment in an attempt to complete the filing. A written narrative detailing a description of the activities required under prior law, the activities required under the statutes or executive orders alleged to contain or impact a mandate, and allegations of an increased level of service and/or costs incurred was included in this filing. A statement of actual costs incurred by the Fresno County LAFCO, and a statewide estimate of LAFCO costs were also included. This filing, however, is not complete and does not comply with Government Code section 17553 and section 1183 of the Commission's regulations for the following reasons:

- Government Code section 17553, subdivision (b)(1)(C),(D) and (E), require that the written narrative contain the actual increased costs incurred by the claimant, actual estimated costs incurred by the claimant, and a statewide cost estimate of increased costs that all local agencies will incur. This test claim amendment was filed by a special district. There is no information in the narrative about any costs incurred by Sacramento Metropolitan Fire District, or any other special district, as a result of the alleged mandate.
- Government Code section 17553, subdivision (b)(1)(H), requires that the written narrative be supported with declarations signed under penalty of perjury by the claimant. The filing contains a declaration signed by Rick Ballantyne, the Executive Director of the Fresno County LAFCO, contending that the test claim statutes and alleged executive orders resulted in estimated costs of 25% of the LAFCO annual budget. There is no declaration signed by the claimant, Sacramento Metropolitan Fire District.

Moreover, LAFCOs are not eligible to claim reimbursement under article XIII B, section 6 of the California Constitution and, thus, cannot represent the interests of other local agencies for purposes of mandate reimbursement. Reimbursement under article XIII B, section 6 is required only when a local entity is required to comply with the tax and spend provisions of articles XIII A and XIII B of the California Constitution. Under these provisions, limits are placed on an entity's authorization to expend proceeds of taxes, or tax revenues. There is no spending limitation placed on the expenditure of revenues that do not constitute proceeds of taxes. Thus, as determined by the courts, article XIII B, section 6 does not require reimbursement when the expenses incurred by the local entity are recoverable from sources other than tax revenue; i.e., service charges, fees, or assessments. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487; *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281-282.) A local entity cannot accept the benefits of an exemption from article XIII B's spending limit while asserting an entitlement to reimbursement under article XIII B, section 6. (*City of El Monte, supra*, at p. 282.)

A LAFCO is a separate and distinct entity from its county, city, and special district members. As a separate entity, it has several powers and duties listed in Government Code section 56375. But LAFCOs do not have the power to levy tax revenues to pay for their expenses. Rather, the operating costs of a LAFCO are paid by the county, cities, and special districts served by the LAFCO. (Gov. Code, §§ 56381 and 56381.6.) In addition, LAFCOs are authorized to charge fees for the cost of specified proceedings undertaken by the LAFCO, and funding and facilities for LAFCOs have historically been provided by the county served. (Gov. Code, §§ 56381, 56383.) Thus, LAFCOs are exempt from the spending limitations of article XIII B and cannot, by law, claim reimbursement under article XIII B, section 6 of the California Constitution.

Accordingly, I am disallowing the test claim amendment because it is incomplete. Pursuant to Government Code section 17553, the Commission no longer has jurisdiction over the filing and, thus, the filing is hereby returned.

On February 25, 2008, Sacramento Metropolitan Fire District filed an appeal of the Executive Director's decision to disallow the test claim amendment pursuant to section 1181, subdivision (c), of the Commission's regulations. Section 1181, subdivision (c)(6), states the following: "The commission shall determine whether to uphold the executive director's decision by a majority vote of the members present. The decision shall be final and not subject to reconsideration."

Appellant's Position (Exhibit F)

Appellant, Sacramento Metropolitan Fire District, contends that the Executive Director erred in the interpretation of the regulations governing completed test claim amendments and, thus, requests that the Commission reverse the decision to disallow the test claim amendment.

The appellant raises three points of contention. First, appellant states that the purpose of its amendment was to expand the list of eligible claimants on the *LAFCO* claim to include counties and cities. The appellant argues that its test claim amendment, when viewed in light of the existing *LAFCO* test claim record (02-TC-23), provides the actual increased costs incurred by the test claimant and the estimated costs incurred by the claimant. The appellant further argues that a statewide cost estimate of increased costs that all local agencies incur, including cities and counties, was included and based on the declaration submitted with the proposed amendment by the Fresno County LAFCO. Appellant states that "[s]ince the basis of the mandate is the budget of the LAFCOs which are, by law, borne by their constituent members and the division of that budget by law, such a declaration is the clearest and best statement of those costs." The appellant further states the following:

The driving force behind the mandate is Government Code section 56381 as it was amended by Chapter 761, Statutes 2000. This statute was cited as part of the original test claim. [Footnote citation omitted.] and (sic) the following information was provided concerning the test claimant:

The net result of Chapter 493, Statutes 1991 is that two representatives of special districts must sit upon the LAFCO Board. At the inception, this posed no problem because special districts did not contribute to the operations of the LAFCO. With the passage of Chapter 761, Statutes 2000, the cost of

claimant's mandatory participation in LAFCO increased to between \$20,000 and \$30,000 to underwrite the operational costs of LAFCO. With the passage of Chapter 493, Statutes 2003 [sic; the correct statute is Statutes 2002], the costs of claimant's mandatory participation will increase substantially. LAFCO is presently in the process of preparing its budget, and we have been informed that claimant's mandatory contribution will be in the range of \$50,000 to \$70,000.

During this time of fiscal constraints, all other agencies, cities, counties and special districts alike, have had to live within their existing financial resources. However, LAFCO is not so constrained. It determines what funding it wants to operate for the following fiscal year, and then develops a budget upon that determination. It is the LAFCO's budget that determines the mandatory contribution required of claimant, over which claimant has no control. [Footnote citation omitted.]

The above was sufficient under the Commission's regulations for the test claim to be considered at hearing. No statewide cost estimate was required.

Prior to the hearing on the test claim, the claimant's review of the filing showed a limitation heretofore unanticipated: The test claim was limited to special districts within the Sacramento County LAFCO. The intent of the filing was lost with the passage of time, but clearly the test claim should not have been so limited. An amendment was drafted which briefly set forth the necessary augmentation to the record. This amendment would have to comply with the current regulations. What the district's amendment does is to include other local agencies, namely cities and counties, and to augment the record – although the relevant legislation was properly plead, a more complete discussion of the statutes was needed. The amendment to include new potential claimants would provide the basis for a statewide cost estimate. These were provided as part of the amendment which stated: "As based on the attached declaration, the statewide costs are estimated to be seventy six million dollars for implementation of the Act for the six and one-half fiscal years since 2001. [Footnote citation omitted.]

After filing of the amendment, the hearing on the test claim went forward. At its September 27, 2007, hearing, the Commission decided to bifurcate the amendment from its underlying test claim. The Commission, then, partially approved the test claim which resulted in the special district becoming eligible for reimbursement of some costs but not those for compliance with Government Code section 56381. The argument in favor of those costs failed as it was seen as a shift from counties to special districts. [Footnote citation omitted.]

Therefore, (1) the actual increased costs incurred by the test claimant were already in the record in a manner that complied with the Commission's regulations at the time that they were filed; (2) estimated costs incurred by the claimant were also in the record in a manner that complied with the Commission's regulations at the time that they were filed, and (3) a statewide cost estimate of increased costs that all local agencies incur was included in the

amendment documents to support costs that may be claimed by the expanded pool of potential claimants.

Second, the appellant contends that the former requirements of Government Code section 17553 are controlling and do not require the filing of supporting declarations. The application of Government Code section 17553, as amended by Statutes 2004, chapter 890 (AB 2856), to the amendment of an original test claim filed before the Government Code was amended, is a retroactive application of the law.

Third, the appellant argues that the amendment seeks to clarify that the original test claim filing should have been interpreted to include claimants beyond special districts.

Issue: Should the Commission uphold the Executive Director's decision to disallow the proposed test claim amendment to the *LAFCO* test claim (02-TC-23)?

The arguments raised by appellant are either not relevant, or are not legally correct. As explained below, the Executive Director's disallowance of the proposed test claim amendment is consistent with the requirements of law.

The Commission does not have jurisdiction to address allegations relating to the original *LAFCO* test claim

First, appellant's suggestion that the original *LAFCO* test claim (02-TC-23) was wrongly decided to include only special districts is not relevant to the issue presented in this appeal. The Commission no longer has jurisdiction over the findings made in the original test claim. The Statement of Decision was adopted in September 2007, and the time for filing a request for reconsideration pursuant to Government Code section 17559 (30 days after the Statement of Decision is delivered or mailed) has expired.¹² Moreover, if the appellant wanted to clarify that portions of its original test claim were made on behalf of cities and counties, then under the Commission's regulations, it simply needed to add a city or county as a co-claimant to the original claim. A test claim amendment was not required to be filed.¹³

The Executive Director did not apply the law in a retroactive manner

Second, the Executive Director has not applied Government Code section 17553 and section 1183 of the Commission's regulations retroactively to the proposed test claim

¹² Based on the statutes pled by Sacramento Metropolitan Fire District in the original *LAFCO* test claim (02-TC-23), and the fact that not all special districts are eligible to claim reimbursement under article XIII B, section 6, the draft staff analysis limited the findings of the claim only to independent special districts that were subject to the tax and spend provisions of articles XIII A and XIII B. (Ex. H.) Comments to the draft staff analysis from Sacramento Metropolitan Fire District did not challenge that finding, but only challenged substantive findings on the statutes. (Ex. I.) The final staff analysis contained the same limitation regarding eligible claimants. (Ex. J.) At the hearing, the claimant did not challenge the limitation regarding eligible claimants. The issue was first raised at the hearing by Mr. Allan Burdick, representing the California State Association of Counties. (See Ex. K, transcript of the September 27, 2007 Commission hearing, pp. 34-39.)

¹³ Section 1181 of the Commission's regulations specifically states that an amendment is not defined as the addition or substitution of parties.

amendment. The original *LAFCO* test claim (02-TC-23) was filed on May 29, 2003, by Sacramento Metropolitan Fire District, on five Government Code sections and two alleged executive orders. The appellant correctly states that in 2003, when the original *LAFCO* test claim was filed, Government Code section 17553 and section 1183 of the Commission's regulations did not require test claimants to file a written narrative and declarations describing the actual increased costs incurred by the claimant, the actual estimated costs incurred by the claimant, or a statewide cost estimate of increased costs that all local agencies will incur. Claimants were only required to include a written narrative of the alleged mandated activities and those required under prior law, and a statement that the actual and/or estimated costs resulting from the alleged mandate exceed \$1000. Additionally, if the test claim contained assertions or representations of fact, the assertions or representations had to be supported by documentary evidence authenticated by a declaration under penalty of perjury signed by a person who was authorized and competent to do so, based on the declarant's personal knowledge, information, or belief.¹⁴ These prior procedural rules were applied to the original *LAFCO* test claim. The test claim also included a declaration signed under penalty of perjury by the claimant's Deputy Chief.¹⁵

Effective January 1, 2005, Government Code section 17553 was amended by Statutes 2004, chapter 890 (AB 2856). Government Code section 17553, as amended, requires test claims to contain the following information supported by declarations signed under penalty of perjury:

- the actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate;
- the actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed; and
- a statewide cost estimate of increased costs that all local agencies will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.¹⁶

To implement the statutory amendments made by AB 2856, the Commission amended section 1183 of its regulations. The amendments were effective on September 6, 2005 (Register 2005, No. 36). Section 1183, subdivision (d), states that "[a]ll test claims, or amendments thereto, shall be filed on a form developed by the executive director and shall contain all of the elements and supplemental documents required by the form and statute." (Emphasis added.) Thus, pursuant to the Commission's regulations, the filing requirements for test claim amendments are the same as the filing requirements for test claims – both of which must comply with Government Code section 17553.

¹⁴ Former Government Code section 17553, as amended by Statutes 1999, chapter 643; California Code of Regulations, title 2, section 1183, as amended on April 21, 2003 (Register 2003, No. 17.)

¹⁵ Exhibit G.

¹⁶ Government Code section 17553, subdivision (b)(1)(C-E), and subdivision (b)(2).

The proposed test claim amendment at issue here was first filed on September 25, 2007, two and a half (2 ½) years *after* Government Code section 17553 and section 1183 of the Commission's regulations were amended. The proposed filing of September 25, 2007, was deemed incomplete, and the claimant did not challenge that finding. The second filing by the claimant was received on December 28, 2007, in an attempt to make the proposed amendment complete. The appellant argues that the Executive Director should have applied Government Code section 17553 and section 1183 of the Commission's regulations, as they existed in 2003, to the proposed test claim amendment filings. By using the 2003 law, appellant argues that the proposed amendment should be deemed complete and the Commission should take jurisdiction over the filing. Appellant further argues that the Executive Director's application of Government Code section 17553 and section 1183 of the Commission's regulations that were in effect in 2007 when the proposed amendment was filed, and which had been in effect for over two years at that point, was applied retroactively and constitutes an error of law. Appellant's interpretation of the law is wrong.

The courts have made it clear that the Legislature may change the rules of procedure, and such changes may be made applicable to pending actions. In such cases, the application of the new procedure is not considered retroactive because procedural statutes become operative only when and if the procedure is invoked. The operation of the amended procedural statute is prospective because it does not deprive a party of any right that existed at the time of the commencement of the action, but instead only prescribes the conditions upon which the action may be brought and maintained.¹⁷ If, however, the new statute affects substantive rights or liabilities of the parties that changes the legal consequences of past events, then the application of the statute may be considered retroactive.¹⁸

In this case, the application of Government Code section 17553 and section 1183 of the Commission's regulations, as these provisions were amended by AB 2856, to the proposed test claim amendment cannot be considered retroactive. When the proposed amendment was filed, the Executive Director severed the amendment from the original *LAFCO* test claim (02-TC-23) for separate consideration by the Commission. The statement of decision on the original *LAFCO* test claim was adopted on September 27, 2007, and was not affected by the proposed test claim amendment. Thus, the substantive rights and liabilities of the parties to the original *LAFCO* test claim were not affected by the Executive Director's decision of February 15, 2008, to disallow the incomplete test claim amendment.

Government Code section 17553 and section 1183 of the Commission's regulations, as amended, simply prescribe the conditions upon which the test claim amendment may be brought and maintained after the operative and effective date of AB 2856. These provisions were applied prospectively to the proposed test claim amendment filed more than two years after the Legislature changed the procedure for filing test claims and test claim amendments.

The facts of this case are similar to other cases where the court has determined that an intervening change in the law applies prospectively only. For example, in *Department of Health*

¹⁷ *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282, 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912. (Ex. M.)

¹⁸ *Ibid.*

Services v. Fontes, the court considered an amendment to a statute addressing the state's right to claim reimbursement for Medi-Cal benefits from the estate of a Medi-Cal recipient who died after the statute was enacted, but received benefits before the effective date of the statute. The court held that the application of the statute was prospective and not retroactively applied.¹⁹ In *Tapia*, the California Supreme Court determined that Proposition 115, the Crime Victim's Justice Reform Initiative that changed the legal consequences of criminal behavior, applied to prosecutions occurring after the effective date of the initiative for crimes committed before the measure's effective date.²⁰ And in *Murphy v. City of Alameda*, the court addressed a statute that changed the burden of proof when challenging city ordinances relating to building permits for residential construction. The statute was enacted after the ordinance was adopted, but before the lawsuit was filed. The court held that the statute applied prospectively to the case.²¹

The facts here can also be *distinguished* from a separate decision of the Executive Director regarding this proposed test claim amendment; a decision that was based on the law that existed when the original *LAFCO* test claim was filed in 2003. When the original *LAFCO* test claim was filed in 2003, the law allowed a party to amend its test claim "at any time prior to a commission hearing without affecting the original filing date as long as the amendment substantially relates to the test claim that was originally filed."²² Thus, under prior law, a claimant could amend a test claim up until the point the Commission Chairperson started the hearing.

Effective January 1, 2005, AB 2856 amended Government Code section 17557 to require that test claim amendments be filed earlier; "before the test claim is set for hearing."²³

In this case, the September 2007 hearing date for the original *LAFCO* test claim was set on June 28, 2007, when the draft staff analysis was issued. If the Executive Director applied the language in Government Code section 17557, as amended by AB 2856, to the test claim amendment, the amendment would not have been accepted in the first place because it was filed *after* the date the original *LAFCO* test claim was set for hearing. Under those circumstances, the claimant's legal right to file a test claim amendment would have been denied and Government Code section 17557 would have had a retroactive affect on the claimant's rights. Claimant's right to file an amendment, however, has not been affected. Rather, the Executive Director simply applied the filing requirements and procedures that were in effect at the time the proposed amendment was filed to determine whether the filing complied with the requirements of the statute and was complete.

¹⁹ *Department of Health Services, supra*, 169 Cal.App.3d 301, 304-305.

²⁰ *Tapia, supra*, 53 Cal.3d 282, 287-292

²¹ *Murphy, supra*, 11 Cal.App.4th 906, 911-912.

²² Former Government Code section 17557, subdivision (c); Former California Code of Regulations, title 2, section 1183, subdivision (a).

²³ Government Code section 17557, subdivision (e), as amended by Statutes 2004, chapter 890 (AB 2856); see also section 1187 of the Commission's regulations, as amended on September 6, 2005 to implement AB 2856. That section states that "[a] test claim shall be set for hearing when commission staff issues its draft staff analysis."

Accordingly, Government Code section 17553 and section 1183 of the Commission's regulations, as these provisions existed when the proposed test claim amendment was filed in 2007, is the law that must be applied to determine if the test claim amendment is complete.

The law governing the procedures for filing test claims that was effective and operative when the proposed amendment was filed is the law that must be applied here

Government Code section 17553, subdivision (b)(1)(C),(D) and (E), requires that the written narrative contain the actual increased costs incurred *by the claimant* during the fiscal year the claim was filed, the actual or estimated costs incurred *by the claimant* during the year following the fiscal year that the claim was filed, and a statewide cost estimate of increased costs that all local agencies will incur to implement the mandate in the fiscal year immediately following the fiscal year for which the claim was filed. Government Code section 17553, subdivision (b)(2), states that these allegations must be supported by declarations signed under penalty of perjury, based on the declarant's personal knowledge, information, or belief, and signed by persons who are authorized and competent to do so.

The documents contained in the proposed amendment filed by Sacramento Metropolitan Fire District are located in Exhibits A and D and described below. Upon further review of these documents, the proposed amendment does contain a statewide estimate of costs that all local agencies may incur as a result of the alleged mandate, and declarations to support the statewide cost estimate to satisfy Government Code section 17553, subdivisions (b)(1)(E) and (b)(2). But the proposed test claim amendment does not contain a statement of actual increased costs incurred *by the claimant* during the fiscal year the claim was filed, the actual or estimated costs incurred *by the claimant* during the year following the fiscal year that the claim was filed, or declarations to support these elements as required by Government Code section 17553, subdivisions (b)(1)(C)(D) and (b)(2).

The proposed test claim amendment pleads 178 Government Code sections in addition to the code sections and alleged executive orders contained in the original *LAFCO* test claim (02-TC-23). There is no information in the narrative of the proposed amendment describing the actual costs incurred by the claimant, Sacramento Metropolitan Fire District, as a result of the alleged mandate. Rather, the actual costs described in the proposed test claim amendment, on page 393 of the record, the December 28, 2007 filing identifies costs to the Fresno County LAFCO only: "Fresno County LAFCO, which recently updated its sphere of influence, experienced almost a 25% increase in costs to do so as stated in the attached declaration of Rick Ballantyne [Executive Officer of the Fresno County LAFCO]." For ongoing cost estimates, page 394 of the record, the December 28, 2007 filing states: "As based on the attached declaration of Allan Burdick costs for on-going compliance with the Act is estimated to be two-thirds of each LAFCO's annual budget."

Two declarations were attached to the December 28, 2007 filing. The first declaration is signed by Rick Ballantyne, Executive Director of the Fresno County LAFCO. The declaration describes alleged increased costs to Fresno County LAFCO as a result of the test claim statutes. The declaration does not discuss any costs incurred by the claimant,

Sacramento Metropolitan Fire District, or any other local agency. Mr. Ballantyne's declaration states in relevant part the following:

2. In 2000, Cortese-Know-Hertzberg Local Government Reorganization Act created a major change for LAFCOs. The Act encouraged the LAFCOs to be independent agencies no longer part of county government. As a result, those working for LAFCOs were no longer County employees, LAFCOs hired independent counsel and were able to provide for services for in-house or contract out.
3. Fresno County LAFCO is comprised of two representatives from the County of Fresno; two representatives of cities located within Fresno County; and one at-large representative.
4. Fresno County LAFCO has faced two challenges and increased costs due to requirements of the Act. These are: Municipal Service Review and updated the Sphere of Influence. Fresno County has 15 cities and 122 special districts making the update a large enough project that the matter was handled by consultants at a cost of \$196,497.
5. The annual budget for Fresno County LAFCO this year is \$803,000. We are fortunate to be going through a period of growth which will bring us an estimated \$250,000 in fees. I estimate that 24.5% of our annual budget was put towards compliance with the Act through completion of the required Municipal Reviews and Spheres of Influence Updates.²⁴

The second declaration is signed by Mr. Allan Burdick of MAXIMUS, Inc. Mr. Burdick is listed as the claimant's representative on the proposed test claim amendment filed on September 25, 2007. Mr. Burdick's declaration is filed in support of the alleged statewide cost estimate for the proposed amendment, which does comply with Government Code section 17553, as amended by AB 2856. The declaration does not, however, state facts relating to the actual increased costs incurred *by the claimant* during the fiscal year the claim was filed, or the actual or estimated costs incurred *by the claimant* during the year following the fiscal year that the claim was filed. Mr. Burdick's declaration states in relevant part the following:

1. I am currently employed by MAXIMUS, Inc. and have worked with California's state mandate cost local program since 1978 as an employee of MAXIMUS or the California State Association of Counties. I have personal knowledge of the facts stated herein and if called upon to testify, I could do so competently.
2. In establishing the statewide cost estimate, I discussed the test claim statute with several LAFCO representatives over a period of weeks gathering general information on the requirements of the Act and the impact on LAFCOs. On December 28, 2007, I contacted Rick Ballantyne, Executive Officer of the Fresno County LAFCO, to establish some additional facts. I was advised that the costs in his declaration are for the consultants to complete the sphere of influence update and the municipal services review but that the staff worked on these as well and

²⁴ See page 395 of the record.

had done so over a period of two fiscal years. I was also advised that, in light of the Act, Fresno County LAFCO expanded its staff from two to five.

3. I consulted the State Controller's Annual Report for Counties online to obtain fiscal year 04-05 county figures. I expanded that figure, assuming counties are paying one-third of LAFCOs' costs, to create total costs for the 04-05 fiscal year. I then extrapolated those costs to projects [sic] costs both backward to fiscal year 00-01 and forward. Assuming twenty percent of 04-05 costs for FY 00-01, eighty percent for 01-02, ninety-two percent for 02-03, ninety five percent for 03-04, a five percent increase for 05-06 and a twenty percent increase for 06-07 to account for the required compliance with the update of the sphere of influence and the municipal service review, I estimated the annual statewide budget for all LAFCOs. That estimate is: FY 00-01, \$4,631,908; FY 01-02, \$14,790,105; FY 02-03, \$17,008,621; FY 03-04, \$17,563,250; FY 04-05, \$18,487,632; FY 05-06, \$10,412,013; and FY 06-07, \$22,185,158.
4. In looking at the information I was able to gather, I estimated that the total impact of compliance with the Act would involve at least two-thirds of the annual LAFCOs' budgets. This would cover the new costs to cities and special districts and a small percentage increase for counties who had to bear costs prior to the Act. That amount for the six and a half fiscal years is approximately seventy six million dollars.²⁵

While these declarations may support the allegation that the test claim statutes resulted in increased costs to LAFCOs, there is no evidence in the filings regarding the amounts charged to and expended by the LAFCO members - which are cities, counties, and special districts - for the alleged new activities for any fiscal year. As stated in the letter disallowing the proposed amendment, allegations of increased costs by a LAFCO, an entity that is not a local agency eligible to claim reimbursement under article XIII B, section 6 of the California Constitution, cannot represent the interests of other local agencies. Reimbursement under article XIII B, section 6 is required only when a local entity is required to comply with the tax and spend provisions of articles XIII A and XIII B of the California Constitution. Under these provisions, limits are placed on an entity's authorization to expend proceeds of taxes, or tax revenues. There is no spending limitation placed on the expenditure of revenues that do not constitute proceeds of taxes. Thus, as determined by the courts, article XIII B, section 6 does not require reimbursement when the expenses incurred by the local entity are recoverable from sources other than tax revenue; i.e., service charges, fees, or assessments. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487; *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281-282.) A local entity cannot accept the benefits of an exemption from article XIII B's spending limit while asserting an entitlement to reimbursement under article XIII B, section 6. (*City of El Monte, supra*, at p. 282.)

A LAFCO is a separate and distinct entity from its county, city, and special district members. As a separate entity, it has several powers and duties listed in Government Code section 56375. But LAFCOs do not have the power to levy tax revenues to pay for their expenses. Rather, the

²⁵ See page 396 of the record.

operating costs of a LAFCO are paid by the county, cities, and special districts served by the LAFCO. (Gov. Code, §§ 56381 and 56381.6.) In addition, LAFCOs are authorized to charge fees for the cost of specified proceedings undertaken by the LAFCO, and funding and facilities for LAFCOs have historically been provided by the county served. (Gov. Code, §§ 56381, 56383.) Thus, LAFCOs are exempt from the spending limitations of article XIII B and cannot, by law, claim reimbursement under article XIII B, section 6 of the California Constitution.

And finally, appellant argues that its test claim amendment, when viewed in light of the existing *LAFCO* test claim record (02-TC-23), provides a record of the actual increased costs incurred by the test claimant and the estimated costs incurred by the claimant. The Commission, however, cannot use the record of the original *LAFCO* test claim to support the alleged costs incurred as a result of the proposed test claim amendment because the test claim amendment pleads an additional 178 Government Code statutes that were *not* pled in the original test claim. The claimant has not complied with the requirements of Government Code section 17553 with respect to these additional statutes.

Conclusion

Accordingly, Sacramento Metropolitan Fire District did not file a completed test claim amendment within the time requirements provided by law. Government Code section 17553 and the section 1183 of the Commission's regulations only provide potential claimants 30 calendar days from the date that an incomplete test claim amendment was returned to perfect the filing. The claimant has been given 30 days, after it was notified that its first filing was incomplete, to file a completed test claim amendment. The second document filed on December 28, 2007, still does not satisfy the filing requirements for test claim amendments. Since the law does not give the Commission jurisdiction to accept another filing to perfect the requirements of Government Code section 17553, the Executive Director, pursuant to the authority provided in Government Code section 17553, subdivision (c), properly disallowed the proposed test claim amendment.

Recommendation

Therefore, staff recommends that the Commission deny the appeal and uphold the Executive Director's decision to disallow the proposed test claim amendment to the original *LAFCO* test claim (02-TC-23).

PAGES 18-100 LEFT BLANK INTENTIONALLY

TEST CLAIM NUMBER

LAFCO Amended

CLAIMANT INFORMATION

Sacramento Metropolitan Fire District
Name of Local Agency or School District

David M. Baltzell
Claimant Contact

Assistant Chief
Title

2101 Hurley Way
Street Address

Sacramento, CA 95825-3208

City, State, Zip
(916) 566-4000

Telephone Number
(916) 566-4157

Fax Number
baltzell.david@smfd.ca.gov

E-Mail Address

CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Allan P. Burdick
Claimant Representative Name

Vice President
Title

MAXIMUS
Organization

4320 Auburn Blvd., Suite 2000
Street Address

Sacramento, CA 95841
City, State, Zip

(916) 485-8102 x 113
Telephone Number

(916) 485-0111
Fax Number

allanburdick@maximus.com
E-Mail Address

RECEIVED
SEP 25 2007
COMMISSION ON STATE MANDATES

For CSA
Filing Date: EXHIBIT A
Test Claim #:

LIST OF STATUTES AND/OR EXECUTIVE ORDERS CITED

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

Government Code section 56326.5, Chapter 439, Statutes of 1991 [AB748]; Government Code Government Code sections 56001, 56029, 56036, 56046, 56067, 56069, 56100, 56101, 56107, 56123, 56124, 56133, 56150, 56154, 56156, 56157, 56159, 56300, 56301, 56325, 56326.5, 56329, 56332, 56375, 56375.3, 56375.5, 56377, 56380, 56381, 56381.6, 56383, 56384, 56386, 56425, 56425.5, 56429, 56430, 56434, 56653, 56654, 56658, 56660, 56662, 56663, 56664, 56665, 56666, 56667, 56668, 56668.3, 56668.5, 56700.1, 56700.4, 56705, 56706, 56708, 56710, 56720, 56730, 56737, 56738, 56742.5, 56743, 56744, 56745, 56751, 56752, 56753, 56753.5, 56754, 56755, 56756, 56757, 56758, 56759, 56760, 56764, 56800, 56801, 56803, 56810, 56811, 56812, 56815, 56820, 56820.5, 56820.7, 56821, 56821.1, 56821.3, 56821.5, 56821.7, 56822, 56822.3, 56822.5, 56823, 56824, 56824.1, 56824.3, 56824.5, 56824.7, 56826, 56827, 56828, 56829, 56830, 56831, 56833, 56834, 56835, 56840, 56843, 56844, 56846, 56847, 56848, 56853, 56854, 56855, 56857, 56859, 56860, 56861, 56862, 56863, 56864, 56864.1, 56876, 56880, 56881, 56882, 56885.5, 56886, 56886.3, 56889, 56895, 56897, 57000, 57001, 57002, 57008, 57025, 57026, 57050, 57052, 57075, 57075.5, 57077, 57078, 57078.5, 57080, 57081, 57100, 57102, 57103, 57105, 57106, 57107, 57108, 57109, 57113, 57114, 57115, 57116, 57117, 57118, 57119, 57120, 57125, 57129, 57144, 57145, 57150, 57176, 57167.1, 57177, 57177.5, 57179, 57200, 57201, 57302, 57384, 57402, 57404, Chapter 761, Statutes of 2000 [A.B. 2838]; Government Code section 56381, Chapter 493, Statutes of 2002 [A.B. 1948]; LAFCO Municipal Services Review Guidelines, and LAFCO Municipal Services Review Guidelines Appendices

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:
5. Written Narrative: pages ____ to ____
6. Declarations: pages ____ to ____
7. Documentation: pages ____ to ____

(Revised 1/2005)

8 CLAIM CERTIFICATION

Read, sign, and date this section and insert at the end of the test claim submission.*

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

DAVID M. BALTZELL

Print or Type Name of Authorized Local Agency or School District Official

ASSISTANT CHIEF

Print or Type Title

David M. Baltzell

Signature of Authorized Local Agency or School District Official

9/26/07

Date

* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.

SECTION 5: WRITTEN NARRATIVE

INTRODUCTION

Overview

In 2000, Assembly Bill 2838 (Chapter 761, Statutes of 2000) was passed significantly expanding the scope and responsibilities of the Local Area Formation Commissions (LAFCOs) and their member counties, cities and special districts. As a result, the LAFCOs experienced a significant increase in the costs of providing services. Due to the nature of the funding provisions for LAFCOs, these costs were passed on to and apportioned among each LAFCO's member counties, cities and special districts.

Application of Mandate Law

The mandate created by these statutes clearly meets both tests that the Supreme Court in the *County of Los Angeles v. State of California* (1987) created for determining what constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists, are the "unique to government" and the "carry out a state policy" tests. Their application to this test claim is discussed below.

The mandate is unique to local government: The statutes claimed involve new requirements for the LAFCOs and their members. The LAFCOs are statutorily-created local administrative bodies mainly comprised of and funded by local government members. Thus, this program is unique to local government.

The mandate carries out a state policy: From the legislation, it is clear that the LAFCOs were created by the Legislature for the sole purpose of presiding over and making determinations concerning the organization and reorganization for cities and districts. Thus, this program carries out a state policy.

Finally, there are seven disclaimers specified in Government Code section 17556 which could serve to bar recovery of "costs mandated by the State", as defined in that section. Test claimant asserts that none of the seven disclaimers apply to this test claim:

1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.

LAFCO Amended
Sacramento Metropolitan Fire District
Section 5: Written Narrative

2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.
3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.
4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.
5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.
6. The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure approved by the voters in a statewide or local election regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.
7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

A. MANDATE SUMMARY

B. MODIFIED ACTIVITIES

C. ACTUAL COSTS

These costs are all reimbursable costs as such costs are "costs mandated by the State" under Article XIII B, section 6 of the California Constitution, and Government Code

LAFCO Amended
Sacramento Metropolitan Fire District
Section 5: Written Narrative

§17500 *et seq.* Section 17514 of the Government Code defines "costs mandated by the state", and specifies the following three requirements:

1. There are "increased costs which a local agency is required to incur after July 1, 1980."
2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975 or any executive order implementing any statute enacted on or after January 1, 1975."
3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

All three of the above requirements for finding costs mandated by the State are met as described previously herein.

D. COST ESTIMATES

E. STATEWIDE COST ESTIMATES

F. FUNDING SOURCES

Test claimant is unaware of any funding sources for these new activities.

G. PRIOR MANDATE DETERMINATIONS

Test claimant notes that the original LAFCO test claim, 02-TC-23, is pending before the Commission. As of this date, no determination has been made but, once made, such determination is likely to bear heavily on the Commission's handling of the instant matter.

CONCLUSION

The enactment of Chapter 761, Statutes of 2000, imposed a new state mandated program and cost on LAFCOs and their member counties, cities and special districts. The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state-mandated program.

poison issued pursuant to Section 5260 of Title 3 of the California Code of Regulations for the purpose of testing the economic poison, and the produce on which the economic poison was tested is required to be destroyed, any actual costs incurred by the commissioner to investigate and confirm the destruction of the produce shall be paid for by the person who has the research authorization. The costs charged by the commissioner shall not exceed one hundred twenty-five dollars (\$125) per test site. The board of supervisors of each county may adopt a fee schedule to cover the commissioner's costs under this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 439

An act to add Section 56326.5 to the Government Code, relating to local agency formation commissions.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 56326.5 is added to the Government Code, to read:

56326.5. In Sacramento County, the commission shall consist of seven members, selected as follows:

(a) Two representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One representing the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. The mayor shall also appoint, subject to confirmation by the

64480

council, an alternate member who is a member of the city council. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One representing the cities in the county, who is a city officer appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335.

(d) Two representing special districts selected by an independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56332.

(e) One representing the general public, appointed by the other six members of the commission. The commission may also appoint an alternate public member who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

The member initially selected to serve pursuant to subdivision (b) shall commence serving on or after January 1, 1992, on a date determined by the Mayor of the City of Sacramento, and shall serve for the remainder of the term of, and in place of, a member to be designated by the mayor, appointed pursuant to subdivision (b) of Section 56325.

SEC. 2. The City of Sacramento has the largest population of any city in the County of Sacramento, creating a unique set of circumstances which affects its role in the growth and development of urban areas. Due to these unique facts and circumstances applicable only to the County of Sacramento, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Special legislation is, therefore, necessary to be applicable only to the County of Sacramento.

Assembly Bill No. 2838

CHAPTER 761

An act to amend Section 35721 of, and to add Sections 35700.5 and 35721.5 to, the Education Code, to amend Sections 34880, 56000, 56001, 56029, 56036, 56038, 56046, 56048, 56064, 56067, 56068, 56069, 56074, 56100, 56101, 56106, 56107, 56122, 56123, 56124, 56129, 56132, 56133, 56150, 56154, 56156, 56157, 56159, 56300, 56301, 56325, 56326, 56326.5, 56327, 56328, 56329, 56332, 56334, 56375, 56375.5, 56377, 56383, 56384, 56386, 56425, 56429, 56653, 56705, 56706, 56708, 56710, 57000, 57001, 57002, 57003, 57007, 57008, 57025, 57026, 57050, 57051, 57052, 57075, 57075.5, 57076, 57077, 57078, 57080, 57081, 57090, 57125, 57126, 57127, 57129, 57130, 57131, 57133, 57138, 57144, 57145, 57146, 57148, 57149, 57150, 57176, 57176.1, 57177, 57177.5, 57178, 57179, 57200, 57201, 57302, 57303, 57379, 57384, 57402, and 57404 of, to amend the heading of Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of, to amend and renumber Sections 57053, 57079.5, 57082, 57082.5, 57083, 57083.5, 57084, 57085, 57086, 57087, 57087.5, 57087.7, 57088, 57089, 57091, 57092, 57093, 57100, 57101, 57102, 57103, 57103.1, and 57104 of, to amend, renumber, and add Section 56800 of, to add Sections 56020.5, 56020.7, 56037.5, 56038.5, 56100.1, 56325.1, 56327.3, 56332.5, 56375.3, 56381.6, 56425.5, 56430, 56655, 56657, 56658, 56660, 56661, 56662, 56663, 56664, 56665, 56666, 56667, 56668, 56668.5, 56700.1, 56700.4, 56803, 56815.2, 56848, and 57078.5 to, to add a heading as Article 1 (commencing with Section 56800) to, and to add Article 2 (commencing with Section 56810) and Article 3 (commencing with Section 56815) to, Chapter 4 of Part 3 of Division 3 of Title 5 of, to add Article 1 (commencing with Section 56820) to, to add a heading as Article 2 (commencing with Section 56825) to, to add Article 3 (commencing with Section 56859) to, to add Article 4 (commencing with Section 56864) to, and to add Article 5 (commencing with Section 56875) to, Chapter 5 of Part 3 of Division 3 of Title 5 of, to add a heading as Chapter 5 (commencing with Section 56820) to, to add Chapter 3 (commencing with Section 56720) and Chapter 6 (commencing with Section 56880) to, Part 3 of Division 3 of Title 5 of, to add and repeal Section 56434 of, to repeal Sections 56022, 56108, 56109, 56110, 56111, 56111.1, 56111.5, 56111.6, 56111.7, 56111.9, 56111.10, 56111.11, 56111.12, 56111.13, 56111.14, 56112, 56113, 56114, 56330, 56375.1, 56375.4, 56375.45, 56426, 56656, 56700.3, 56700.5, 56701, 56702, 56800.3, 56827.5, 56828.5, 56833.1, 56833.3, 56833.5, 56839.1, 56840.5, 56842.2, 56842.5, 56842.6, 56842.7, 56844.1, 56844.2, 56848.3, 56848.5, 56850, 56851, 56852, 56852.3, 56852.5, 56858, 56859, 57004, 57005, 57006, 57079, and 57175 of, to repeal the heading of Chapter 5 (commencing with Section 56825) of Part 3 of Division 3 of Title 5 of, to repeal Chapter 5 (commencing with Section 56450) of, and

Chapter 6 (commencing with Section 56475) of, Part 2 of Division 3 of Title 5 of, to repeal Chapter 3 (commencing with Section 56750) of Part 3 of Division 3 of Title 5 of, and to repeal and add Sections 56380, 56381, 56801, 56802, 56826, 56827, 56828, 56829, 56830, 56831, 56832, 56833, 56834, 56835, 56836, 56837, 56838, 56839, 56840, 56841, 56842, 56843, 56844, 56845, 56846, 56847, 56849, 56853, 56854, 56855, 56856, and 56857 of, the Government Code, and to amend Section 99 of the Revenue and Taxation Code, relating to local agencies.

[Approved by Governor September 26, 2000. Filed
with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2838, Hertzberg. Local agency formation commissions.

(1) Under existing law, the Cortese-Knox Local Government Reorganization Act of 1985, the local agency formation commission in each county is required to review and approve or disapprove proposals for changes of organization or reorganization of cities and districts within the county. If a proposal is approved, further proceedings, including a hearing and an election if required, are conducted by the county or other public agency designated as the conducting authority.

This bill would rename the act as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, delete references in the act to the conducting authority, and transfer its duties and powers to the commission.

(1.5) Under existing law, an action to reorganize school districts may be initiated by a petition filed with the county superintendent of schools signed by 25% of the registered voters in the territory to be reorganized. Following the receipt of a petition signed by at least 10% of the qualified electors of a school district for unification or other organization, the county committee on school district organization is required to hold a public hearing.

This bill would require the county committee to provide written notice to the commission before initiating proceedings to consider any reorganization plan under either provision. The bill would also require the county committee to hold a public hearing on receipt of a resolution of a local agency, as specified, for consideration of unification or other reorganization.

(2) Under the act, noncontiguous territory may not be annexed to a city. However, statutory exceptions permit particular cities to annex noncontiguous territory that constitutes a state correctional facility or a state correctional training facility.

This bill would delete these exceptions and authorize any city to annex that noncontiguous territory upon approval of the local agency formation commission.

(3) Existing law authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries if it receives written approval from the commission but provides that this approval requirement does not apply to contracts or agreements solely involving 2 or more public agencies.

This bill would permit this exception where the public service to be provided is an alternative to or substitute for public services already being provided, as specified. This bill would also require the executive officer, within 30 days of receipt of a request for approval by a city or district to extend services outside its jurisdictional boundary, to determine whether the request is complete and acceptable for filing and, if not, to transmit that determination to the requester, specifying the parts that are incomplete. When the request is deemed complete, the executive officer would be required to place the request on the agenda of the next commission meeting.

(4) Existing law specifies how required notice shall be published, posted, or mailed with respect to the proceedings of a local agency formation commission.

This bill would provide that required notice shall also be given in electronic format on a website provided by the commission to the extent that the commission maintains a website. The bill would require the commission to establish and maintain, or otherwise provide access to, notices and provide other commission information for the public through an Internet website, thereby imposing a state-mandated local program.

This bill would require the commission to provide written notice of a proposed reorganization that may affect school attendance for a district to the countywide school district and each school superintendent whose district would be affected.

This bill would additionally require the commission to provide mailed notice to all registered voters and owners of property within 300 feet of the exterior boundary of the property that is the subject of a commission hearing.

(5) Existing law defines "landowner" or "owner of land" for purposes of the act as any person shown as the owner of land on the last equalized assessment roll except where that person is no longer the owner.

This bill would change that definition to any person shown as the owner of land on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application except where that person is no longer the owner, and would make related changes.

(6) Existing provisions of the act require that notices of hearings of a local agency formation commission be published at least 15 days prior to the date of the hearing.

This bill would change that period to at least 20 days prior to the date of the hearing.

(7) Existing law declares the intent of the Legislature that each commission establish policies and exercise its powers to encourage efficient urban development and consideration of preserving open-space lands.

This bill would declare the intent of the Legislature that each commission establish written policies and procedures not later than January 1, 2002. The bill would require the policies and procedures to include lobbying disclosure and reporting requirements and forms to be used for submittals to the commission.

(8) The act establishes the purposes of a local agency formation commission, such as discouraging urban sprawl and encouraging orderly formation and development of local agencies.

This bill would add to those purposes preserving open-space and agricultural lands and efficiently providing government services. The bill would also require a commission, when formation of a new governmental entity is proposed, to make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. The bill would require a commission to apply various factors when reviewing and approving or disapproving proposals that may convert open-space lands to other uses.

(9) The act establishes procedures for the selection of the 5 members of a local agency formation commission.

This bill would increase the number of members to 7 and would revise the selection procedures.

Existing law provides that the commission for Los Angeles County consists of 7 members.

This bill would increase that membership to 9 members.

(10) Existing law sets forth the various powers and duties of a local agency formation commission in reviewing and approving or disapproving proposals for changes of organization or reorganization. Among other things, a commission may require as a condition to annexation that a city prezone the territory to be annexed.

This bill would provide that a commission shall require that rezoning, and would require that approval of the annexation be consistent with the planned and probable use of the property based upon the review of the general plan and rezoning designations.

This bill would also authorize a commission to enter into an agreement with the commission of an adjoining county to determine procedures for considering proposals that may affect the adjoining county. The bill would also authorize a commission to review the consistency of a proposal within a city's general plan when a proposed action would require the extension of critical services.

This bill would authorize a commission to require the disclosure of contributions, expenditures, and independent expenditures made in support of or opposition to a proposal and to require lobbying

disclosure and reporting requirements for persons who attempt to influence pending decisions by commission members, staff, or consultants, would prescribe how disclosure is to be made, and would require a commission to hold public hearings to discuss the adoption of policies and procedures governing disclosure, thereby imposing a state-mandated local program.

(11) Existing law requires the county board of supervisors to provide for necessary quarters, facilities, supplies, and the usual and necessary operating expenses of a local agency formation commission. The commission is required to submit an estimate of operating expenses to the board.

This bill would repeal that requirement and provide that the commission expenses shall be provided by the county, the cities, and the special districts. The bill would require that the estimate be submitted to the cities and the counties and would require the commission to adopt a budget following a noticed public hearing, thereby imposing a state-mandated local program.

(12) Existing law authorizes a local agency formation commission to establish a schedule of fees for the costs of proceedings under the Cortese-Knox Local Government Reorganization Act of 1985, including a fee for checking the sufficiency of any petition filed with the executive officer of the commission.

This bill would require the signatures on a petition to be verified by the county elections official. The bill would provide that the costs of verification shall be provided for in the same manner and by the same agencies that bear those costs for an initiative petition in the same jurisdiction.

The bill would also authorize a commission to waive a fee in the public interest and to request a loan from the Controller for petition proceedings for an incorporation, as specified.

(13) Existing law authorizes a local agency formation commission to appoint an executive officer and legal counsel.

This bill would require a commission to appoint an executive officer and legal counsel, would authorize the commission to appoint staff, and would provide for alternatives if there is a conflict of interest on a matter before the commission.

(14) Existing law requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency within the county and periodically review and update the adopted sphere of influence.

This bill would require the review and update not less than once every 5 years. For that update and review the bill would require a commission to conduct a service review of municipal services provided in the county. The bill would require a commission to make certain determinations concerning functions and services provided by existing districts before approving any special district sphere of influence or any sphere of influence that includes a special district.

(15) Existing law requires a local agency formation commission to develop, determine, and adopt a sphere of influence for each local governmental agency that provides facilities or services related to development no later than January 1, 1985.

This bill instead would require the commission to develop and determine the sphere of influence of each local governmental agency and update that sphere of influence not less than once every 5 years and would provide a procedure until January 1, 2007, for city and county representatives to reach agreement on the scope of the proposed or revised sphere of influence. The bill would authorize the commission to review and approve a proposal that extends services into unserved, unincorporated areas and to review the creation of new service providers, as specified.

(15.5) Existing law authorizes certain local agencies to establish sewer and water supply facilities on designated lands related to the development of certain territory within the Norton Air Force Base Redevelopment Project Area, as specified.

This bill would provide that a determination of a city's sphere of influence that includes any of that redevelopment project area shall not preclude any other local agency from providing facilities or services related to development, as specified.

(16) Under the act, a local agency formation commission may adopt regulations affecting the functions and services of special districts. As long as those regulations are in effect, the special districts must be represented on the commission.

This bill would repeal this representation requirement and would provide that if the commission has special district representation prior to January 1, 2001, a majority of the independent special districts may require the commission to repeal previously adopted regulations that limit the exercise of powers of special districts.

(17) Existing law creates the Special Commission on Los Angeles Boundaries with specified duties and implements that commission only to the extent that funds are appropriated in the annual Budget Act.

This bill would repeal these provisions.

(18) Existing law defines a special reorganization as a reorganization that includes the detachment of territory from a city or city and county and the incorporation of that entire detached territory as a city.

This bill would specify that proceedings for a special reorganization shall be conducted in accordance with the procedures otherwise prescribed for incorporation of a city.

The bill would also require that expenditures and contributions for political purposes related to a change of organization or reorganization proposal be disclosed and reported in the manner provided for local initiative measures.

(19) Existing law specifies the percentages of registered voters or landowners who must sign petitions for various changes or organization.

This bill would revise these percentages for city consolidations, city annexations, city detachments, district detachments or annexations, district dissolutions, district mergers, or the establishment of a district as a subsidiary district of a city.

(20) Existing law requires that commission review of a reorganization proposal include, but not be limited to, specified factors.

This bill would add to those factors the ability of the newly formed or receiving entity to provide services, the timely availability of adequate water supplies, the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs, and information from landowners or relating to existing land use designations.

This bill would also require a commission, in considering a proposal including the formation of a new government, to make a determination of the efficiency of existing agencies in providing the needed service or services. The bill would authorize the commission to consider regional growth goals and policies established by local elected officials.

(21) Existing law provides that in any order approving a change of organization or reorganization, the commission may make approval conditional on any of specified factors.

This bill would authorize a condition prohibiting an agency being dissolved from taking certain actions unless an emergency situation exists.

(22) This bill would require the Office of Planning and Research, in consultation with the Controller, to convene a task force of representatives from local agencies and commissions to create statewide guidelines for the incorporation process.

(23) Existing law authorizes any person or affected agency to file a written request to amend or reconsider a commission resolution making determinations.

This bill would require the request to state new or different facts or applicable new law to warrant reconsideration of the resolution.

(24) Existing law requires the conducting authority to consider certain factors if a proposed change of organization is a district annexation.

This bill would require a commission to consider these factors for a city detachment or a district annexation, other than a special reorganization, would add as a factor any resolution objecting to the action that may be filed by an affected agency, and would require the commission to give great weight to such a resolution.

(25) Existing law requires, in the event of a jurisdictional change that would affect the service area or responsibility of one or more

special districts, that the board of supervisors negotiate any exchange of property taxes on behalf of the district or districts.

This bill would require the board, prior to entering into negotiation, to consult with the affected districts, with notice to the district board members and executive officer, and adequate opportunity for comment.

(26) This bill would incorporate additional changes in specified sections of the Government Code proposed by AB 1495 and AB 2779, that would become operative if either or both of those bills and this bill are enacted and become effective on or before January 1, 2001, and this bill is enacted last.

(27) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 35700.5 is added to the Education Code, to read:

35700.5. Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

SEC. 1.5. Section 35721 of the Education Code is amended to read:

35721. (a) On receipt of a petition signed by at least 10 percent of the qualified electors residing in any district for a consideration of unification or other reorganization of any area, the county committee shall hold a public hearing on the petition at a regular or special meeting.

(b) On receipt of a petition signed by at least 5 percent of the qualified electors residing in a school district with over 200,000 pupils in average daily attendance in which the petition is to reorganize the district into two or more districts, the county committee shall hold a public hearing on the petition at a regular or special meeting.

(c) On receipt of a resolution approved by a majority of the members of a city council, county board of supervisors, governing body of a special district, or local agency formation commission that has jurisdiction over all or a portion of the school district for

consideration of unification or other reorganization of any area, the county committee shall hold a public hearing on the proposal at a regular or special meeting.

(d) Following the hearing conducted pursuant to subdivision (a), (b), or (c), the county committee shall grant or deny the petition. If the county committee grants the petition, it shall adopt a tentative recommendation following which action it shall hold one or more public hearings in the area proposed for reorganization. The provisions of Sections 35705 and 35705.5 shall apply to any such public hearing.

SEC. 2. Section 35721.5 is added to the Education Code, to read:

35721.5. Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

SEC. 3. Section 34880 of the Government Code is amended to read:

34880. (a) If the petition or proposal developed by the commission for submission to the electorate for incorporation or special reorganization of a city provides for the election of members of the legislative body by (or from) districts and includes substantially the provisions required to be included in an ordinance providing for that election, including Section 34871, the members of the legislative body shall be elected in the manner provided in the petition or proposal.

(b) The members of the legislative body shall hold office until the next general municipal election. At the next general municipal election the members elected by or from the even-numbered districts shall hold office for four years and the members elected by or from the odd-numbered districts shall hold office for two years. Thereafter the term of office is four years.

SEC. 3.5. Section 56000 of the Government Code is amended to read:

56000. This division shall be known and may be cited as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

SEC. 4. Section 56001 of the Government Code is amended to read:

56001. The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services. The Legislature also

recognizes that providing housing for persons and families of all incomes is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible.

The Legislature recognizes that urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The Legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities are required to be established regarding the type and levels of services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that those community service priorities are required to reflect local circumstances, conditions, and limited financial resources. The Legislature finds and declares that a single multipurpose governmental agency is accountable for community service needs and financial resources and, therefore, may be the best mechanism for establishing community service priorities especially in urban areas. Nonetheless, the Legislature recognizes the critical role of many limited purpose agencies, especially in rural communities. The Legislature also finds that, whether governmental services are proposed to be provided by a single-purpose agency, several agencies, or a multipurpose agency, responsibility should be given to the agency or agencies that can best provide government services.

SEC. 5. Section 56020.5 is added to the Government Code, to read:

56020.5. "Certificate of completion" means the document prepared by the executive officer and recorded with the county recorder that confirms the final successful resolution of a change of organization or reorganization.

SEC. 6. Section 56020.7 is added to the Government Code, to read:

56020.7. "Certificate of termination of proceedings" means the document prepared by the executive officer and retained by the commission that indicates that a proposal for a change of organization or reorganization was terminated because of a majority written protest or rejection by voters in an election.

SEC. 7. Section 56022 of the Government Code is repealed.

SEC. 8. Section 56029 of the Government Code is amended to read:

56029. "Conducting authority" means the commission of the principal county of the entity proposing a change of organization or reorganization, unless another conducting authority is specified by law.

SEC. 9. Section 56036 of the Government Code is amended to read:

56036. (a) "District" or "special district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" or "special district" includes a county service area, but excludes all of the following:

- (1) The state.
- (2) A county.
- (3) A city.
- (4) A school district or a community college district.
- (5) A special assessment district.
- (6) An improvement district.
- (7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5.
- (8) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.
- (9) An air pollution control district or an air quality maintenance district.
- (10) A service zone of a fire protection district.

(b) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or a "special district" for the purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or a "special district:"

- (A) A unified or union high school library district.
- (B) A bridge and highway district.
- (C) A joint highway district.
- (D) A transit or rapid transit district.
- (E) A metropolitan water district.
- (F) A separation of grade district.

(2) Any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving an entity described in paragraph (1) shall be conducted pursuant to the principal act authorizing the establishment of that entity.

(c) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or "special district" for purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or "special district" if the commission of the principal county determines, in accordance with Sections 56127 and 56128, that the entity is not a "district" or "special district."

- (A) A flood control district.
- (B) A flood control and floodwater conservation district.
- (C) A flood control and water conservation district.
- (D) A conservation district.
- (E) A water conservation district.
- (F) A water replenishment district.
- (G) The Orange County Water District.
- (H) A California water storage district.
- (I) A water agency.
- (J) A county water authority or a water authority.

(2) If the commission determines that an entity described in paragraph (1) is not a "district" or "special district," any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving the entity shall be conducted pursuant to the principal act authorizing the establishment of that entity.

SEC. 10. Section 56037.5 is added to the Government Code, to read:

56037.5. "Elections official" shall have the same meaning as in Section 320 of the Elections Code.

SEC. 11. Section 56038 of the Government Code is amended to read:

56038. "Executive officer" means the executive officer appointed by a commission.

SEC. 12. Section 56038.5 is added to the Government Code, to read:

56038.5. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological factors.

SEC. 13. Section 56046 of the Government Code is amended to read:

56046. "Inhabited territory" means territory within which there reside 12 or more registered voters. The date on which the number of registered voters is determined is the date of the adoption of a resolution of application by the legislative body pursuant to Section 56654, if the legislative body has complied with subdivision (b) of that section, or the date a petition or other resolution of application is accepted for filing and a certificate of filing is issued by the executive officer. All other territory shall be deemed "uninhabited."

SEC. 14. Section 56048 of the Government Code is amended to read:

56048. (a) Except as otherwise provided in subdivision (b) or (c), "landowner" or "owner of land" means all of the following:

(1) Any person shown as the owner of land on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application except where that person is no longer the owner. Where that person is no longer the owner, the landowner or owner of land is any person entitled to be shown as owner of land on the next assessment roll.

(2) Where land is subject to a recorded written agreement of sale, any person shown in the agreement as purchaser.

(3) Any public agency owning land.

(b) "Landowner" or "owner of land" does not include a public agency which owns highways, rights-of-way, easements, waterways, or canals.

(c) For the purpose of mailed notice provided pursuant to Section 56157, "landowner" or "owner of land" means each person to whom land is assessed, as shown upon the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application, at the address shown upon that assessment roll.

SEC. 15. Section 56064 of the Government Code is amended to read:

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.

(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four

hundred dollars (\$400) per acre for three of the previous five calendar years.

SEC. 16. Section 56067 of the Government Code is amended to read:

56067. "Proceeding," "proceeding for a change of organization," or "proceeding for a reorganization" means proceedings taken by the commission for a proposed change of organization or reorganization pursuant to Part 4 (commencing with Section 57000).

SEC. 17. Section 56068 of the Government Code is amended to read:

56068. "Proponent" means the person or persons who file a notice of intention to circulate a petition with the executive officer.

SEC. 18. Section 56069 of the Government Code is amended to read:

56069. "Proposal" means a request or statement of intention made by petition or by resolution of application of a legislative body or of a school district proposing proceedings for the change of organization or reorganization described in the request or statement of intention.

SEC. 19. Section 56074 of the Government Code is amended to read:

56074. "Service" means a class established within, and as a part of, a single function, as provided by regulations adopted by the commission pursuant to Chapter 5 (commencing with Section 56820) of Part 3.

SEC. 21. Section 56100 of the Government Code is amended to read:

56100. Except as otherwise provided in paragraph (2) of subdivision (b) of Section 56036, paragraph (2) of subdivision (c) of Section 56036, and Section 56101, this division provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. All changes of organization and reorganizations shall be initiated, conducted, and completed in accordance with, and as provided in, this division.

Notwithstanding any other provision of law, proceedings for the formation of a district shall be conducted as authorized by the principal act of the district proposed to be formed, except that the commission shall serve as the conducting authority and the procedural requirements of this division shall apply and shall prevail in the event of conflict with the procedural requirements of the principal act of the district. In the event of such a conflict, the commission shall specify the procedural requirements that apply, consistent with the requirements of this section.

SEC. 21.5. Section 56100.1 is added to the Government Code, to read:

56100.1. A commission may require, through the adoption of written policies and procedures, the disclosure of contributions, as defined in Section 82015, expenditures, as defined in Section 82025, and independent expenditures, as defined in Section 82031, made in support of or opposition to a proposal. Disclosure shall be made either to the commission's executive officer, in which case it shall be posted on the commission's website, if applicable, or to the board of supervisors of the county in which the commission is located, which may designate a county officer to receive the disclosure. Disclosure pursuant to a requirement under the authority provided in this section shall be in addition to any disclosure required by Title 9 (commencing with Section 81000) or by local ordinance.

SEC. 22. Section 56101 of the Government Code is amended to read:

56101. This division does not apply to any proceeding for a change of organization or reorganization for which the application shall have been accepted for filing by the executive officer pursuant to Section 56658 prior to January 1, 2001. These pending proceedings may be continued and completed under, and in accordance with, the provisions of law under which the proceedings were commenced. The repeals, amendments, and additions made by the act enacting this division shall not apply to any of those pending proceedings, and, the laws existing prior to January 1, 2001, shall continue in full force and effect, as applied to those pending proceedings.

SEC. 23. Section 56106 of the Government Code is amended to read:

56106. Any provisions in this division governing the time within which an official or the commission is to act shall in all instances, except for notice requirements and the requirements of subdivision (i) of Section 56658, be deemed directory, rather than mandatory.

SEC. 24. Section 56107 of the Government Code is amended to read:

56107. (a) This division shall be liberally construed to effectuate its purposes. No change of organization or reorganization ordered under this division and no resolution adopted by the commission making determinations upon a proposal shall be invalidated because of any defect, error, irregularity, or omission in any act, determination, or procedure which does not adversely and substantially affect the rights of any person, city, county, district, the state, or any agency or subdivision of the state.

(b) All determinations made by a commission under, and pursuant to, this division shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion.

(c) In any action or proceeding to attack, review, set aside, void, or annul a determination by a commission on grounds of noncompliance with this division, any inquiry shall extend only to whether there was fraud or a prejudicial abuse of discretion.

Prejudicial abuse of discretion is established if the court finds that the determination or decision is not supported by substantial evidence in light of the whole record.

- SEC. 25. Section 56108 of the Government Code is repealed.
- SEC. 26. Section 56109 of the Government Code is repealed.
- SEC. 27. Section 56110 of the Government Code is repealed.
- SEC. 28. Section 56111 of the Government Code is repealed.
- SEC. 29. Section 56111.1 of the Government Code is repealed.
- SEC. 30. Section 56111.5 of the Government Code is repealed.
- SEC. 31. Section 56111.6 of the Government Code is repealed.
- SEC. 32. Section 56111.7 of the Government Code is repealed.
- SEC. 33. Section 56111.9 of the Government Code is repealed.
- SEC. 34. Section 56111.10 of the Government Code is repealed.
- SEC. 35. Section 56111.11 of the Government Code is repealed.
- SEC. 36. Section 56111.12 of the Government Code is repealed.
- SEC. 37. Section 56111.13 of the Government Code is repealed.
- SEC. 38. Section 56111.14 of the Government Code is repealed.
- SEC. 39. Section 56112 of the Government Code is repealed.
- SEC. 40. Section 56113 of the Government Code is repealed.
- SEC. 41. Section 56114 of the Government Code is repealed.
- SEC. 42. Section 56122 of the Government Code is amended to

read:

56122. Section 56886 and any term and condition provided by, or made pursuant to, that section shall be enforceable by, between, among, and against any public agency or agencies designated in the term and condition, but shall not constitute, or be given effect as, a limitation upon the power of any bondholder or other creditor to enforce his or her rights, particularly any rights provided for by Part 5 (commencing with Section 57300), as if Section 56886 had not been enacted or the term and condition had not been made or provided pursuant to that section.

SEC. 43. Section 56123 of the Government Code is amended to read:

56123. Except as otherwise provided in Section 56124, if a proposed change of organization or a reorganization applies to two or more affected counties, for the purpose of this division, exclusive jurisdiction shall be vested in the commission of the principal county. Any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other county official, shall be given, taken, or made by the persons holding those offices in the principal county. The commission of the principal county shall provide notice to the chair, each board member, and the executive officer of all affected agencies of any proceedings, actions, or reports on the proposed change of organization or reorganization. Any officer of a county other than the principal county shall cooperate with the commission of the principal county and shall furnish the

commission of the principal county with any certificates, records, or certified copies of records as may be necessary to enable the commission of the principal county to comply with this division.

SEC. 44. Section 56124 of the Government Code is amended to read:

56124. If a proposed change of organization or a reorganization applies to two or more affected counties, for purposes of this division, exclusive jurisdiction may be vested in the commission of an affected county other than the commission of the principal county if all of the following occur:

(a) The commission of the principal county approves of having exclusive jurisdiction vested in another affected county.

(b) The commission of the principal county designates the affected county which shall assume exclusive jurisdiction.

(c) The commission of the affected county so designated agrees to assume exclusive jurisdiction.

If exclusive jurisdiction is vested in the commission of an affected county other than the principal county pursuant to this section, any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other officer of a county, shall be given, taken, or made by the persons holding those offices in the affected county. Any officer of a county other than the affected county shall cooperate with the commission of the affected county and shall furnish the commission of the affected county with any certificates, records, or certified copies of records as may be necessary to enable the commission of the affected county to comply with this division.

SEC. 45. Section 56129 of the Government Code is amended to read:

56129. (a) If a public utility has been granted a certificate of public convenience and necessity authorizing and requiring it to furnish gas or electric service within a certain service area and, as a result of a change of organization or a reorganization, territory consisting of all, or any part, of that service area becomes a part of, or is formed into, a district authorized by its principal act to furnish gas or electric service, the district shall not furnish that service within the territory except upon approval by both of the following:

(1) The commission after receipt and consideration of the report of the Public Utilities Commission made as provided in Section 56131.

(2) The voters within the territory, given at an election as provided in Section 56130.

(b) If both of those approvals are given, upon assumption of service by the district the public utility may at any time thereafter withdraw service within the territory, unless otherwise ordered by the Public Utilities Commission.

(c) "Gas or electric service," as used in this section and in Sections 56130, 56131, and 56875, means the distribution and sale for any

purpose, other than for the purpose of resale, of gas or electricity for light, heat, or power.

SEC. 46. Section 56132 of the Government Code is amended to read:

56132. (a) This section shall only apply to any change of organization or reorganization that includes detachment of territory from the Broadmoor Police Protection District in the County of San Mateo and which includes or accommodates, or is intended to facilitate, an annexation of territory to another local agency that has initiated the change of organization or reorganization. This section does not, however, apply to any territory comprising real property owned by the San Francisco Bay Area Rapid Transit District.

If the commission adopts a resolution approving such a change of organization or reorganization, the board of commissioners of the district may, within 15 days thereafter, adopt a resolution finding either that the proposed detachment may or will not adversely affect the district's ability to efficiently provide its law enforcement services in the remainder of the district. The district shall, if it adopts a resolution, file a certified copy of its resolution with the local agency to which the affected territory is proposed to be annexed and the commission. If that resolution finds that the proposed detachment may have an adverse financial effect, then the reorganization shall not become effective unless a majority of the voters voting at a special election of the district called for that purpose approve the detachment. The Broadmoor Police Protection District shall pay the costs of the election. For purposes of this section, it shall be conclusively presumed that any affected local agency which adopts a resolution under Section 56654 requesting a detachment of contiguous territory from the Broadmoor Police Protection District and which could have concurrently requested annexation of the affected territory, intends to do so.

(b) The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the following special circumstances:

The Broadmoor Police Protection District consists primarily of suburban residential properties which have long enjoyed an urban level of police services. The threat of continued piecemeal detachments of territory from the district threatens its ability to continue providing that level of service on an economically efficient basis.

(c) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted prior to January 1, 2002, deletes or extends that date.

SEC. 47. Section 56133 of the Government Code is amended to read:

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

(1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and

facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on January 1, 1994. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

SEC. 48. Section 56150 of the Government Code is amended to read:

56150. Unless the provision or context otherwise requires, whenever this division requires notice to be published, posted, or mailed, the notice shall be published, posted, or mailed as provided in this chapter. Unless the provision or context otherwise requires, whenever this division requires notice to be given that notice shall also be given in electronic format on a website provided by the commission, to the extent that the commission maintains a website.

SEC. 50. Section 56154 of the Government Code is amended to read:

56154. If the published notice is a notice of a hearing, publication of the notice shall be commenced at least 21 days prior to the date specified in the notice for the hearing.

SEC. 51. Section 56156 of the Government Code is amended to read:

56156. If the mailed notice is notice of a hearing, the notice shall be mailed at least 21 days prior to the date specified in the notice for hearing.

SEC. 52. Section 56157 of the Government Code is amended to read:

56157. When mailed notice is required to be given to:

(a) A county, city, or district, it shall be addressed to the clerk of the county, city, or district.

(b) A commission, it shall be addressed to the executive officer.

(c) Proponents, it shall be addressed to the persons so designated in the petition at the address specified in the petition.

(d) Landowners, it shall be addressed to each person to whom land is assessed, as shown upon the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application, at the address shown upon the assessment roll.

(e) Persons requesting special notice, it shall be addressed to each person who has filed a written request for special notice with the

executive officer or clerk at the mailing address specified in the request.

(f) To all registered voters and owners of property, to the address as shown on the most recent assessment roll being prepared by the county at the time a resolution of application is adopted to initiate proceedings within 300 feet of the exterior boundary of the property that is the subject of the hearing at least 21 days prior to the hearing. This requirement may be waived if proof satisfactory to the commission is presented that shows that individual notices to registered voters and landowners have already been provided by the initiating agency. Notice shall also either be posted or published in one newspaper 21 days prior to the hearing. If this section would require more than 1,000 notices to be mailed, then notice may instead be provided pursuant to paragraph (1) of subdivision (b) of Section 65954.6.

SEC. 53. Section 56159 of the Government Code is amended to read:

56159. Posted notice shall remain posted for not less than five days. If the posted notice is notice of a hearing, posting shall be commenced at least 21 days prior to the date specified in the notice for hearing and shall continue to the time of the hearing.

SEC. 54. Section 56300 of the Government Code is amended to read:

56300. (a) It is the intent of the Legislature that each commission, not later than January 1, 2002, shall establish written policies and procedures and exercise its powers pursuant to this part in a manner consistent with those policies and procedures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns.

(b) Each commission with a proposal pending on January 1, 2001, shall, by March 31, 2001, hold a public hearing to discuss the adoption of policies and procedures to require the disclosure of contributions, expenditures, and independent expenditures authorized by Section 56100.1. Reporting requirements adopted pursuant to this section shall be effective upon the date of adoption or a later date specified in the resolution. Any commission that does not have a proposal pending on January 1, 2001, shall hold a public hearing to discuss the adoption of those policies and procedures within 90 days of submission of a proposal or at any time prior to submission of a proposal. Once a hearing has taken place under this subdivision, no subsequent hearing shall be required except by petition of 100 or more registered voters residing in the county in which the commission is located.

(c) A commission may require, through the adoption of written policies and procedures, lobbying disclosure and reporting requirements for persons who attempt to influence pending

decisions by commission members, staff, or consultants. Disclosure shall be made either to the commission's executive officer, in which case it shall be posted on the commission website, if applicable, or to the recorder, registrar of voters, or clerk of the board of supervisors of the county in which the commission is located. Each commission that on January 1, 2001, has a pending proposal, as defined in Section 56069 shall, by March 31, 2001, hold a public hearing to discuss the adoption of policies and procedures governing lobbying disclosure authorized by this subdivision. Reporting requirements adopted pursuant to this section shall be effective upon the date of adoption or on a later date specified in the resolution. Any commission that does not have a proposal pending on January 1, 2001, shall hold a public hearing to discuss the adoption of those policies and procedures within 90 days of submission of a proposal, or at any time prior to submission of a proposal.

(d) Any public hearings required by this section may be held concurrently.

(e) The written policies and procedures adopted by the commission shall include forms to be used for various submittals to the commission including at a minimum a form for any protests to be filed with the commission concerning any proposed organization change.

(f) (1) On or before January 1, 2002, the commission shall establish and maintain, or otherwise provide access to notices and other commission information for the public through an Internet website.

(2) The written policies and procedures adopted by the commission shall require that, to the extent that the commission maintains an Internet website, notice of all public hearings and commission meetings shall be made available in electronic format on that site.

SEC. 55. Section 56301 of the Government Code is amended to read:

56301. Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities. When the formation of a new government entity is proposed, a commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the

commission shall consider reorganization with other single-purpose agencies that provide related services.

SEC. 56. Section 56325 of the Government Code is amended to read:

56325. There is hereby continued in existence in each county a local agency formation commission. Except as otherwise provided in this chapter, the commission shall consist of members selected as follows:

(a) Two appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two selected by the cities in the county, each of whom shall be a mayor or council member, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(c) Two presiding officers or members of legislative bodies of independent special districts selected by the independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate a presiding officer or member of the legislative body of an independent special district as an alternative member who shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to make selections that fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(d) One representing the general public appointed by the other members of the commission. The other members of the commission may also designate one alternate member who shall be appointed and serve pursuant to Section 56331. Selection of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members selected by each of the other appointing authorities.

SEC. 57. Section 56325.1 is added to the Government Code, to read:

56325.1. While serving on the commission, all commission members shall exercise their independent judgment on behalf of the

interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person.

SEC. 58. Section 56326 of the Government Code is amended to read:

56326. In Los Angeles County, the commission shall consist of nine members, selected as follows:

(a) Two appointed by the board of supervisors from its own membership. The board of supervisors shall also appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One appointed by the board of supervisors, who shall not be a member of the board of supervisors but who shall be a resident of the San Fernando Valley Statistical Area, as defined in subdivision (c) of Section 11093. The board of supervisors shall also appoint an alternate member who shall not be a member of the board of supervisors but who is a resident of the San Fernando Valley Statistical Area. The alternate member may serve and vote in place of the member appointed pursuant to this subdivision if that member is absent or disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular member becomes vacant, the alternate member may serve and vote in place of the former regular member until the appointment and qualification of a regular member to fill the vacancy.

(c) Two selected by the cities in the county, each of whom shall be a mayor or council member, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(d) One selected by a city in the county having a population in excess of 30 percent of the total population of the county who is a member of the legislative body of the city, appointed by the presiding officer of the legislative body. The presiding officer of the legislative body shall also designate an alternate member who is a member of

the legislative body. The alternate member may serve and vote in place of the member appointed pursuant to this subdivision if the member is absent or disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular member becomes vacant, the alternate member may serve and vote in place of the former regular member until the appointment and qualification of a regular member to fill the vacancy.

(e) Two presiding officers or members of legislative bodies of independent special districts selected by an independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate one alternate member who shall be a presiding officer or member of the legislative body of an independent special district and shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to select members to fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(f) One representing the general public appointed by the other members of the commission.

SEC. 59. Section 56326.5 of the Government Code is amended to read:

56326.5. In Sacramento County, the commission shall consist of seven members, selected as follows:

(a) Two appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One selected by the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. The mayor shall also appoint, subject to confirmation by the council, an alternate member who is a member of the city council. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One selected by the cities in the county, who is a mayor or council member appointed by the city selection committee. The city

selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(d) Two presiding officers or members of legislative bodies of independent special districts selected by an independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate one alternate member who shall be a presiding officer or member of the legislative body of an independent special district and shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to select members to fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(e) One representing the general public, appointed by the other six members of the commission. The commission may also appoint an alternate public member who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

SEC. 60. Section 56327 of the Government Code is amended to read:

56327. In Santa Clara County, the commission shall consist of five members, selected as follows:

(a) Two appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One selected by the city in the county having the largest population, who is a member of the legislative body of the city, appointed by the city council. The city council shall also appoint an alternate member who is a member of the legislative body of the city. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may

serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One selected by the cities in the county, who is a mayor or council member appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(d) One representing the general public, appointed by the other four members of the commission. This member shall not be a resident of a city which is already represented on the commission. The commission may also appoint an alternate public member, who shall not be a resident of a city represented on the commission, and who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

SEC. 60.5. Section 56327.3 is added to the Government Code, to read:

56327.3. In Santa Clara County, the commission shall be enlarged by two members if, pursuant to the provisions of Chapter 5 (commencing with Section 56820), the commission orders representation of special districts upon the commission.

SEC. 61. Section 56328 of the Government Code is amended to read:

56328. (a) In San Diego County, the commission, which consists of seven members, augmented pursuant to Section 56332, shall be additionally augmented by the appointment of an eighth member and that member shall, notwithstanding subdivision (b) of Section 56325, be a member of the legislative body of the city in the county having the largest population, appointed by the legislative body of that city.

(b) The legislative body of the city shall appoint an alternate member at the same time and in the same manner as it appoints the regular member appointed pursuant to subdivision (a). If the regular city member is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of the regular city member for that meeting. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the

former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

SEC. 62. Section 56329 of the Government Code is amended to read:

56329. If there is no city in the county, the commission shall consist of five members, selected as follows which may be further augmented pursuant to Sections 56332 and 56332.5:

(a) Three appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a fourth supervisor who is an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two representing the general public appointed by the other three members of the commission. Selection of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members selected by each of the other appointing authorities.

SEC. 63. Section 56330 of the Government Code is repealed.

SEC. 64. Section 56332 of the Government Code is amended to read:

56332. (a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(1) Whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission.

(2) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(c) (1) If the executive officer determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions.

(2) As an alternative to the delivery or certified mail, the executive officer, with the prior concurrence of the district, may transmit the ballot and voting instructions by electronic mail, provided that the executive officer shall retain written evidence of the receipt of that material.

(3) The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballots to the districts.

(4) If the executive officer has transmitted the ballot and voting instructions by electronic mail, the districts may return the ballots to the executive officer by electronic mail, provided that the executive officer retains written evidence of the receipt of the ballot.

(5) Any ballot received by the executive officer after the specified date is invalid. The executive officer shall announce the results of the election within seven days of the specified date.

(d) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed special district officers residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. The representation by a regular district member who is a special district officer shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the special district. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district of which the member is a representative.

(e) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular

district member until the appointment and qualification of a regular district member to fill the vacancy.

SEC. 65. Section 56332.5 is added to the Government Code, to read:

56332.5. If the commission does not have representation from independent special districts on January 1, 2001, the commission shall initiate proceedings for representation of independent special districts upon the commission if requested by independent special districts pursuant to this section. If an independent special district adopts a resolution proposing representation of independent special districts upon the commission, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, adopted by the districts within one year from the date that the first resolution was adopted, the commission, at its next regular meeting, shall adopt a resolution of intention. The resolution of intention shall state whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth. The commission shall order the executive officer to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution in order to select independent special district representation on the commission pursuant to Section 56332.

SEC. 66. Section 56334 of the Government Code is amended to read:

56334. The term of office of each member shall be four years and until the appointment and qualification of his or her successor. Upon enlargement of the commission by two members, as provided in Section 56332, the new members first appointed to represent independent special districts shall classify themselves by lot so that the expiration date of the term of office of one new member coincides with the existing member who holds the office represented by the original two-year term on the commission and of the other new member coincides with the existing member who holds the office represented by the original four-year term on the commission. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which the term of the member expires, unless procedures adopted by the commission specify an alternate date to apply uniformly to all members. However, the length of a term of office shall not be extended more than once. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by

the body which originally appointed the member whose office has become vacant.

The chairperson of the commission shall be selected by the members of the commission.

Commission members and alternates shall be reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office. The board of supervisors may authorize payment of a per diem to commission members and alternates for each day while they are in attendance at meetings of the commission.

SEC. 67. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission. The commission may initiate proposals for (1) consolidation of districts, as defined in Section 56036, (2) dissolution, (3) merger, or (4) establishment of a subsidiary district, or a reorganization that includes any of these changes of organization. A commission shall have the authority to initiate only a (1) consolidation of districts, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, or (5) a reorganization that includes any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378 or 56425. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(1) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(2) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(3) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is

proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed. However, the commission shall not specify how, or in what manner, the territory shall be zoned. The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and zoning of the city.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated, successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and zoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the zoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the zoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation.

(g) To adopt written procedures for the evaluation of proposals. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(l) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 25210.90 or Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

SEC. 68. Section 56375.1 of the Government Code is repealed.

SEC. 68.5. Section 56375.3 is added to the Government Code, to read:

56375.3. (a) In addition to those powers enumerated in Section 56375, a commission may approve the annexation to a city after notice and hearing, and order annexation of the territory without an election, or waive the protest hearing proceedings pursuant to Part 4, commencing with Section 57000, if the annexation meets the requirements of this subdivision and is proposed by resolution adopted by the affected city, if the commission finds that the territory contained in an annexation proposal meets all of the following requirements:

(1) It does not exceed 75 acres in area, that area constitutes the entire island, and that island does not constitute a part of an unincorporated area that is more than 100 acres in area.

(2) The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.

(3) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(C) This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

(D) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Section 99 of the Revenue and Taxation Code regarding an annexation subject to this subdivision without affecting any existing master tax sharing agreement between the city and county.

(4) It is substantially developed or developing. The finding required by this subparagraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(A) The availability of public utility services.

(B) The presence of public improvements.

(C) The presence of physical improvements upon the parcel or parcels within the area.

(5) It is not prime agricultural land, as defined by Section 56064.

(6) It will benefit from the annexation or is receiving benefits from the annexing city.

(b) Notwithstanding any other provision of this subdivision, this subdivision shall not apply to all or any part of that portion of the development project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code that as of January 1, 2000, meets all of the following requirements:

- (1) Is unincorporated territory.
- (2) Contains at least 100 acres.
- (3) Is surrounded or substantially surrounded by incorporated territory.
- (4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

SEC. 69. Section 56375.4 of the Government Code is repealed.

SEC. 69.5. Section 56375.5 of the Government Code is amended to read:

56375.5. Every determination made by a commission regarding the matters provided for by subdivisions (a), (m), and (n) of Section 56375 shall be consistent with the spheres of influence of the local agencies affected by those determinations.

SEC. 70. Section 56375.45 of the Government Code is repealed.

SEC. 71. Section 56377 of the Government Code is amended to read:

56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

SEC. 72. Section 56380 of the Government Code is repealed.

SEC. 73. Section 56380 is added to the Government Code, to read:

56380. The commission shall make its own provision for necessary quarters, equipment, and supplies as well as personnel. The commission may choose to contract with any public agency or private party for personnel and facilities.

SEC. 74. Section 56381 of the Government Code is repealed.

SEC. 75. Section 56381 is added to the Government Code, to read:

56381. (a) The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the

commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter. The commission shall transmit its proposed and final budgets to the board of supervisors; to each city; to the clerk and chair of the city selection committee, if any, established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1; to each independent special district; and to the clerk and chair of the independent special district selection committee, if any, established pursuant to Section 56332.

(b) After public hearings, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the auditor shall apportion the net operating expenses of a commission in the following manner:

(1) In counties in which there is city and independent special district representation on the commission, the county, cities, and independent special districts shall each provide a one-third share of the commission's operational costs. The cities' share shall be apportioned in proportion to each city's total revenues, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county, or by an alternative method approved by a majority of cities representing the majority of the combined cities' populations. The independent special districts' share shall be apportioned in a similar manner according to each district's revenues for general purpose transactions, as reported in the most recent edition of the "Financial Transactions Concerning Special Districts" published by the Controller, or by an alternative method approved by a majority of the agencies, representing a majority of their combined populations. For the purposes of fulfilling the requirement of this section, a multicounty independent special district shall be required to pay its apportionment in its principal county. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the district share of costs.

(2) In counties in which there is no independent special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) In counties in which there are no cities, the county and its special districts shall each provide a one-half share of the commission's operational costs. The independent special districts' share shall be apportioned in the manner described for cities' apportionment in paragraph (1). If there is no independent special district representation on the commission, the county shall pay all of the commission's operational costs.

(4) Instead of determining apportionment pursuant to paragraph (1), (2), or (3), any alternative method of apportionment of the net

operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the independent special districts representing a majority of the combined total population of independent special districts in the county.

(c) After apportioning the costs as required in subdivision (b), the auditor shall request payment from the board of supervisors and from each city and each independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county, city, or district. The auditor shall provide written notice to the county, city, or district prior to appropriating a share of the property tax or other revenue to the commission for the payment due the commission pursuant to this section. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the commission's operating expenses as specified by the commission. When the city and district payments are received by the commission, the county's portion of the commission's annual operating expenses shall be credited with funds already received from the county. If, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If, during the fiscal year, the commission is without adequate funds to operate, the board of supervisors may loan the commission funds and recover those funds in the commission's budget for the following fiscal year.

SEC. 75.5. Section 56381.6 is added to the Government Code, to read:

56381.6. (a) Notwithstanding the provisions of Section 56381, for counties whose membership on the commission is established pursuant to Sections 56326, 56326.5, 56327, or 56328, the commission's annual operational costs shall be apportioned among the classes of public agencies that select members on the commission in proportion to the number of members selected by each class. The classes of public agencies that may be represented on the commission are the county, the cities, and independent special districts. Any alternative

cost apportionment procedure may be adopted by the commission, subject to a majority affirmative vote of the commission that includes the affirmative vote of at least one of the members selected by the county, one of the members selected by a city, and one of the members selected by a special district, if special districts are represented on the commission.

(b) Allocation of costs among individual cities and independent special districts and remittance of payments shall be in accordance with the procedures of Section 56381. Notwithstanding Section 56381, any city that has permanent membership on the commission pursuant to Sections 56326, 56326.5, 56327, or 56328 shall be apportioned the same percentage of the commission's annual operational costs as its permanent member bears to the total membership of the commission, excluding any public members selected by all the members. The balance of the cities' portion of the commission's annual operational costs shall be apportioned to the remaining cities in the county in accordance with the procedures of Section 56381.

SEC. 76. Section 56383 of the Government Code is amended to read:

56383. (a) The commission may establish a schedule of fees for the costs of proceedings taken pursuant to this division, including, but not limited to, all of the following:

- (1) Filing and processing applications filed with the commission.
- (2) Proceedings undertaken by the commission and any reorganization committee.
- (3) Amending a sphere of influence.
- (4) Reconsidering a resolution making determinations.

(b) The schedule of fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016.

(c) The commission may require that a fee be deposited with the executive officer before any further action is taken. The deposit of the fee shall be made within the time period specified by the commission. No petition shall be deemed filed until the fee has been deposited.

(d) The commission may waive a fee if it finds that payment would be detrimental to the public interest.

(e) The signatures on a petition submitted to the commission shall be verified by the elections official of the county and the costs of verification shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same county.

(f) Waiver of fees is limited to those costs incurred by the commission in the processing of a proposal.

(g) For incorporation proceedings that have been initiated by the filing of a sufficient number of voter signatures on petitions that have been verified by the county registrar of voters, the commission may,

upon the receipt of a certification by the proponents that they are unable to raise sufficient funds to reimburse fees for the proceedings, take no action on the proposal and request a loan from the General Fund of an amount sufficient to cover those expenses subject to availability of an appropriation for those purposes and in accordance with any provisions of the appropriation. Repayment of the loan shall be made a condition of approval of the incorporation, if successful, and shall become an obligation of the newly formed city. Repayment shall be made within two years of the effective date of incorporation. If the proposal is denied by the commission or defeated at an election, the loan shall be forgiven.

SEC. 77. Section 56384 of the Government Code is amended to read:

56384. (a) The commission shall appoint an executive officer who shall conduct and perform the day-to-day business of the commission. If the executive officer is subject to a conflict of interest on a matter before the commission, the commission shall appoint an alternate executive officer. The commission may recover its costs by charging fees pursuant to Section 56383.

(b) The commission shall appoint legal counsel to advise it. If the commission's counsel is subject to a conflict of interest on a matter before the commission, the commission shall appoint alternate legal counsel to advise it. The commission may recover its costs by charging fees pursuant to Section 56383.

(c) The commission may appoint staff as it deems appropriate. If staff for the commission is subject to a conflict of interest on a matter before the commission, the commission shall appoint alternate staff to assist it. The commission may recover its costs by charging fees pursuant to Section 56383.

(d) For purposes of this section, the term "conflict of interest" shall be defined as it is for the purpose of the Political Reform Act of 1974 and shall also include matters proscribed by Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1.

SEC. 78. Section 56386 of the Government Code is amended to read:

56386. (a) The officers and employees of a city, county, or special district, including any local agency, school district, community college district, and any regional agency, or state agency or department, as may be necessary, or any other public agency shall furnish the executive officer with any records or information in their possession which may be necessary to assist the commission and the executive officer in their duties, including, but not limited to, the preparation of reports pursuant to Sections 56665 and 56800.

(b) Upon request by the commission or the executive officer, the county surveyor, or any other county officer, county official, or employee as the board of supervisors may designate, shall examine

and report to the commission or the executive officer upon any application or other document involving any of the matters specified in subdivision (j) of Section 56375.

SEC. 79. Section 56425 of the Government Code is amended to read:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

(b) At least 30 days prior to submitting an application to the commission for a determination of a new sphere of influence, or to update an existing sphere of influence for a city, representatives from the city shall meet with county representatives to discuss the proposed sphere, and its boundaries, and explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If no agreement is reached between the city and county within 30 days, then the parties may, by mutual agreement, extend discussions for an additional period of 30 days. If an agreement is reached between the city and county regarding the boundaries, development standards, and zoning requirements within the proposed sphere, the agreement shall be forwarded to the commission, and the commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement in the commission's final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years.

(g) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(h) For any sphere of influence or a sphere of influence that includes a special district, the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

(3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the commission.

(i) Subdivisions (b), (c), and (d) shall become inoperative as of January 1, 2007, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends that date.

SEC. 79.5. Section 56425.5 is added to the Government Code, to read:

56425.5. (a) A determination of a city's sphere of influence, in any case where that sphere of influence includes any portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, shall not preclude any other local agency, as defined in Section 54951, including the redevelopment agency referenced in Section 33492.41 of the Health and Safety Code, in addition to that city, from providing facilities or services related to development, as defined in subdivision (e) of Section 56426, to or in that portion of the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

- (1) Is unincorporated territory.
- (2) Contains at least 100 acres.
- (3) Is surrounded or substantially surrounded by incorporated territory.
- (4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Facilities or services related to development may be provided by other local agencies to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Subdivision (a) shall apply regardless of whether the determination of the sphere of influence is made before or after January 1, 2000.

SEC. 80. Section 56426 of the Government Code is repealed.

SEC. 80.5. Section 56429 of the Government Code is amended to read:

56429. (a) Notwithstanding Sections 56425, 56427, and 56428, a petition for removal of territory from a sphere of influence determination may be brought pursuant to this section by landowners within the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, if, at the time the petition is submitted, the area for which the petition is being requested meets all of the following requirements:

- (1) Is unincorporated territory.
- (2) Contains at least 100 acres.
- (3) Is surrounded or substantially surrounded by incorporated territory.
- (4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) On receipt of a petition signed by landowners owning at least 25 percent of the assessed value of the land within the affected territory, the commission shall hear and consider oral or written testimony.

(c) The petition shall be placed on the agenda of the commission in accordance with subdivision (b) of Section 56428.

(d) The executive officer shall give notice of the hearing in accordance with Section 56427.

(e) From the date of filing of the petition to the conclusion of the hearing, the commission shall accept written positions from any owner of land in the unincorporated territory that is seeking removal from a city's sphere of influence.

(f) The petition to remove territory from a city's sphere of influence shall be granted and given immediate effect if the commission finds that written positions filed in favor of the petition and not withdrawn prior to the conclusion of the hearing represent landowners owning 50 percent or more of the assessed value of the land within the affected territory.

(g) No removal of territory from a city's sphere of influence that is proposed by petition and adopted pursuant to this section shall be repealed or amended except by the petition and adoption procedure provided in subdivisions (a) to (f), inclusive. In all other respects, a removal of territory from a city's sphere of influence proposed by petition and adopted pursuant to this section shall have the same force and effect as any amendment to or removal of territory from a city's sphere of influence approved by the commission. No territory removed from a city's sphere of influence pursuant to this section shall be annexed to that city, unless the territory is subsequently added to the sphere of influence of the city pursuant to the petition and adoption procedure provided in this section.

(h) Pursuant to Section 56383, the commission may establish a schedule of fees for the costs of carrying out this section.

(i) All proper expenses incurred in connection with removal of territory from a city's sphere of influence pursuant to this section shall be paid by the proponents.

SEC. 81. Section 56430 is added to the Government Code, to read:

56430. (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Infrastructure needs or deficiencies.
- (2) Growth and population projections for the affected area.
- (3) Financing constraints and opportunities.
- (4) Cost avoidance opportunities.
- (5) Opportunities for rate restructuring.
- (6) Opportunities for shared facilities.
- (7) Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
- (8) Evaluation of management efficiencies.
- (9) Local accountability and governance.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5 or to update a sphere of influence pursuant to Section 56425.

(d) Not later than July 1, 2001, the Office of Planning and Research, in consultation with commissions, the California

Association of Local Agency Formation Commissions, and other local governments, shall prepare guidelines for the service reviews to be conducted by commissions pursuant to this section.

SEC. 82. Section 56434 is added to the Government Code, to read:

56434. (a) The commission may review and approve a proposal that extends services into previously unserved territory within unincorporated areas and may review the creation of new service providers to extend urban type development into previously unserved territory within unincorporated areas to ensure that the proposed extension is consistent with the policies of Sections 56001, 56300, 56301, and the adopted policies of the commission implementing these sections, including promoting orderly development, discouraging urban sprawl, preserving open space and prime agricultural lands, providing housing for persons and families of all incomes, and the efficient extension of governmental services.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 83. Chapter 5 (commencing with Section 56450) of Part 2 of Division 3 of Title 5 of the Government Code is repealed.

SEC. 84. Chapter 6 (commencing with Section 56475) of Part 2 of Division 3 of Title 5 of the Government Code is repealed.

SEC. 86. Section 56653 of the Government Code is amended to read:

56653. (a) Whenever a local agency or school district submits a resolution of application for a change of organization or reorganization pursuant to this part, the local agency shall submit with the resolution of application a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer.

(1) An enumeration and description of the services to be extended to the affected territory.

(2) The level and range of those services.

(3) An indication of when those services can feasibly be extended to the affected territory.

(4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

(5) Information with respect to how those services will be financed.

SEC. 87. Section 56655 is added to the Government Code, to read:

56655. If two or more proposals pending before the commission conflict or in any way are inconsistent with each other, as determined by the commission, the commission may determine the relative

priority for conducting any further proceedings based on any of those proposals. That determination shall be included in the terms and conditions imposed by the commission. In the absence of that determination, priority is given to that proceeding which shall be based upon the proposal first filed with the executive officer.

SEC. 88. Section 56656 of the Government Code is repealed.

SEC. 89. Section 56657 is added to the Government Code, to read:

56657. Notwithstanding Section 56655, the commission shall not approve a proposal for incorporation, consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization until it has considered any other change of organization which conflicts with the subject proposal and which was submitted to the commission within 60 days of the submission of the subject proposal.

SEC. 90. Section 56658 is added to the Government Code, to read:

56658. (a) Any petitioner or legislative body desiring to initiate proceedings shall submit an application to the executive officer of the principal county.

(b) Immediately after receiving an application and before issuing a certificate of filing, the executive officer shall give mailed notice that the application has been received to each interested agency, each subject agency, the county committee on school district organization, and each school superintendent whose school district overlies the subject area. The notice shall generally describe the proposal and the affected territory. The executive officer shall not be required to give notice pursuant to this subdivision if a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(c) If a special district is, or as a result of a proposal will be, located in more than one county, the executive officer of the principal county shall immediately give the executive officer of each other affected county mailed notice that the application has been received. The notice shall generally describe the proposal and the affected territory.

(d) Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving an application whether the application is complete and acceptable for filing or whether the application is incomplete.

(e) The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the mailed notice required by subdivision (b). The executive officer shall not be required to comply with this subdivision in the case of an application which meets the requirements of Section 56663 or in the case of an application for which a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(f) If the appropriate fees have been paid, an application shall be deemed accepted for filing if no determination has been made by the

executive officer within the 30-day period. An executive officer shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 56652.

(g) When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal shall be heard by the commission. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this division.

(h) If an application is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

(i) Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. Notwithstanding Section 56106, the date for conducting the hearing, as determined pursuant to this subdivision, is mandatory.

SEC. 90.5. Section 56658 is added to the Government Code, to read:

56658. (a) Any petitioner or legislative body desiring to initiate proceedings shall submit an application to the executive officer of the principal county.

(b) (1) Immediately after receiving an application and before issuing a certificate of filing, the executive officer shall give mailed notice that the application has been received to each interested agency, each subject agency, the county committee on school district organization, and each school superintendent whose school district overlies the subject area. The notice shall generally describe the proposal and the affected territory. The executive officer shall not be required to give notice pursuant to this subdivision if a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(2) It is the intent of the Legislature that an incorporation proposal shall be processed in a timely manner. With regard to an application that includes an incorporation, the executive officer shall immediately notify all affected local agencies and any applicable state agencies by mail and request the affected agencies to submit the required data to the commission within a reasonable timeframe established by the executive officer. Each affected agency shall respond to the executive officer within 15 days acknowledging receipt of the request. Each affected local agency and the officers and

departments thereof shall submit the required data to the executive officer within the timelines established by the executive officer. Each affected state agency and the officers and departments thereof shall submit the required data to the executive officer within the timelines agreed upon by the executive officer and the affected state departments.

(c) If a special district is, or as a result of a proposal will be, located in more than one county, the executive officer of the principal county shall immediately give the executive officer of each other affected county mailed notice that the application has been received. The notice shall generally describe the proposal and the affected territory.

(d) Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving an application whether the application is complete and acceptable for filing or whether the application is incomplete.

(e) The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the mailed notice required by subdivision (b). The executive officer shall not be required to comply with this subdivision in the case of an application which meets the requirements of Section 56663 or in the case of an application for which a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(f) If the appropriate fees have been paid, an application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. An executive officer shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 56652.

(g) When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal shall be heard by the commission. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this division.

(h) If an application is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

(i) Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted,

whichever is earlier. Notwithstanding Section 56106, the date for conducting the hearing, as determined pursuant to this subdivision, is mandatory.

SEC. 91. Section 56660 is added to the Government Code, to read:

56660. The executive officer shall give notice of any hearing by the commission by publication, as provided in Sections 56153 and 56154, and by posting, as provided in Sections 56158 and 56159.

SEC. 92. Section 56661 is added to the Government Code, to read:

56661. To the extent that the commission maintains an Internet website, notice of all public hearings shall be made available in electronic format on that site. The executive officer shall also give mailed notice of any hearing by the commission, as provided in Sections 56155 to 56157, inclusive, by mailing notice of the hearing or transmitting by electronic mail, if available to the recipient, to all of the following persons and entities:

(a) To each affected local agency by giving notice to each elected local official, each member of the governing body, and the executive officer of the agency.

(b) To the proponents, if any.

(c) To each person who has filed a written request for special notice with the executive officer.

(d) If the proposal is for any annexation or detachment, or for a reorganization providing for the formation of a new district, to each city within three miles of the exterior boundaries of the territory proposed to be annexed, detached, or formed into a new district.

(e) If the proposal is to incorporate a new city or for the formation of a district, to the affected county.

(f) If the proposal includes the formation of, or annexation of territory to, a fire protection district formed pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code, and all or part of the affected territory has been classified as a state responsibility area, to the Director of Forestry and Fire Protection.

(g) If the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), to the Director of Conservation.

(h) To all registered voters and owners of property, as shown on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application, within 300 feet of the exterior boundary of the property that is the subject of the hearing at least 20 days prior to the hearing. In lieu of the assessment roll, the agency may use the records of the county assessor or tax collector or any other more current record. Notice shall also either be posted or published in one newspaper 20 days prior to the hearing. If this section would require more than 1,000 notices to be mailed,

then notice may instead be provided pursuant to paragraph (1) of subdivision (b) of Section 65954.6.

SEC. 93. Section 56662 is added to the Government Code, to read:

56662. (a) The commission may make either of the following determinations without notice and hearing:

(1) Subject to the limitations of Section 56663, approval or disapproval of a proposal for an annexation, detachment, or reorganization which consists solely of annexations or detachments, or both.

(2) Subject to the limitations of Section 56663, approval or disapproval of the formation of a county service area.

(b) Except for the determinations authorized to be made by subdivision (a), the commission shall not make any determinations upon any proposal, plan of reorganization, or report and recommendation of a reorganization committee until after public hearing by the commission on that proposal, plan of reorganization, or report and recommendation of a reorganization committee.

SEC. 94. Section 56663 is added to the Government Code, to read:

56663. (a) If a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is signed by all of the owners of land within the affected territory of the proposed change of organization or reorganization, or if a resolution of application by a legislative body of an affected district, affected county, or affected city making a proposal for an annexation or detachment, or for a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory have given their written consent to that change of organization or reorganization, the commission may approve or disapprove the change of organization or reorganization, without notice and hearing by the commission. In those cases, the commission may also approve and conduct proceedings for the change of organization or reorganization under any of the following conditions:

(1) Without notice and hearing.

(2) Without an election.

(3) Without notice, hearing, or an election.

(b) The executive officer shall give any affected agency mailed notice of the filing of the petition or resolution of application initiating proceedings by the commission. The commission shall not, without the written consent of the subject agency, take any further action on the petition or resolution of application for 10 days following that mailing. Upon written demand by an affected local agency, filed with the executive officer during that 10-day period, the commission shall make determinations upon the petition or resolution of application only after notice and hearing on the petition

or resolution of application. If no written demand is filed, the commission may make those determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, a subject agency may do any of the following:

- (1) Waive the requirement of mailed notice.
- (2) Consent to the commission making determinations without notice and hearing.
- (3) Waive the requirement of mailed notice and consent to the commission making determinations without notice and hearing.

(c) In the case of uninhabited territory, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if all of the following conditions apply:

- (1) All the owners of land within the affected territory have given their written consent to the change of organization or reorganization.
- (2) All affected local agencies that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of protest proceedings.
- (3) The commission has provided written notice of commission proceedings to all property owners and registered voters within the subject territory and no opposition is received prior to or during the commission meeting.

(d) In the case of inhabited city and district annexations or detachments, or both, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if both of the following conditions apply:

- (1) The commission has provided written notice of commission proceedings to all registered voters and landowners within the affected territory and no opposition from registered voters or landowners within the affected territory is received prior to or during the commission meeting. The written notice shall disclose to the registered voters and landowners that unless opposition is expressed regarding the proposal or the commission's intention to waive protest proceedings, that there will be no subsequent protest and election proceedings.

- (2) All affected local agencies that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of protest proceedings.

SEC. 95. Section 56664 is added to the Government Code, to read:

56664. Where the commission desires to provide for notice and hearing prior to making a determination on a matter which the commission is authorized, but not required, to determine without notice and hearing, the commission shall order a public hearing on that matter and set a date, time, and place for the hearing. The date of hearing shall not be more than 90 days after the date of the order.

SEC. 96. Section 56665 is added to the Government Code, to read:

56665. The executive officer shall review each application which is filed with the executive officer and shall prepare a report, including

his or her recommendations, on the application. The report shall be completed not less than five days prior to the date specified in the notice of hearing. Upon completion, the executive officer shall furnish copies of the report to each of the following:

- (a) The officers or persons designated in the application.
- (b) Each local agency whose boundaries or sphere of influence would be changed by the proposal or recommendation.
- (c) Each affected local agency which has filed a request for a report with the executive officer.
- (d) The executive officer of another affected county when a district is or will be located in that other county.
- (e) Each affected city.

SEC. 97. Section 56666 is added to the Government Code, to read:

56666. (a) The hearing shall be held by the commission upon the date and at the time and place specified. The hearing may be continued from time to time but not to exceed 70 days from the date specified in the original notice.

(b) At the hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed, and consider the report of the executive officer and the plan for providing services to the territory prepared pursuant to Section 56653.

SEC. 97.5. Section 56666 is added to the Government Code, to read:

56666. (a) The hearing shall be held by the commission upon the date and at the time and place specified. The hearing may be continued from time to time but not to exceed 70 days from the date specified in the original notice.

(b) At the hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed, and consider the report of the executive officer and the plan for providing services to the territory prepared pursuant to Section 56653.

(c) Prior to any continuance of a hearing pursuant to this section regarding a proposal that includes an incorporation, the chief petitioners shall have an opportunity to address the commission on any potential impacts or hardships on the incorporation effort that may result from a delay. The commission shall consider the potential impacts on the incorporation proponents prior to making a decision on the duration of any continuance.

SEC. 98. Section 56667 is added to the Government Code, to read:

56667. If the report filed pursuant to Section 56665 indicates that more than 50 percent of the land proposed for incorporation is owned by or dedicated to the use of a city or county and that the proposed incorporation would result in a revenue loss to that city or county, and at the hearing held pursuant to Section 56666 the board of supervisors of the county or city council of the city presents a

resolution objecting to the incorporation, no further proceedings shall be conducted by the commission and no new proposal involving incorporation of substantially the same territory shall be initiated for one year.

In the absence of a resolution of objection from a city or county, the commission may approve the proposal only if it imposes as a condition thereto that the newly incorporated city may not adopt any regulation or policy which would have a negative fiscal impact on any contract existing at the time of the incorporation which is related to the publicly owned land.

This section shall not preclude the completion of proceedings to incorporate territory which is the subject of incorporation proceedings filed with the executive officer of the commission prior to February 15, 1986.

SEC. 99. Section 56668 is added to the Government Code, to read:

56668. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency.

(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

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

(l) The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.

(m) Any information or comments from the landowner or owners.

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

SEC. 99.5. Section 56668.5 is added to the Government Code, to read:

56668.5. The commission may, but is not required to, consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis. This section does not grant any new powers or authority to the commission or any other body to establish regional growth goals and policies independent of the powers granted by other laws.

SEC. 100. Section 56700.1 is added to the Government Code, to read:

56700.1. Expenditures for political purposes related to a change of organization or reorganization proposal that has been submitted to a commission, and contributions in support of or in opposition to those measures, shall be disclosed and reported to the same extent and subject to the same requirements as provided for local initiative measures to be presented to the electorate.

SEC. 101. Section 56700.3 of the Government Code is repealed.

SEC. 102. Section 56700.4 is added to the Government Code, to read:

56700.4. (a) Before circulating any petition for change of organization, the proponent shall file with the executive officer a notice of intention that shall include the name and mailing address of the proponent and a written statement, not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be signed by a representative of the proponent, and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition proposing to _____

The reasons for the proposal are:

(b) After the filing required pursuant to subdivision (a), the petition may be circulated for signatures.

(c) Upon receiving the notice, the executive officer shall notify any affected jurisdictions.

(d) The notice requirements of this section shall apply in addition to any other applicable notice requirements.

SEC. 103. Section 56700.5 of the Government Code is repealed.

SEC. 104. Section 56701 of the Government Code is repealed.

SEC. 105. Section 56702 of the Government Code is repealed.

SEC. 106. Section 56705 of the Government Code is amended to read:

56705. (a) Except as otherwise provided in subdivision (b), no petition shall be accepted for filing unless the signatures on the petition are secured within six months of the date on which the first signature on the petition was affixed and the petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file the petition in accordance with Section 56709.

(b) (1) Notwithstanding subdivision (a), in cities with a population of more than 100,000 residents that are located in a county with a population of over 4,000,000, no petition shall be accepted for filing unless the signatures thereon have been secured within 90 days of the publication of the notice required pursuant to Section 56760 and the petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file the petition in accordance with Section 56709.

(2) This subdivision shall not apply to a petition for a special reorganization, as defined in Section 56075.5. Subdivision (a) shall apply to a special reorganization, as defined in Section 56075.5, regardless of the number of residents in the city or county in which signatures have been secured on the petition. This paragraph is declaratory of existing law.

SEC. 107. Section 56706 of the Government Code is amended to read:

56706. (a) Within 30 days after the date of receiving a petition, the executive officer shall cause the petition to be examined by the

county elections official, in accordance with Sections 9113 to 9115, inclusive, of the Elections Code and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.

(b) (1) Except as provided in paragraph (2), if the certificate of the executive officer shows the petition to be insufficient, the executive officer shall immediately give notice by certified mail of the insufficiency to the proponents, if any. That mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, a supplemental petition bearing additional signatures may be filed with the executive officer.

(2) Notwithstanding paragraph (1), the proponents of the petition may, at their option, collect signatures for an additional 15 days immediately following the statutory period allowed for collecting signatures without waiting for notice of insufficiency. Any proponent choosing to exercise this option may not file a supplemental petition as provided in paragraph (1).

(c) Within 10 days after the date of filing a supplemental petition, the executive officer shall examine the supplemental petition and certify in writing the results of his or her examination.

(d) A certificate of sufficiency shall be signed by the executive officer and dated. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the executive officer's examination. The executive officer shall mail a copy of the certificate of sufficiency to the proponents, if any.

SEC. 108. Section 56708 of the Government Code is amended to read:

56708. If a petition is signed by owners of land, the executive officer shall cause the names of the signers on the petition to be compared with the names of the persons shown as owners of land on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application and ascertain, to the extent possible, both of the following:

(a) The total number of landowners within the territory and the total assessed valuation of all land within the affected territory.

(b) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers.

SEC. 109. Section 56710 of the Government Code is amended to read:

56710. For purposes of evaluating the sufficiency of any petition signed by owners of land:

(a) The assessed value to be given land exempt from taxation or owned by a public agency shall be determined by the county assessor, at the request of the executive officer, in the same amount as the county assessor would assess that land, if the land were not exempt from taxation or owned by a public agency.

(b) The value given land held in joint tenancy or tenancy in common shall be determined in proportion to the proportionate interest of the petitioner in that land.

(c) The executive officer shall disregard the signature of any person not shown as owner on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application unless prior to certification the executive officer is furnished with written evidence, satisfactory to the executive officer, that the signer meets any of the following requirements:

- (1) Is a legal representative of the owner.
- (2) Is entitled to be shown as owner of land on the next assessment roll.
- (3) Is a purchaser of land under a recorded written agreement of sale.
- (4) Is authorized to sign for, and on behalf of, any public agency owning land.

SEC. 110. Chapter 3 (commencing with Section 56720) is added to Part 3 of Division 3 of Title 5 of the Government Code, to read:

CHAPTER 3. PROCEEDINGS FOR CITIES

Article 1. Incorporation

56720. The commission shall not approve or conditionally approve any proposal that includes an incorporation, unless the commission finds, based on the entire record, that:

(a) The proposed incorporation is consistent with the intent of this division, including, but not limited to, the policies of Sections 56001, 56300, 56301, and 56377.

(b) It has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence.

(c) It has reviewed the comprehensive fiscal analysis prepared pursuant to Section 56800 and the Controller's report prepared pursuant to Section 56801.

(d) It has reviewed the executive officer's report and recommendation prepared pursuant to Section 56665, and the testimony presented at its public hearing.

(e) The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation.

56722. If a petition is for incorporation of a new city, or consolidation of cities, the petition may propose a name for the new or consolidated city.

The proposed name for the new or consolidated city may contain the word "town."

56723. If the petition is for incorporation, it may also include provisions for appointment of a city manager and appointment of elective city officials, except city council members.

56724. (a) If the commission approves a proposal that includes the incorporation of a city, the resolution making determinations shall, upon the incorporation applicant's request, specify that the first election of city officers is to be held after voter approval of the proposal.

(b) If the applicant has submitted an application to the commission prior to the effective date of this section, the applicant may request that the election of city officers be held after the vote on the incorporation proposal.

(c) If the election of city officers is to be conducted after the vote on the incorporation proposal, the commission shall not set the effective date to be sooner than the election date of the city officers.

Article 2. Special Reorganization

56730. Proceedings for a special reorganization shall be conducted in accordance with the procedures otherwise prescribed for incorporation of a city, including, but not limited to, the provisions specified in Sections 56720, 56800, 56810, and 56815. Notwithstanding any other provision of this division, an election, if required, shall be conducted in accordance with Sections 57119 and 57132.5.

Article 3. Annexation and Other Changes of Organization

56737. When a change of organization or a reorganization includes the annexation of inhabited territory to a city and the assessed value of land within the territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within the territory equals one-half or more of the number of registered voters residing within the city, the commission may determine as a condition of the proposal that the change of organization or reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.

56738. If the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), then the petition shall state whether the city shall succeed to the contract pursuant to Section 51243 or whether the city intends to exercise its option to not succeed to the contract pursuant to Section 51243.5.

56740. (a) No tidelands or submerged lands, as defined in subdivision (g), which are owned by the state or by its grantees in

trust shall be incorporated into, or annexed to, a city, except lands which may be approved by the State Lands Commission.

(b) If those tidelands or submerged lands are included within the boundaries of any territory proposed to be incorporated into, or annexed to, a city, a description of the boundaries, together with a map showing the boundaries, shall be filed with the State Lands Commission by the proponents of the incorporation or annexation. The filing with the State Lands Commission shall be made prior to the executive officer issuing a certificate of filing for the proposal.

(c) The State Lands Commission shall approve or disapprove all portions of the boundaries located upon the tidelands or submerged lands. In making that determination, it shall, where feasible and appropriate, require any extensions of land boundaries of the city or proposed city to be at right angles to the general direction of the shoreline at each point of intersection of the shoreline with the land boundaries of the city or proposed city. However, in the interest of ensuring an orderly and equitable pattern of offshore boundaries, the State Lands Commission may establish angles and other courses for each offshore boundary it deems necessary considering any irregularity of the shoreline, other geographical features, the effect of incorporation or annexation of the offshore or submerged lands on the uplands of the city, or proposed city, and adjoining territory, and the existing and potential boundaries of other cities and of unincorporated communities.

(d) Within 45 days after the filing of the boundary description and map with the State Lands Commission, the State Lands Commission shall make a determination of the proper offshore or submerged lands boundaries. That determination shall be final and conclusive. If the State Lands Commission does not make the determination within that time, the proposed offshore or submerged lands boundaries shall be deemed approved.

(e) The State Lands Commission shall report its determination to the executive officer and to each affected city, affected county, affected district, or person, if any, that has filed the boundary description and map. Thereafter, filings and action may be taken pursuant to this part.

(f) The local agency formation commission may review and make determinations as to all portions of the boundaries, other than those offshore or submerged lands boundaries.

(g) "Submerged lands," as used in this section, includes, but is not limited to, lands underlying navigable waters which are in sovereign ownership of the state whether or not those waters are subject to tidal influences.

56741. Territory may not be annexed to a city unless it is located in the same county. Unless otherwise provided in this division, territory may not be annexed to a city unless it is contiguous to the city at the time the proposal is initiated pursuant to this part.

Territory incorporated as a city shall be located within one county and, except as otherwise provided in Section 56742, shall be contiguous with all other territory being incorporated as a city.

56742. Notwithstanding Section 56741, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time commission proceedings are initiated. If, after the completion of the annexation, the city sells that territory or any part of that territory, all of the territory which is no longer owned by the city shall cease to be a part of the city. Territory which is used by a city for reclamation, disposal, and storage of treated wastewater may be annexed to the city pursuant to this section without limitation as to the size of the area encompassed within the territory so annexed.

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by the city and not contiguous to the city, although the territory is contiguous to the territory annexed pursuant to this section.

Notwithstanding any other provision of this section, a city which annexes territory pursuant to this section may annex additional territory in the same county as that in which the city is situated which is owned by the United States government or the State of California and which is contiguous to the first-annexed territory if the total acreage of the first-annexed and the subsequently annexed territory together does not exceed 300 acres in area. If after the completion of the subsequent annexation, the city sells all or any part of the first-annexed territory, the subsequently annexed territory shall cease to be part of the city if the subsequently annexed territory is no longer contiguous to territory owned by the city.

When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing required by Chapter 8 (commencing with Section 57200) of Part 4.

If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

56742.5. (a) Notwithstanding Section 56741, upon approval of the commission any city may annex noncontiguous territory which constitutes a state correctional facility or a state correctional training facility. If, after the completion of the annexation, the State of California sells that territory or any part thereof, all of the territory which is no longer owned by the state shall cease to be a part of the city which annexed the territory.

(b) If territory is annexed pursuant to this section, the city may not annex any territory not owned by the State of California and not contiguous to the city although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of the city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4 of Division 3.

(d) If territory annexed pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) A city may enter into an agreement with any other city under which the city apportions any increase in state subventions resulting from the annexation of territory pursuant to this section.

56743. (a) Notwithstanding Section 56741, upon approval of the commission a city may annex noncontiguous territory not exceeding 3,100 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal water purposes at the time preliminary proceedings are initiated pursuant to this part. If, after the completion of the annexation, the city sells that territory or any part thereof, all of that territory which is no longer owned by the city shall cease to be a part of the city.

(b) If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4.

(d) If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) If territory is annexed pursuant to this section, it shall be used only for municipal water purposes. The city may, however, enter into agreements to lease the land for timber production or grazing by animals. If the territory is used by the city for any other purpose at any time, it shall cease to be a part of the city.

(f) This section applies only to the City of Willits.

56744. Unless otherwise determined by the commission pursuant to subdivision (f) of Section 56375, territory shall not be incorporated into, or annexed to, a city pursuant to this division if, as a result of that incorporation or annexation, unincorporated territory is completely surrounded by that city or by territory of that city on one or more sides and the Pacific Ocean on the remaining sides.

56745. If authorized pursuant to Section 56375.3, the commission may order annexation of the territory without an election.

56746. (a) The authority to initiate, conduct, and complete any proceeding pursuant to Section 56745 does not apply to any territory which, after January 1, 2000, became surrounded or substantially surrounded by the city to which annexation is proposed. The authority to initiate, conduct, and complete any proceeding pursuant to Section 56745 shall expire January 1, 2007. The period of time between January 1, 2000, and January 1, 2007, shall not include any period of time during which, in an action pending in any court, a local agency is enjoined from conducting proceedings pursuant to Section 56745. Upon final disposition of that case, the previously enjoined local agency may initiate, conduct, and complete proceedings pursuant to Section 56745 for the same period of time as was remaining under that seven-year limit at the time the injunction commenced. However, if the remaining time is less than six months, that authority shall continue for six months following final disposition of the action.

(b) Between January 1, 2000, and January 1, 2007, no new proposal involving the same or substantially the same territory as a proposal initiated pursuant to Section 56745 after January 1, 2000, shall be initiated for two years after the date of adoption by the commission of a resolution terminating proceedings.

56747. (a) Notwithstanding Section 56031, unincorporated territory consisting of property abutting on a street, highway, or road, and the street, highway, or road, to the extent that it abuts that property, together with the road strip may be annexed to a city pursuant to this division under the following conditions:

(1) The annexation may be made only if the property to be annexed is within the sphere of influence of the annexing city, as adopted by the commission, and lies within an unincorporated area wholly surrounded by the annexing city or the annexing city and the county line or the annexing city and the Pacific Ocean or the annexing city and a boundary of another city.

(2) The property to be annexed shall not be annexed if the distance between the boundary of the annexing city and the point closest to the annexing city at which the road strip connects with the abutting property, as measured by the road strip, is more than one-half mile.

(b) Subsequent annexations to the road strip and abutting territory shall not be made unless both of the following conditions are met:

(1) The distance between the point at which the original road strip abuts the boundary of the annexing city and the point closest to the city at which the road strip connects with the abutting property to be annexed, as measured by the road strip, is one-half mile or less.

(2) The annexation is contiguous to the road strip.

(c) As used in this section:

(1) "Property to be annexed" means the property abutting on a street, highway, or road, and the street, highway, or road, to the extent it abuts the property.

(2) "Road strip" means the street, highway, or road which connects the territory of the property to be annexed to the annexing city.

(d) This section applies only to the City of Cupertino.

56749. (a) The commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a city of territory that is within a farmland security zone created pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Division 1. However, this subdivision shall not apply under any of the following circumstances:

(1) If the farmland security zone is located within a designated, delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services.

(2) If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement, as defined in Section 51290.5, except as provided in subdivision (f) or (g) of Section 51296.

(3) If the landowner consents to the annexation.

(b) This section shall not apply during the three-year period preceding the termination of a farmland security zone contract under Article 7 (commencing with Section 51296) of Chapter 7 of Division 1.

56750. Notwithstanding Sections 56300 and 56301, the commission shall not disapprove a change of organization or reorganization where the reason for disapproval is that the farmland security zone is excluded from the affected territory.

56751. (a) Upon receipt by the commission of a proposed change of organization or reorganization, except a special reorganization, that includes the detachment of territory from any city, the commission shall place the proposal on the agenda for the next commission meeting for information purposes only and shall transmit a copy of the proposal to any city from which the detachment of territory is requested.

(b) No later than 60 days after the date that the proposal is on the commission's meeting agenda in accordance with subsection (a), an

affected city may adopt and transmit to the commission a resolution requesting termination of the proceedings.

(c) If an affected city has adopted and transmitted to the commission a resolution requesting termination of proceedings within the time period prescribed by this section, then the commission shall terminate the proceedings upon receipt of the resolution from the city.

56752. If the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), then the resolution shall state whether the city shall succeed to the contract pursuant to Section 51243 or whether the city intends to exercise its option to not succeed to the contract pursuant to Section 51243.5.

56753. The executive officer shall give mailed notice of any hearing by the commission, as provided in Sections 56155 to 56157, inclusive, by mailing notice of the hearing to the Director of Conservation if the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1).

56753.5. Within 10 days after receiving a proposal that would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), the executive officer shall notify the Director of Conservation of the proposal. The notice shall include the contract number, the date of the contract's execution, and a copy of any protest that the city had filed pursuant to Section 51243.5.

56754. If a change of organization or reorganization would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), the commission shall determine one of the following:

(a) That the city shall succeed to the rights, duties, and powers of the county pursuant to Section 51243, or

(b) That the city may exercise its option to not succeed to the rights, duties, and powers of the county pursuant to Section 51243.5.

56755. Prior to submitting a resolution of application for the annexation of territory described in Section 56375.3 to the commission, the legislative body adopting the resolution shall conduct a public hearing on the resolution. Notice of the hearing shall be published pursuant to Sections 56153 and 56154. At the hearing, any landowner shall be given an opportunity to present his or her views on the resolution.

56756. The clerk of the legislative body adopting a resolution of application shall file a certified copy of that resolution with the executive officer.

56757. (a) The commission shall not review a reorganization that includes an annexation to any city in Santa Clara County of unincorporated territory that is within the urban service area of the city if the reorganization is initiated by resolution of the legislative body of the city.

(b) The city council shall be the conducting authority for the reorganization and the proceedings for the reorganization shall be initiated and conducted as nearly as may be practicable in accordance with Part 4 (commencing with Section 57000).

(c) The city council, in adopting the resolution approving the reorganization, shall make all of the following findings:

(1) That the unincorporated territory is within the urban service area of the city as adopted by the commission.

(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the road annexation policies of the commission. The city shall reimburse the county for the actual costs incurred by the county surveyor in making this determination.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

(5) That the proposal is consistent with the adopted general plan of the city.

(6) That the territory is contiguous to existing city limits.

(7) That the city has complied with all conditions imposed by the commission for inclusion of the territory in the urban service area of the city.

(d) All reorganizations which involve territory for which the land use designation in the general plan of the city has changed from the time that the urban service area of the city was last adopted by the commission, and which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county.

(e) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the reorganization proposal should also be annexed or detached from that special district.

(f) Any petition submitted under subdivision (d) or resolution submitted under subdivision (e) shall be submitted to the executive officer within 15 days of the adoption by the city council of the resolution approving the annexation. The executive officer shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

56758. If the proposal includes the annexation of inhabited territory to a city with over 100,000 residents which is located in a county with a population of over 4,000,000, no proceedings shall be initiated either by petition or by application of a legislative body unless the proposal is consistent with the sphere of influence of any affected city or affected district.

56759. In any order approving a proposal for an annexation or a reorganization that includes annexation of inhabited territory to a city when the assessed value of land within that territory proposed to be annexed equals one-half, or more, of that within the city, as shown by the last equalized assessment rolls, or the number of registered voters of the territory equals one-half, or more, of the number of registered voters within the city, as shown by the county register of voters, the commission shall require that an election called upon the question of confirming the annexation or reorganization shall also be called, held, and conducted within the territory of the city to which territory is proposed to be annexed.

Article 4. Initiation by Petition

56760. (a) Before circulating any petition for change of organization for a city with a population of more than 100,000 which is located in a county with a population of over 4,000,000, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be published pursuant to Section 56153. The notice shall be signed by at least one, but not more than three, chief petitioners and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition proposing to _____ territory to the City of _____

The reasons for the proposal are:

(b) Within five days after the date of publication, the chief petitioners shall file with the clerk of the city and the executive officer a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication.

(c) After the filing required pursuant to subdivision (b), the petition may be circulated for signatures.

56764. A petition for the incorporation of a city shall be signed by either of the following:

(a) Not less than 25 percent of the registered voters residing in the area to be incorporated, as determined by the commission pursuant to subdivision (f) of Section 56375.

(b) Not less than 25 percent of the number of owners of land within the territory proposed to be incorporated who also own not less than 25 percent of the assessed value of land within the territory proposed to be incorporated, as shown on the last equalized assessment roll of the county.

56765. A petition for the disincorporation of a city shall be signed by not less than 25 percent of the registered voters residing in the city proposed to be disincorporated as shown on the county register of voters.

56766. A petition for the consolidation of two or more cities shall be signed by not less than 5 percent of the registered voters of each affected city as shown on the county register of voters.

56767. (a) Except as otherwise provided in subdivision (b), a petition for annexation of territory to a city shall be signed by either of the following:

(1) Not less than 5 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters.

(2) Not less than 5 percent of the number of owners of land within the territory proposed to be annexed who also own 5 percent of the assessed value of land within the territory as shown on the last equalized assessment roll.

(b) Notwithstanding subdivision (a), a petition for the annexation of territory to a city with more than 100,000 residents which is located in a county with a population of over 4,000,000, shall be signed by either of the following:

(1) Not less than 5 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters.

(2) Not less than 5 percent of the number of owners of land within the territory proposed to be annexed who also own 5 percent of the assessed value of land within the territory as shown on the last equalized assessment roll.

56768. A petition for detachment of territory from a city shall be signed by either of the following:

(a) Not less than 25 percent of the registered voters residing within the territory proposed to be detached, as shown on the county register of voters.

(b) Not less than 25 percent of the number of owners of land within the territory proposed to be detached who also own 25 percent of the assessed value of land within the territory, as shown on the last equalized assessment roll.

SEC. 111. Chapter 3 (commencing with Section 56750) of Part 3 of Division 3 of Title 5 of the Government Code is repealed.

SEC. 112. The heading of Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of the Government Code is amended to read:

CHAPTER 4. FISCAL PROVISIONS

SEC. 113. A heading is added as Article 1 (commencing with Section 56800) to Chapter 4 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 1. Comprehensive Fiscal Analysis

SEC. 114. Section 56800 of the Government Code is amended and renumbered to read:

56654. (a) A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency.

(b) At least 20 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

(c) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

SEC. 115. Section 56800 is added to the Government Code, to read:

56800. For any proposal which includes an incorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56665. Data used for the analysis shall be from the most recent fiscal year for which data are available, provided that the data are not more than one fiscal year old. When data from the most recent fiscal year are unavailable, the executive officer may request supplemental data. The analysis shall review and document each of the following:

(a) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation.

(b) The revenues of the proposed city during the three fiscal years following incorporation.

(c) The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation.

(d) Any other information and analysis needed to make the findings required by Section 56720.

SEC. 115.5. Section 56800 is added to the Government Code, to read:

56800. For any proposal which includes an incorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56665. Data used for the analysis shall be from the most recent fiscal year for which data are available preceding the issuance of the certificate of filing. When data from the most recent fiscal year are unavailable, the analysis shall document the source and methodology of the data used. The analysis shall review and document each of the following:

(a) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation with the following criteria:

(1) When determining costs, the executive officer shall include all direct and indirect costs associated with the current provision of existing services in the affected territory. These costs should reflect the actual or estimated costs at which the existing level of service could be contracted by the proposed city following an incorporation, if the city elects to do so, and shall include any general fund expenditures used to support or subsidize a fee-supported service where the full costs of providing the service are not fully recovered through fees. The executive officer shall also identify which of these costs shall be transferred to the new city that result in an administrative cost reduction to other agencies. In the analysis, the executive officer shall also review how the costs of any existing services compare to the costs of services provided in cities with similar populations and similar geographic size that provide a similar level and range of services and shall make a reasonable determination of the costs expected to be borne by the newly incorporated city.

(2) When determining costs, the executive officer shall also include all direct and indirect costs, of any public services that are proposed to be assumed by the new city and that are provided by state agencies in the area proposed to be incorporated.

(b) The revenues of the proposed city during the three fiscal years following incorporation.

(c) The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation.

(d) Any other information and analysis needed to make the findings required by Section 56720.

SEC. 116. Section 56800.3 of the Government Code is repealed.

SEC. 117. Section 56801 of the Government Code is repealed.

SEC. 118. Section 56801 is added to the Government Code, to read:

56801. (a) For any proposal that includes an incorporation, the executive officer shall, at the request of an interested party, which request is submitted pursuant to subdivision (b), and prior to issuing his or her report and recommendation pursuant to Section 56665,

request the Controller to review the comprehensive fiscal analysis prepared pursuant to Section 56800. The request by an interested party shall specify in writing any element of the comprehensive fiscal analysis that the Controller is requested to review and the reasons the Controller is requested to review each element.

(b) The commission may adopt written procedures for the acceptance, referral, and payment for a request for the Controller's review, which shall include setting a time period during which an interested party is permitted to submit a request pursuant to subdivision (a). The time period for accepting a request shall not be less than 30 days following notice given in the same manner as specified in Section 56153.

(c) Within 45 days of receiving the analysis, the Controller shall issue a report to the executive officer regarding the accuracy and reliability of the information, methodologies, and documentation used in the analysis. The times within which the executive officer or commission is required to act pursuant to this chapter shall be tolled for the time required by the Controller for completion of the report. The executive officer shall include the results of the Controller's report into his or her own report and recommendation issued pursuant to Section 56665.

(d) Notwithstanding Sections 56378 and 56386, the Controller may charge the commission for the actual costs incurred pursuant to this section. The commission may recover these costs by charging the person who requested the Controller's review.

SEC. 119. Section 56802 of the Government Code is repealed.

SEC. 120. Section 56802 is added to the Government Code, to read:

56802. (a) For any proposal for incorporation of the territory within the Mountain House Community Services District, San Joaquin County shall provide the required funds to those petitioners filing the incorporation application for all costs involved in filing the application for incorporation pursuant to this division, including the preparation of the comprehensive fiscal analysis pursuant to Section 56800.

(b) The funds provided by the county pursuant to this section shall not be construed to be a gift of public funds and may only be granted to a quasi-public or nonprofit organization formed for the purpose of pursuing incorporation of the Mountain House area.

(c) San Joaquin County shall provide the funds required in subdivision (a) only one time, upon the first filing of application for incorporation.

SEC. 121. Section 56803 is added to the Government Code, to read:

56803. If the commission approves a proposal which includes the incorporation of a city, the resolution making determinations shall accept or reject each of the findings and recommendations made in

the executive officer's report prepared pursuant to Section 56665, and the fiscal analysis prepared pursuant to Section 56800. If the commission rejects a finding or recommendation, the resolution making determinations shall include findings by the commission which present the basis for any rejection.

SEC. 122. Article 2 (commencing with Section 56810) is added to Chapter 4 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 2. Property Tax Exchange

56810. (a) (1) If the proposal includes the incorporation of a city, as defined in Section 56043, the commission shall determine the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section and Section 56815.

(2) If the proposal includes the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the amount of property tax to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of

providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs which were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost which was funded by any revenues of that agency which are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount described in the previous sentence by the annual tax increment according to the procedures set forth in Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the new city or district receives its initial allocation of property taxes.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.

(d) If the proposal would transfer all of an affected agency's service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985-86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, "prior fiscal year" means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available preceding the fiscal year in which the commission approves by resolution the city's proposal to incorporate or the district's proposal to form.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section shall be commenced within three years of the effective date of the city's incorporation or the district's formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.

(j) The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56815.

56811. If a proposal includes the formation of a district, the commission shall determine the appropriations limit of the district in accordance with Section 7902.7 and Article XIII B of the California Constitution.

56812. (a) If a proposal includes the incorporation of a city, the commission shall determine the provisional appropriations limit of the city in accordance with Section 7902.7 and Article XIII B of the California Constitution. The commission shall determine the provisional appropriations limit of the city in the following manner:

(1) Estimate the amount of revenue anticipated to be received by the city from the proceeds of taxes for the first full fiscal year of operation.

(2) Adjust the amount determined in paragraph (1) for the estimated change in the cost of living and population in the next full fiscal year of operation and such other changes as may be required or permitted by Article XIII B of the California Constitution.

(b) The governing body of the city shall determine the proposed permanent appropriations limit of the city to be submitted to the voters in the following manner:

(1) Determine the amount of revenue actually received by the city from the proceeds of taxes for the first full fiscal year of operation.

(2) Adjust the amount determined in paragraph (1) for the estimated change in the cost of living and population in the next full fiscal year of operation and such other changes as may be required or permitted by Article XIII B of the California Constitution.

(c) The permanent appropriations limit of the city shall be set at the first municipal election which is held following the first full fiscal year of operation and shall not be considered to be a change in the appropriations limit of the city pursuant to Section 4 of Article XIII B of the California Constitution.

SEC. 123. Article 3 (commencing with Section 56815) is added to Chapter 4 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 3. Revenue Neutrality

56815. (a) It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.

(b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:

(1) Revenues currently received by the local agency transferring the affected territory which, but for the operation of this section, would accrue to the local agency receiving the affected territory.

(2) Expenditures currently made by the local agency transferring the affected territory for those services which will be assumed by the local agency receiving the affected territory.

(c) Notwithstanding subdivision (b), the commission may approve a proposal that includes an incorporation if it finds either of the following:

(1) The county and all of the subject agencies agree to the proposed transfer.

(2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.

(d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless

otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).

(e) Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains an incorporation shall be included in the commission resolution making determinations adopted pursuant to Section 56880 and the terms and conditions specified in the questions pursuant to Section 57134.

SEC. 123.5. Section 56815 is added to the Government Code, to read:

56815. (a) It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.

(b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:

(1) Revenues currently received by the local agency transferring the affected territory that, but for the operation of this section, would accrue to the local agency receiving the affected territory.

(2) Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.

(c) Notwithstanding subdivision (b), the commission may approve a proposal that includes an incorporation if it finds either of the following:

(1) The county and all of the subject agencies agree to the proposed transfer.

(2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.

(d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).

(e) Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains an incorporation shall be included in the commission resolution making determinations adopted pursuant to Section 56880 and the terms and conditions specified in the questions pursuant to Section 57134.

SEC. 123.7. Section 56815 is added to the Government Code, to read:

56815. (a) It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both

revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.

(b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:

(1) Revenues currently received by the local agency transferring the affected territory that, but for the operation of this section, would accrue to the local agency receiving the affected territory.

(2) Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.

(c) Notwithstanding subdivision (b), the commission may approve a proposal that includes an incorporation if it finds either of the following:

(1) The county and all of the subject agencies agree to the proposed transfer.

(2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.

(d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).

(e) Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains an incorporation shall be included in the commission resolution making determinations adopted pursuant to Section 56880 and the terms and conditions specified in the questions pursuant to Section 57134.

(f) For any incorporation approved by the voters on or after January 1, 2001, voter approval of terms and conditions, including, but not limited to, fiscal mitigation measures, which terms and conditions were found by the commission to constitute an agreement by the proponents of incorporation and the affected agency, shall constitute a binding contractual obligation of the affected new city and each party to the agreement to comply with those terms and conditions.

SEC. 124. Section 56815.2 is added to the Government Code, to read:

56815.2. By July 1, 2001, the Governor's Office of Planning and Research, in consultation with the Controller, shall convene a task force composed of representatives of cities, counties, special districts, and local agency formation commissions, as nominated by their statewide organizations and associations, with expertise in local

government fiscal issues for the purpose of creating statewide guidelines for the incorporation process. The guidelines shall be completed by January 1, 2002, by the Office of Planning and Research and shall serve as minimum statewide guidelines for the incorporation process. The guidelines shall include, but not be limited to, information to assist incorporation proponents to understand the incorporation process, its timelines, and likely costs. They shall also provide direction to affected agencies regarding the type of information that should be included in the comprehensive fiscal analysis of an incorporation, as well as suggestions for alternative ways to achieve fiscally neutral incorporations. The guidelines shall be advisory to the commissions in the review of incorporation proposals.

SEC. 125. A heading is added as Chapter 5 (commencing with Section 56820) to Part 3 of Division 3 of Title 5 of the Government Code, to read:

CHAPTER 5. PROCEEDINGS FOR SPECIAL DISTRICTS

SEC. 126. Article 1 (commencing with Section 56820) is added to Chapter 5 of Part 3 of Division 3 of the Government Code, to read:

Article 1. Representation and Functions

56820. The commission may take proceedings pursuant to this chapter for the adoption, amendment, or repeal of regulations affecting the functions and services of special districts within the county. Those proceedings may be initiated either by the commission or by independent special districts within the county. If the commission has representation from special districts prior to January 1, 2001, and if the commission has previously adopted regulations limiting the exercise of powers by its special districts as a condition of that representation, those regulations shall be repealed upon the request of a majority of independent special districts within the county.

56820.5. The commission may adopt, amend, or repeal regulations affecting the functions and services of special districts within the county. The regulations shall designate the special districts, by type and by principal act, to which they apply and the regulations shall not apply to, or affect the functions and services of, any special districts not so designated. The regulations may do any of the following:

(a) Classify the various types of service which customarily are, or can be, provided within a single function of a special district. A class may be based upon the type of service, the purpose or use of the service, the facilities used to provide the service, the type of consumers or users of the service, the extent of territory provided

with the service, and any other factors which, in the opinion of the commission, are necessary or convenient to group persons, properties, or activities into a class having common characteristics distinct from those of other classes.

(b) Require existing districts to file written statements with the commission specifying the functions or classes of service provided by those districts.

(c) Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

(d) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district.

The regulations shall not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service which the commission, pursuant to this section, has established is currently being provided by that special district.

56820.7. In any county where regulations have been adopted, an application for the formation of a special district shall set forth the functions and services proposed to be provided by the district. If, in the opinion of the commission, approval of the application will necessitate adoption of any new regulations or the amendment or repeal of any existing regulations, the commission may condition approval of the application upon the adoption, amendment, or repeal of the regulations and shall initiate and conduct proceedings pursuant to this chapter for the adoption, amendment, or repeal of those regulations.

56821. Either the commission or the legislative body of any independent special district within a county may adopt a resolution initiating proceedings as follows:

(a) It may propose representation of special districts upon the commission.

(b) It may propose the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, in which case it shall request that the commission do either of the following:

(1) Consider the proposal without reference to a special district advisory committee, in which case the resolution shall contain the text of the regulations proposed to be adopted, amended, or repealed.

(2) Refer the proposal to a special district advisory committee for study, report, and recommendation, in which case the resolution shall generally describe the nature of the regulations proposed to be amended, adopted, or repealed and, if then available, shall refer to a text on file with the clerk of the district for a detailed description of the regulations.

56821.1. If the commission adopts a resolution pursuant to subdivision (a) of Section 56821, the executive officer shall

immediately call a meeting of the independent special district selection committee referred to in Section 56332. The meeting shall be held not less than 15, or more than 35, days from the adoption of the resolution by the commission. The independent special district selection committee shall meet at the time and place designated by the executive officer and shall consider the resolution adopted by the commission. By majority vote of those district representatives voting on the issue, the selection committee shall either approve or disapprove the resolution adopted by the commission. If the selection committee approves the resolution adopted by the commission, it shall immediately inform the executive officer of that action, and the commission at its next meeting shall adopt a resolution of intention pursuant to Section 56822. If the selection committee disapproves the resolution adopted by the commission, it shall immediately inform the executive officer of this action and all further proceedings under this chapter shall cease.

56821.3. If an independent special district adopts a resolution pursuant to subdivision (a) of Section 56821, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, adopted by the districts within one year from the date that the first resolution was adopted, the commission, at its next regular meeting, shall adopt a resolution of intention pursuant to Section 56822.

56821.5. A certified copy of any resolution which has been adopted by an independent special district pursuant to subdivision (b) of Section 56821 and a copy of the text, if any, of proposed regulations referred to in the resolution shall be filed with the executive officer. If a resolution, or substantially identical resolution, has been filed by a majority of independent special districts within the county, then, not later than 35 days after the filing, the commission shall adopt a resolution of intention in accordance with the filed resolution or resolutions.

56821.7. Minor changes in any existing regulation affecting special districts may be ordered by the commission, without adoption of a resolution of intention, notice, and hearing, or reference to a special district advisory committee, if the commission makes a determination that those changes will not substantially affect the functions and services of any special district subject to those regulations and that determination is concurred in by both of the commission members appointed to represent the special districts.

56822. Whenever the commission, or the independent special districts, as the case may be, have complied with the applicable provisions of Sections 56821, 56821.1, 56821.3, and 56821.5, the commission shall adopt a resolution of intention pursuant to this section. The resolution of intention shall do all of the following:

(a) State whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth.

(b) If the resolution of intention proposes only the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, it shall state that the commission proposes either of the following:

(1) To consider the proposal without reference to a special district advisory committee, in which case the resolution shall contain the text of the regulations proposed to be adopted, amended, or repealed.

(2) To refer the proposal to a special district advisory committee for study, report, and recommendation, in which case the resolution shall generally describe the nature of the regulations proposed to be amended, adopted, or repealed and, if then available, shall refer to a text on file with the executive officer for a detailed description of the regulations.

In addition, the resolution of intention adopted pursuant to this subdivision shall also fix a time, not less than 15 or more than 35 days after the adoption of the resolution of intention, and the place of hearing by the commission on the question of whether the proposal made by the resolution should be disapproved, approved, and ordered without reference to a special district advisory committee, or referred to a special district advisory committee for study, report, and recommendation to the commission.

(c) If the resolution of intention proposes representation of special districts on the commission, it shall state that the commission proposes to refer the proposal to a special district advisory committee and the commission shall immediately order the proposal referred to that committee pursuant to Section 56823.

56822.3. If a hearing is called pursuant to subdivision (b) of Section 56822, the executive officer shall give notice of the hearing by publication, as provided in Sections 56153 and 56154, by posting, as provided in Sections 56158 and 56159, and by mailing to the clerk of the county and each local agency within the county, as provided in Sections 56155, 56156, and 56157.

56822.5. The hearing referred to in Section 56822.3 shall be held by the commission at the time and place specified or to which the hearing may be continued. After the conclusion of the hearing, the commission shall adopt a resolution disapproving the proposal made by the resolution of intention, approving and ordering the proposal without reference to a special district advisory committee, or ordering the proposal referred to a special district advisory committee for study, report, and recommendation.

56823. If the commission orders a proposal referred to a special district advisory committee for study, report, and recommendation, the appointment of, and proceedings by, the advisory committee

shall be made and taken substantially in accordance with the provisions of Chapter 6 (commencing with Section 56826), pertaining to reorganization committees, except that the advisory committee shall not be terminated until after the commission acts upon the report and recommendation of the advisory committee. When applied to proceedings taken pursuant to this chapter:

(a) "Plan of reorganization" means a plan containing the text of regulations affecting the functions and services of special districts.

(b) "Proposal of reorganization," "reorganization," or "change of organization" means a proposal made pursuant to this chapter.

(c) "Reorganization committee" means the special district advisory committee.

(d) "Subject district" means an independent special district affected by a proposal made pursuant to this chapter.

If the commission is of the opinion that special districts, other than independent special districts, may be affected by the proposal, then, in addition to the appointment of voting members to the advisory committee to represent independent special districts, the commission may authorize the legislative bodies of special districts, other than independent special districts, to appoint nonvoting members to the advisory committee. Any nonvoting member shall have all of the rights of a voting member except the right to vote.

56824. Where a special district advisory committee consists of voting members representing more than five independent special districts, the advisory committee may appoint an executive committee to undertake all or part of the study and may authorize the executive committee to prepare a tentative report and recommendation for submission to and approval by the full advisory committee. The executive committee shall consist of the number of voting members as the advisory committee may determine. If the commission authorizes the appointment of nonvoting members to the advisory committee, those nonvoting members may appoint members to the executive committee in numbers not exceeding those appointed by the voting members and any nonvoting member appointed to the executive committee shall have all of the rights of a voting member on the committee, except the right to vote.

Upon completion of the studies of the executive committee, the executive committee shall report to the full advisory committee and submit any tentative report and recommendation prepared by the executive committee. Thereafter, the advisory committee may reject any tentative report and recommendation submitted, may adopt any tentative report and recommendation submitted, either as submitted by the executive committee or as changed by the full advisory committee, or the advisory committee may prepare its own report and recommendation.

56824.1. Not later than 35 days after the filing with the executive officer of the report and recommendation of a special district

advisory committee, the commission shall take one of the following actions:

(a) If the report concerns only the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, the commission may do either of the following:

(1) Disapprove the report without further notice and hearing.

(2) Adopt a resolution of intention to hold a hearing on the report pursuant to subdivision (c).

(b) If the report concerns a request for special district representation on the commission, the commission shall adopt a resolution declaring its intention to approve the report and recommendation.

(c) A resolution of intention shall do all of the following:

(1) Refer to the report and recommendation of the special district advisory committee, generally describe the nature and contents of the report and recommendation, and refer to the report and recommendation on file with the executive officer for a detailed description report and recommendation.

(2) Declare the intention of the commission to approve the recommendation and report, as filed or as those regulations may be changed by the commission after notice and hearing.

(3) Fix a time, not less than 15 days, or more than 35 days, after the adoption of the resolution of intention, and the place of hearing by the commission, on the question of whether the report and recommendation filed by the special district advisory committee should be approved, either as filed or as ordered changed by the commission after notice and hearing.

56824.3. The executive officer shall give notice of the hearing by publication, as provided in Sections 56153 and 56154, by posting, as provided in Sections 56158 and 56159, and by mailing to the clerk of the county and each local agency within the county, as provided in Sections 56155, 56156, and 56157.

56824.5. The hearing shall be held by the commission at the time and place specified or to which the hearing may be continued. During the course of the hearing, the commission may propose changes in the report and recommendations. Any proposed changes shall be referred, for review, to the special district advisory committee, or if the advisory committee has appointed an executive committee, to that executive committee. The advisory committee, or the executive committee, shall have 60 days to report back to the commission. If no report is received by the commission within 60 days, the advisory committee shall be deemed to have approved the proposed changes in the report and recommendation.

Within 30 days after the conclusion of the hearing, the commission shall adopt a resolution approving the report and recommendation, either as filed or as those regulations may be changed by the commission.

56824.7. Any resolution approving the report and recommendation of a special district advisory committee, either as filed or as changed by the commission, shall order both of the following:

(a) The adoption, amendment, or repeal of regulations, in accordance with the recommendations of the approved report.

(b) The chairperson of the commission to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution if special district representatives on the commission are to be selected pursuant to Section 56332.

SEC. 127. The heading of Chapter 5 (commencing with Section 56825) of Part 3 of Division 3 of Title 5 of the Government Code is repealed.

SEC. 128. A heading is added as Article 2 (commencing with Section 56825) to Chapter 5 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 2. Reorganization

SEC. 129. Section 56826 of the Government Code is repealed.

SEC. 130. Section 56826 is added to the Government Code, to read:

56826. A reorganization or a plan of reorganization shall provide for one or more changes of organization of any type for each of the subject districts and may provide for the formation of one or more new districts pursuant to the principal act or acts designated in the reorganization or plan of reorganization and Section 56100.

SEC. 131. Section 56827 of the Government Code is repealed.

SEC. 132. Section 56827 is added to the Government Code, to read:

56827. (a) Except as provided in subdivision (b), upon the presentation of any petition or applications making a proposal for a reorganization, the commission may take proceedings pursuant to Part 3 (commencing with Section 56650) without referring the proposal to a reorganization committee, as provided in this part.

(b) The commission may refer to a reorganization committee any incorporation proposal that includes, or may be modified to include, any of the following changes of organization affecting an independent special district: consolidation, dissolution, formation, merger, or establishment of a subsidiary district.

SEC. 133. Section 56827.5 of the Government Code is repealed.

SEC. 134. Section 56828 of the Government Code is repealed.

SEC. 135. Section 56828 is added to the Government Code, to read:

56828. Before any proposal for reorganization is referred to any reorganization committee, the commission may provide for a public

hearing on the question of whether the proposal should be disapproved or referred to a reorganization committee and set a time and place for that hearing.

SEC. 136. Section 56828.5 of the Government Code is repealed.

SEC. 137. Section 56829 of the Government Code is repealed.

SEC. 138. Section 56829 is added to the Government Code, to read:

56829. The executive officer shall give notice of that hearing by publication, as provided in Sections 56153 and 56154, and by posting, as provided in Sections 56158 and 56159.

SEC. 139. Section 56830 of the Government Code is repealed.

SEC. 140. Section 56830 is added to the Government Code, to read:

56830. The executive officer shall also give mailed notice of any hearing, as provided in Sections 56155 to 56157, inclusive, by mailing notice of hearing to all of the following persons and entities:

(a) Each affected city and affected district.

(b) The chief petitioners, if any.

(c) Each person who has filed a written request for special notice with the executive officer.

SEC. 141. Section 56831 of the Government Code is repealed.

SEC. 142. Section 56831 is added to the Government Code, to read:

56831. The hearing shall be held by the commission on the date and at the time and place specified in the notice. After the conclusion of the hearing, the commission shall adopt a resolution doing either of the following:

(a) Disapproving the proposal of reorganization.

(b) Ordering the proposal referred to a reorganization committee for study, report, and recommendation.

SEC. 143. Section 56832 of the Government Code is repealed.

SEC. 144. Section 56832 is added to the Government Code, to read:

56832. The commission may accept contributions from any source for the purpose of paying the expenses of a reorganization committee in the conduct of its study, report, and recommendation. Any affected county, affected city, or affected district may make contributions for that purpose. The commission and any affected county, affected city, or affected district may make any of its facilities available for the use of a reorganization committee and may authorize any of its officers and employees to furnish advice, assistance, or services to the committee.

SEC. 145. Section 56833 of the Government Code is repealed.

SEC. 146. Section 56833 is added to the Government Code, to read:

56833. Any resolution adopted by the commission ordering a proposal of reorganization referred to a reorganization committee shall do all of the following:

(a) Describe the proposed reorganization and designate the subject districts (the description and designation may be by reference to the proposal).

(b) Specify the maximum number of members, not to exceed three, to represent each subject district on the committee.

(c) Fix a time and place for the first meeting of the reorganization committee.

(d) Designate a date, not less than 60 days from the date of the first meeting of the committee, for the completion and submission to the commission of the report and recommendation of the committee.

SEC. 147. Section 56833.1 of the Government Code is repealed.

SEC. 148. Section 56833.3 of the Government Code is repealed.

SEC. 149. Section 56833.5 of the Government Code is repealed.

SEC. 150. Section 56834 of the Government Code is repealed.

SEC. 151. Section 56834 is added to the Government Code, to read:

56834. From time to time during the course of study upon a proposed plan of reorganization, the commission may do any of the following:

(a) Extend the time for completion and submission of the report and recommendation of a reorganization committee.

(b) Change the scope of the study by the addition or deletion of territory or of subject districts.

(c) Authorize the committee to develop, study, report, and make recommendations upon alternative plans of reorganization.

SEC. 152. Section 56835 of the Government Code is repealed.

SEC. 153. Section 56835 is added to the Government Code, to read:

56835. At least 15 days before the date of the first meeting of a reorganization committee, the executive officer shall mail a copy of the resolution adopted by the commission to each subject district designated in the resolution.

SEC. 154. Section 56836 of the Government Code is repealed.

SEC. 155. Section 56836 is added to the Government Code, to read:

56836. Any person, including, but not limited to, a member of the legislative body of a subject district and an officer or employee of the district, may be appointed as a member to represent the district upon a reorganization committee.

SEC. 156. Section 56837 of the Government Code is repealed.

SEC. 157. Section 56837 is added to the Government Code, to read:

56837. (a) The legislative body of each affected district shall appoint one or more members, not to exceed the maximum number

specified by the commission, to represent the district on the reorganization committee. That legislative body may remove and replace any member previously appointed by it, and may fill any vacancy in its membership upon the committee.

(b) In the case of a reorganization committee created pursuant to subdivision (b) of Section 56827, the county board of supervisors shall appoint one or more members, not to exceed the maximum number specified by the commission, to represent the county on the reorganization committee. The county board of supervisors may appoint any person, including, but not limited to, an officer or employee of the county to represent the county on the reorganization committee. The county board of supervisors may remove and replace any member previously appointed by it, and may fill any vacancy in its membership on the committee.

(c) In the case of a reorganization committee created pursuant to subdivision (b) of Section 56827, the commission shall appoint one or more members to represent the general public on the reorganization committee. The number of members appointed to represent the general public shall not exceed the maximum number specified by the commission to represent the county or each subject district. A member appointed pursuant to this subdivision shall not be an officer or employee of any local agency. The commission may remove and replace any member previously appointed by it, and may fill any vacancy in its membership on the committee.

SEC. 158. Section 56838 of the Government Code is repealed.

SEC. 159. Section 56838 is added to the Government Code, to read:

56838. The clerk of a subject district shall give immediate notice to the executive officer of all appointments and removals made by the legislative body to a reorganization committee.

SEC. 160. Section 56839 of the Government Code is repealed.

SEC. 161. Section 56839 is added to the Government Code, to read:

56839. At any time after the date fixed for the first meeting of a reorganization committee or during the course of the study by the committee, if the legislative body of any subject district, after written request by the executive officer, does not appoint any members to the committee, those members may be appointed by the commission.

SEC. 162. Section 56839.1 of the Government Code is repealed.

SEC. 163. Section 56840 of the Government Code is repealed.

SEC. 164. Section 56840 is added to the Government Code, to read:

56840. If, during the course of study upon a proposed plan of reorganization, the commission authorizes a change in the scope of the study, the membership of the reorganization committee shall be immediately changed to exclude representatives of each district or city for which a change of organization is no longer proposed and to

include representatives of each district or city for which a new change of organization is proposed.

SEC. 165. Section 56840.5 of the Government Code is repealed.

SEC. 166. Section 56841 of the Government Code is repealed.

SEC. 167. Section 56841 is added to the Government Code, to read:

56841. Subject to any standards and procedures adopted by regulation by the commission, a reorganization committee shall provide for the selection of a presiding officer and secretary either of whom may but are not required to be members of the committee, adopt the standards and procedures which it deems advisable, fix the time and place for meetings of the committee, and determine the manner and method to be followed by the committee in its study, report, and recommendation.

SEC. 168. Section 56842 of the Government Code is repealed.

SEC. 169. Section 56842 is added to the Government Code, to read:

56842. A quorum shall be deemed to be present at a meeting of a reorganization committee if members representing one-half or more of the subject districts are present. Each subject district shall be entitled to one vote at any reorganization committee meeting, which vote shall be determined by a majority of the members of the district present at the meeting.

SEC. 170. Section 56842.2 of the Government Code is repealed.

SEC. 171. Section 56842.5 of the Government Code is repealed.

SEC. 172. Section 56842.6 of the Government Code is repealed.

SEC. 173. Section 56842.7 of the Government Code is repealed.

SEC. 174. Section 56843 of the Government Code is repealed.

SEC. 175. Section 56843 is added to the Government Code, to read:

56843. If a reorganization committee does not complete and submit its report and recommendation before the date specified by the commission or, prior to that date, if members of the committee representing one-half or more of the subject districts report to the commission that the committee is unable to agree upon the report and recommendation, the commission may either order the discharge of the committee, or appoint additional members to the committee, not to exceed the maximum number authorized for a single subject district, to represent the public and order the committee, as so enlarged, to continue its study.

SEC. 176. Section 56844 of the Government Code is repealed.

SEC. 177. Section 56844 is added to the Government Code, to read:

56844. If the commission orders the discharge of a reorganization committee, the commission may make a study, report, and recommendation upon a plan of reorganization in the place of the reorganization committee.

SEC. 178. Section 56844.1 of the Government Code is repealed.

SEC. 179. Section 56844.2 of the Government Code, as added by Chapter 911 of the Statutes of 1997, is repealed.

SEC. 180. Section 56844.2 of the Government Code, as added by Chapter 590 of the Statutes of 1998, is repealed.

SEC. 181. Section 56845 of the Government Code is repealed.

SEC. 182. Section 56845 is added to the Government Code, to read:

56845. If the commission appoints additional members to the reorganization committee to represent the public and orders the reorganization committee, as so enlarged, to continue its study, the additional members shall have all of the rights and powers of members representing a single subject district, including participation in all studies, reports, and recommendations, attendance at all meetings, and the casting of a single vote on behalf of all of the additional members on any matter before the committee.

SEC. 183. Section 56846 of the Government Code is repealed.

SEC. 184. Section 56846 is added to the Government Code, to read:

56846. Every officer of any affected county, affected city, or affected district shall make available to a reorganization committee any records, reports, maps, data, or other documents which in any way affect or pertain to the committee's study, report, and recommendation and shall confer with the committee concerning the problems and affairs of that county, city, or district.

SEC. 185. Section 56847 of the Government Code is repealed.

SEC. 186. Section 56847 is added to the Government Code, to read:

56847. Upon completion of the study of a reorganization committee, the committee shall prepare and submit to the commission a report and recommendation containing all of the following:

(a) A brief summary of the nature and extent of the study of the committee.

(b) A full and complete description of the plan of reorganization and any alternative plans of reorganization which were studied by the committee.

(c) The recommendation of the committee for the approval or disapproval of all or any part of the plan of reorganization and of any alternative plans of reorganization.

SEC. 187. Section 56848 is added to the Government Code, to read:

56848. Approval by a reorganization committee of the report and recommendation shall require the affirmative vote of more than one-half of the subject districts represented on the reorganization committee.

SEC. 188. Section 56848.3 of the Government Code is repealed.

SEC. 189. Section 56848.5 of the Government Code is repealed.

SEC. 190. Section 56849 of the Government Code is repealed.

SEC. 191. Section 56849 is added to the Government Code, to read:

56849. The reorganization committee shall file the original of its report and recommendation with the executive officer and a copy of the report and recommendation with the clerk of each subject district. Upon filing that report and recommendation with the executive officer, the reorganization committee shall be terminated. However, the commission may cause the committee to be reconvened at any time for the sole purpose of correcting or clarifying any error, omission, or uncertainty appearing in the report and recommendation, as determined by the commission.

SEC. 192. Section 56850 of the Government Code is repealed.

SEC. 193. Section 56851 of the Government Code is repealed.

SEC. 194. Section 56852 of the Government Code is repealed.

SEC. 195. Section 56852.3 of the Government Code is repealed.

SEC. 196. Section 56852.5 of the Government Code is repealed.

SEC. 197. Section 56853 of the Government Code is repealed.

SEC. 198. Section 56853 is added to the Government Code, to read:

56853. (a) If a majority of the members of each of the legislative bodies of two or more local agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, the commission shall approve, or conditionally approve, the proposal. The commission shall order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b) of Section 57081.

(b) Before ordering any material change in the provisions or the terms and conditions of the consolidation or reorganization, as set forth in the proposals of the local agencies, the commission shall direct the executive officer to give each subject agency mailed notice of that change. The commission shall not, without the written consent of all subject agencies, take any further action on the consolidation or reorganization for 30 days following that mailing. Upon written demand by any subject agency, filed with the executive officer during that 30-day period, the commission shall make determinations upon the proposals only after notice and hearing proposals. If no written demand is filed, the commission may make those determinations without notice and hearing. The application of any provision of this subdivision may be waived by consent of all of the subject agencies.

(c) Where the commission has initiated a change of organization or reorganization affecting more than one special district, the commission may utilize and is encouraged to utilize a reorganization committee to review the proposal.

SEC. 199. Section 56854 of the Government Code is repealed.

SEC. 200. Section 56854 is added to the Government Code, to read:

56854. (a) Notwithstanding Sections 57077 and 57107, the commission shall order (1) the consolidation of districts, (2) dissolution, (3) merger, or (4) the establishment of a subsidiary district, or (5) a reorganization that includes any of these changes of organization without an election, except that an election shall be held in each affected city or district if there are written protests as follows:

(1) Where the proposal was not initiated by the commission, and where an affected city or district has not objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in subdivisions (b) and (c) of Section 57081.

(2) Where the proposal was not initiated by the commission, and where an affected city or district has objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in paragraphs (1) and (2) of subdivision (a) and subdivision (b) of Section 57114.

(3) Where the proposal was initiated by the commission, and regardless of whether an affected city or district has objected to the proposal by resolution, a written protest has been submitted that meets the requirements of Section 57113.

(b) Notwithstanding subdivision (a), the commission shall not order a merger or establishment of a subsidiary district without the consent of the affected city.

(c) This section shall not apply to any proposal for a change of organization or reorganization that is submitted to the commission before January 1, 2003, where the Goleta Sanitary District or the Goleta West Sanitary District is an affected district. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the following special circumstances:

The voters of the Goleta Sanitary District previously voted against a proposed consolidation with the Goleta West Sanitary District by a margin of two to one. More recently, a reorganization proposal was submitted to the commission in Santa Barbara County that would have combined the Goleta Sanitary District and the Goleta West Sanitary District under circumstances where no opportunity for confirmation by the Goleta Sanitary District voters would be available. In light of the issues that were raised in connection with these earlier consolidation and reorganization proposals, a five-year moratorium on the application of Section 56854 to proposals affecting the Goleta Sanitary District or the Goleta West Sanitary District is necessary to ensure an opportunity for voter confirmation.

SEC. 201. Section 56855 of the Government Code is repealed.

SEC. 202. Section 56855 is added to the Government Code, to read:

56855. (a) This section shall apply to any proposal which contains the annexation of territory to a fire protection district which is organized pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code, and the affected territory is or is proposed to be all or part of a city which is within the fire protection district.

(b) Prior to the adoption by the local agency formation commission of a resolution making determinations, the district may request and the commission shall impose, as a term and condition, a requirement that the legislative body of the city shall enter into a contract with the district. The contract shall require:

(1) That the affected territory shall remain part of the district for a period of at least 10 years.

(2) That the city shall pay the cost of services provided by the district. This payment shall be in amounts and on terms specified in the contract.

(3) Any other conditions to which the city and the district mutually agree.

SEC. 203. Section 56856 of the Government Code is repealed.

SEC. 204. Section 56856 is added to the Government Code, to read:

56856. (a) The commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a special district of territory that is within a farmland security zone created pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Division 1 if that special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads, unless the facilities or services benefit land uses that are allowed under the farmland security zone contract and the landowner consents to the change of organization or reorganization.

(b) This section shall not apply during the three-year period preceding the termination of a farmland security zone contract under Article 7 (commencing with Section 51296) of Chapter 7 of Division 1.

SEC. 205. Section 56857 of the Government Code is repealed.

SEC. 205.5. Section 56857 is added to the Government Code, to read:

56857. (a) Upon receipt by the commission of a proposed change of organization or reorganization that includes the annexation or territory to any district, if the proposal is not filed by the affected district the commission shall place the proposal on the agenda for the next commission meeting for information purposes only and shall transmit a copy of the proposal to any district to which an annexation of territory is requested.

(b) No later than 60 days after the date that the proposal is on the commission's meeting agenda in accordance with subsection (a), an affected district may adopt and transmit to the commission a resolution requesting termination of the proceedings.

(c) If an affected district has adopted and transmitted to the commission a resolution requesting termination of proceedings within the time period prescribed by this section, then the commission shall terminate the proceedings upon receipt of the resolution from the district.

SEC. 206. Section 56858 of the Government Code is repealed.

SEC. 207. Section 56859 of the Government Code is repealed.

SEC. 208. Article 3 (commencing with Section 56859) is added to Chapter 5 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 3. Formation

56859. Proceedings for the formation of a district shall be conducted as authorized in the principal act of the district proposed to be formed and Section 56100.

56860. If a proposal for formation of a new district is made by petition, the petition shall comply with the signature requirements and content of a petition for formation of the district as set forth in the principal act under which the new district is proposed to be formed.

56860.5. If a petition is for consolidation of districts or formation of a new district, the petition may propose a name for the new or consolidated district.

56861. (a) Within 10 days after receiving a proposal to form a subsidiary district, the executive officer shall notify by certified mail the district or districts which are the subject of the proposal.

(b) Within 35 days after receiving the notice from the executive officer, the board of directors of the subject district or districts may do either of the following:

(1) Adopt a resolution consenting to the subsidiary district proposal, with or without requesting additional terms and conditions.

(2) Adopt a resolution of intention to file an alternative proposal to the subsidiary district proposal.

(c) Any resolution adopted under paragraph (1) or (2) of subdivision (b) shall immediately be filed with the executive officer.

56862. (a) If a district files a resolution of intention to file an alternative proposal pursuant to paragraph (2) of subdivision (b) of Section 56861, the executive officer shall take no further action on the original proposal to form a subsidiary district for a period of 70 days. During this period, the district which has filed a resolution of intention shall prepare and submit a completed application for the

alternative proposal in a form similar to the original proposal, as prescribed by the commission.

(b) A district which has filed a resolution of intention to file an alternative proposal but which does not file a completed application within the prescribed time period, shall be deemed to have consented to the original proposal to form a subsidiary district.

(c) After receiving an alternative proposal, the executive officer shall analyze and report on both the original proposal and the alternative proposal concurrently and set both for hearing by the commission in order that both proposals may be considered simultaneously at a single hearing.

(d) "Alternative proposal," as used in this section, means an alternative proposal to a subsidiary district proposal as provided for in Section 56861.

56863. (a) Within 35 days following the conclusion of a hearing on an original and an alternative proposal to form a subsidiary district, the commission shall adopt its resolution of determination, which shall do one of the following:

(1) Deny both the original proposal and the alternative proposal.

(2) Approve both the original proposal and the alternative proposal.

(3) Approve one proposal and deny the other.

(b) If the commission approves both proposals, it shall adopt an order directing the board of supervisors to consider both proposals at a single hearing and to do one of the following:

(1) Deny both the original proposal and the alternative proposal.

(2) Approve both the original proposal and the alternative proposal.

(3) Approve one proposal and deny the other.

(c) "Alternative proposal," as used in this section, means an alternative proposal to a subsidiary district proposal as provided for in Section 56861.

SEC. 209. Article 4 (commencing with Section 56864) is added to Chapter 5 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 4. Initiation by Petition

56864. Petitions for the annexation of territory to, or detachment of territory from, a district shall be signed as follows:

(a) For a registered voter district, by any of the following:

(1) Not less than 25 percent of the registered voters within the territory proposed to be annexed.

(2) Not less than 25 percent of the number of landowners within the territory proposed to be annexed who also own not less than 25 percent of the assessed value of land within the territory.

(b) For a landowner-voter district, by not less than 25 percent of the number of landowners owning land within the territory proposed to be annexed who also own not less than 25 percent of the assessed value of land within the territory.

56864.1. (a) A petition for reorganization shall be signed so as to comply with the applicable signature requirements of this article with respect to each of the various changes proposed in the petition.

(b) If a proposal for reorganization includes a proposal for the formation of a new district, the petition shall comply with the signature requirements, if any, of a petition for formation of the district, as set forth in the principal act designated in the petition for formation, and if there are no such requirements, then the requirements of this part pertaining to dissolution.

(c) If a proposal for reorganization includes incorporation, the petition shall comply with the signature requirements for incorporation.

56864.3. If a person is qualified to sign for two or more of the changes of organization proposed by the petition, that person need sign the petition only once and his or her signature shall be counted as if that person had signed and requested each change of organization.

56865. Petitions for the consolidation of two or more districts shall be signed as follows:

(a) For registered voter districts, by not less than 5 percent of the registered voters within each of the several districts.

(b) For landowner-voter districts, by landowner-voters within each of the several districts constituting not less than 5 percent of the number of landowner-voters owning land within each of the several districts and who also own not less than 5 percent of the assessed value of land within each of the several districts.

56866. Petitions for a merger of a district of limited powers which overlaps a city, or for the establishment of the district as a subsidiary district of the city, shall be signed as follows:

(a) For a resident voter district, by either of the following:

(1) Five percent of the registered voters of the district.

(2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

(b) For a landowner-voter district, by either of the following:

(1) Five percent of the number of landowner-voters within the district who also own not less than 5 percent of assessed value of land within the district.

(2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

56870. Except as otherwise provided in Section 56871, petitions for the dissolution of a district shall be signed as follows:

(a) For resident voter districts, by either of the following:

(1) Not less than 10 percent of the registered voters within the district.

(2) Not less than 10 percent of the number of landowners within the district who also own not less than 10 percent of the assessed value of land within the district.

(b) For landowner-voter districts, by not less than 10 percent of the number of landowner-voters within the district who also own not less than 10 percent of the assessed value of land within the district.

56871. A petition for the dissolution of a registered voter district, signed by three or more registered voters within the district or by three or more landowners within a landowner-voter district, shall be deemed to be a sufficient petition, if, in addition to the matters required by Section 56700, the petition recites that the district has been in existence for at least three years and states, on information and belief, that the corporate powers of the district have not been used and that one or more of the following conditions have existed or now exist:

(a) That during the three-year period preceding the date of the first signature upon the petition any of the following events have not occurred:

(1) There has not been a duly selected and acting quorum of the board of directors of the district.

(2) The board of directors has not furnished or provided services or facilities of substantial benefit to residents, landowners, or property within the district.

(3) The board of directors has not levied or fixed and collected any taxes, assessments, service charges, rentals, or rates or expended the proceeds of those levies or collections for district purposes.

(b) That during the one-year period preceding the date of the first signature upon the petition a quorum of the duly selected and acting board of directors has not met for the purpose of transacting district business.

(c) That, upon the date of the first signature upon the petition, the district had no assets, other than money in the form of cash, investments, or deposits.

SEC. 210. Article 5 (commencing with Section 56875) is added to Chapter 5 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 5. Miscellaneous

56875. If any sufficient petition or resolution of application shall propose, as a part of the petition or resolution of application, that the district shall furnish gas or electric service, as provided in Sections 56129 to 56131, inclusive, a certified copy of the report of the Public Utilities Commission shall be on file with the executive officer prior

to setting that petition or resolution for public hearing by the commission.

56876. In any order approving a proposal for an annexation to, or detachment from, a district, the commission may determine that any election called upon the question of confirming an order for the annexation or detachment shall be called, held, and conducted upon that question under either of the following conditions:

- (a) Only within the territory ordered to be annexed or detached.
- (b) Both within the territory ordered to be annexed or detached and within all or any part of the district which is outside of the territory.

SEC. 211. Chapter 6 (commencing with Section 56880) is added to Part 3 of Division 3 of Title 5 of the Government Code, to read:

CHAPTER 6. COMMISSION DECISION

Article 1. Determinations

56880. At any time not later than 35 days after the conclusion of the hearing, the commission shall adopt a resolution making determinations approving or disapproving the proposal, with or without conditions, the plan of reorganization, or any alternative plan of reorganization as set forth in the report and recommendation of a reorganization committee. If the commission disapproves the proposal, plan of reorganization, or any alternative plan of reorganization, no further proceedings shall be taken on those proposals or plans.

56881. The resolution making determinations shall also do all of the following:

- (a) Make any of the findings or determinations authorized or required pursuant to Section 56375.
- (b) For any proposal initiated by the commission pursuant to subdivision (a) of Section 56375, make both of the following determinations:

(1) Public service costs of a proposal that the commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.

(2) A change or organization or reorganization that is authorized by the commission promotes public access and accountability for community services needs and financial resources.

(c) If applicable, assign a distinctive short-term designation to the affected territory and a description of the territory.

(d) Initiate protest proceedings pursuant to Part 4 (commencing with Section 57000) in compliance with the resolution.

56882. The executive officer shall mail a copy of the resolution adopted by the commission making determinations addressed to each of the following persons or entities:

(a) The proponents, if any, where the proceedings for change of organization were initiated by petition.

(b) Each affected local agency whose boundaries would be changed by the proposal.

56883. The executive officer may, before the completion of a proceeding, on good cause being shown, correct clerical errors or mistakes made through inadvertence, surprise, or excusable neglect that may be contained in the resolution adopted by the commission making determinations, upon written request by any member of the commission, by the executive officer, or by any affected agency. A correction made pursuant to this section shall not be cause for filing a request pursuant to Section 56895.

56884. (a) Except as otherwise provided in subdivision (b), if the commission wholly disapproves any proposal:

(1) No further proceedings shall be taken on that proposal.

(2) No similar proposal involving the same or substantially the same territory shall be initiated for one year after the date of adoption of the resolution terminating proceedings.

(b) The commission may waive the requirements of subdivision (a) if it finds those requirements are detrimental to the public interest.

Article 2. Terms and Conditions

56885. The commission may, at any time, authorize any legislative body holding a hearing pursuant to this division, to continue the hearing to a date or dates extending beyond the dates specified in this division.

56885.5. (a) In any commission order giving approval to any change of organization or reorganization, the commission may make that approval conditional upon any of the following factors:

(1) Any of the conditions set forth in Section 56886.

(2) The initiation, conduct, or completion of proceedings for another change of organization or a reorganization.

(3) The approval or disapproval, with or without election, as may be provided by this division, of any resolution or ordinance ordering that change of organization or reorganization.

(4) With respect to any commission determination to approve the disincorporation of a city, the dissolution of a district, or the reorganization or consolidation of agencies which results in the dissolution of one or more districts or the disincorporation of one or more cities, a condition prohibiting an agency being dissolved from taking any of the following actions, unless it first finds that an emergency situation exists as defined in Section 54956.5:

(A) Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.

(B) Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission.

(b) If the commission so conditions its approval, the commission may order that any further action pursuant to this division be continued and held in abeyance for the period of time designated by the commission, not to exceed six months from the date of that conditional approval.

(c) The commission order may also provide that any election called upon any change of organization or reorganization shall be called, held, and conducted before, upon the same date as, or after the date of any election to be called, held, and conducted upon any other change of organization or reorganization.

(d) The commission order may also provide that in any election at which the questions of annexation and district reorganization or incorporation and district reorganization are to be considered at the same time, there shall be a single question appearing on the ballot upon the issues of annexation and district reorganization or incorporation and district reorganization.

56886. Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions. However, none of the following terms and conditions shall directly regulate land use, property development, or subdivision requirements:

(a) The payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any city, county, or district.

(b) The levying or fixing and the collection of any of the following, for the purpose of providing for any payment required pursuant to subdivision (a):

- (1) Special, extraordinary, or additional taxes or assessments.
- (2) Special, extraordinary, or additional service charges, rentals, or rates.
- (3) Both taxes or assessments and service charges, rentals, or rates.

(c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, affected counties, affected districts, and affected territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district, or any improvement district within a local agency, and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates, or (3) both taxes or assessments and service charges, rentals, or rates, in the same manner as provided in the

original authorization of the bonds and in the amount necessary to provide for that payment.

(d) If, as a result of any term or condition made pursuant to subdivision (c), the liability of any affected city, affected county, or affected district for payment of the principal of any bonded indebtedness is increased or decreased, the term and condition may specify the amount, if any, of that increase or decrease which shall be included in, or excluded from, the outstanding bonded indebtedness of that entity for the purpose of the application of any statute or charter provision imposing a limitation upon the principal amount of outstanding bonded indebtedness of the entity.

(e) The formation of a new improvement district or districts or the annexation or detachment of territory to, or from, any existing improvement district or districts.

(f) The incurring of new indebtedness or liability by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency, or of any existing or proposed new improvement district within that local agency. The new indebtedness may be the obligation solely of territory to be annexed if the local agency has the authority to establish zones for incurring indebtedness. The indebtedness or liability shall be incurred substantially in accordance with the laws otherwise applicable to the local agency.

(g) The issuance and sale of any bonds, including authorized but unissued bonds of a local agency, either by that local agency or by a local agency designated as the successor to any local agency which is extinguished as a result of any change of organization or reorganization.

(h) The acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.

(i) The disposition, transfer, or division of any moneys or funds, including cash on hand and moneys due but uncollected, and any other obligations.

(j) The fixing and establishment of priorities of use, or right of use, of water, or capacity rights in any public improvements or facilities or of any other property, real or personal.

(k) The establishment, continuation, or termination of any office, department, or board, or the transfer, combining, consolidation, or separation of any offices, departments, or boards, or any of the functions of those offices, departments, or boards, if, and to the extent that, any of those matters is authorized by the principal act.

(l) The employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.

(m) The designation of a city, county, or district, as the successor to any local agency which is extinguished as a result of any change of

organization or reorganization, for the purpose of succeeding to all of the rights, duties, and obligations of the extinguished local agency with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

(n) The designation of (1) the method for the selection of members of the legislative body of a district or (2) the number of those members, or (3) both, where the proceedings are for a consolidation, or a reorganization providing for a consolidation or formation of a new district and the principal act provides for alternative methods of that selection or for varying numbers of those members, or both.

(o) The initiation, conduct, or completion of proceedings on a proposal made under, and pursuant to, this division.

(p) The fixing of the effective date of any change of organization, subject to the limitations of Section 57202.

(q) Any terms and conditions authorized or required by the principal act with respect to any change of organization.

(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency.

(s) The levying of assessments, including the imposition of a fee pursuant to Section 50029 or 66484.3 or the approval by the voters of general or special taxes. For the purposes of this section, imposition of a fee as a condition of the issuance of a building permit does not constitute direct regulation of land use, property development, or subdivision requirements.

(t) The extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency or a successor local agency in the affected territory.

(u) The transfer of authority and responsibility among any affected cities, affected counties, and affected districts for the administration of special tax and special assessment districts, including, but not limited to, the levying and collecting of special taxes and special assessments, including the determination of the annual special tax rate within authorized limits; the management of redemption, reserve, special reserve, and construction funds; the issuance of bonds which are authorized but not yet issued at the time of the transfer, including not yet issued portions or phases of bonds which are authorized; supervision of construction paid for with bond or special tax or assessment proceeds; administration of agreements to acquire public facilities and reimburse advances made to the district; and all other rights and responsibilities with respect to the levies, bonds, funds, and use of proceeds that would have applied to the local agency that created the special tax or special assessment district.

(v) Any other matters necessary or incidental to any of the terms and conditions specified in this section.

56886.5. If a proposal includes the formation of a new government, the commission shall determine whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.

56887. Any change of organization or reorganization may be conditionally approved by a local agency formation commission subject to the certification by the California Coastal Commission of an amendment to the local coastal program of a city or a county.

56887.5. If any change of organization or reorganization pertains to city or district territory which is located, in whole or in part, within the boundaries of any city or county, any terms and conditions authorized by Section 56886 may be made applicable to that city or county. However, no indebtedness or liability which is subject to the requirement of an election, under the provisions of Section 18 of Article XVI of the California Constitution, shall be incurred or assumed by any city or county, except as provided in Section 18 of Article XVI of the California Constitution.

56888. (a) This section shall only apply to a special reorganization.

(b) All public employees to which Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 applies shall continue to be deemed public employees of the original local agency or of the newly incorporated local agency for all the purposes of that chapter, including, but not limited to, the continuation and application of any collective bargaining agreement that applies to these employees, and all representational and collective bargaining rights under that chapter.

(c) Any existing collective bargaining agreement shall remain in effect and be fully binding on the original local agency or on the newly incorporated local agency, and on the employee organizations that are parties to the agreement for the balance of the term of the agreement, and until a subsequent agreement has been established.

(d) Any existing retiree benefits, including, but not limited to, health, dental, and vision care benefits, shall not be diminished.

(e) Notwithstanding any other provision of law, an employee organization that has been recognized as the exclusive representative of local agency public employees affected by a special reorganization shall retain exclusive representation of the unit employees of the original local agency, or of the newly incorporated local agency.

56889. If any commission order approving or conditionally approving a change of organization or reorganization would result in the annexation to a city of land that is subject to a contract executed

pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), for which the commission has determined pursuant to Section 56754 that the city shall succeed to the contract, the commission shall impose a condition that requires the city to adopt the rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by Sections 51231, 51237, and 51237.5.

56890. Any of the terms and conditions authorized by Section 56886 may be made applicable to all or any part of any city or district or any improvement district within that local agency or any territory annexed to, or detached from, any city or district or improvement district within that local agency.

Article 3. Reconsideration

56895. (a) When a commission has adopted a resolution making determinations, any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to Section 56658, the commission shall consider that request at a public hearing.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file any action, including, but not limited to, an action pursuant to Section 21167 of the Public Resources Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the commission is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as he or she deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be

continued from time to time but not to exceed 70 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56854.

Article 4. Amendment

56897. If pursuant to Section 56895, the commission approves any addition, deletion, amendment, or revision of its resolution making determinations, further proceedings for the change of organization or reorganization shall be taken in compliance with that addition, deletion, amendment, or revision. Any provision of this division requiring compliance with the resolution adopted by the commission making determinations shall be deemed to include any addition, deletion, amendment, or revision made to that resolution.

56898. Whenever the executive officer is required by law to prepare an impartial analysis of a ballot proposition for approval by the commission, the commission may, by regulation, provide a procedure for approval or modification of the executive officer's analysis.

In any event, the analysis shall be prepared and submitted to the commission in sufficient time for the commission to consider and approve or modify the analysis, and submit the analysis to the officials conducting the election not later than the last day for submission of rebuttal arguments. The impartial analysis submitted by the commission shall not exceed 500 words in length and shall include a general description of the affected territory.

SEC. 211.5. Section 56895 is added to the Government Code, to read:

56895. (a) When a commission has adopted a resolution making determinations, any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution. The request shall state the specific

modification to the resolution being requested and shall state what new or different facts that could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to Section 56658, the commission shall consider that request at a public hearing.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file any action, including, but not limited to, an action pursuant to Section 21167 of the Public Resources Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the commission is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as he or she deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 35 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56883.

SEC. 212. Section 57000 of the Government Code is amended to read:

57000. (a) After adoption of a resolution making determinations by the commission pursuant to Part 3 (commencing with Section 56650), protest proceedings for a change of organization or reorganization shall be taken pursuant to this part.

(b) If a proposal is approved by the commission, with or without amendment, wholly, partially, or conditionally, the commission shall conduct proceedings in accordance with this part. The proceedings shall be conducted and completed pursuant to those provisions which are applicable to the proposal and the territory contained in the proposal as it is approved by the commission. If the commission approves the proposal with modifications or conditions, proceedings shall be conducted and completed in compliance with those modifications or conditions.

(c) Any reference in this part to the commission also means the executive officer for any function which the executive officer will perform pursuant to a delegation of authority from the commission.

(d) When the commission makes a determination pursuant to this division that will require an election to be conducted, it shall inform the board of supervisors or the city council of the affected city of that determination and request the board or the city council to direct the elections official to conduct the necessary election.

(e) When a board of supervisors or a city council is informed by the commission that a determination has been made which requires an election, it shall direct the elections official to conduct the necessary election. The board or council shall do all of the following:

(1) Call, provide for, and give notice of a special election or elections upon that question.

(2) Fix a date of election.

(3) Designate precincts and polling places.

(4) Take any other action necessary to call, provide for, and give notice of the special election or elections and to provide for the conduct and the canvass of returns of the election, as determined by the commission.

(f) Any provision in this part which requires that an election be called, held, provided for, or conducted shall mean that the procedures specified in subdivisions (d) and (e) shall be followed.

SEC. 213. Section 57001 of the Government Code is amended to read:

57001. If a certificate of completion for a change of organization or reorganization has not been filed within one year after the commission approves a proposal for that proceeding, the proceeding shall be deemed abandoned unless prior to the expiration of that year the commission authorizes an extension of time for that completion. The extension may be for any period deemed reasonable to the commission for completion of necessary prerequisite actions by any

party. If a proceeding has not been completed because of the order or decree of a court of competent jurisdiction temporarily enjoining or restraining the proceedings, this shall not be deemed a failure of completion and the one-year period shall be tolled for the time that order or decree is in effect.

SEC. 214. Section 57002 of the Government Code is amended to read:

57002. (a) Within 35 days following the adoption of the commission's resolution making determinations, and following the reconsideration period specified in subdivision (b) of Section 56895 the executive officer of the commission shall set the proposal for hearing and give notice of that hearing by mailing, publication, and posting, as provided in Chapter 4 (commencing with Section 56150) of Part 1. The date of that hearing shall not be less than 15 days, or more than 60 days, after the date the notice is given.

(b) Where the proceeding is for the establishment of a district of limited powers as a subsidiary district of a city, upon the request of the affected district, the date of the hearing shall be at least 90 days, but no more than 135 days, from the date the notice is given.

(c) If authorized by the commission pursuant to Section 56663, a change of organization or reorganization may be approved without notice, hearing, and election.

SEC. 214.5. Section 57002 of the Government Code is amended to read:

57002. (a) Within 35 days following the adoption of the commission's resolution making determinations, and following the reconsideration period specified in subdivision (b) of Section 56895, the executive officer of the commission shall set the proposal for hearing and give notice of that hearing by mailing, publication, and posting, as provided in Chapter 4 (commencing with Section 56150) of Part 1. The date of that hearing shall not be less than 15 days, or more than 60 days, after the date the notice is given.

(b) Notwithstanding subdivision (a), for any proposal that includes an incorporation, the clerk of the conducting authority shall set the proposal for hearing within 15 days following the adoption of the commission's resolution making determinations. The hearing shall be set for the next regularly scheduled hearing that provides sufficient time to give public notice of that hearing by mailing, publication, and posting, as provided in Chapter 4 (commencing with Section 56150) of Part 1.

(c) Where the proceeding is for the establishment of a district of limited powers as a subsidiary district of a city, upon the request of the affected district, the date of the hearing shall be at least 90 days, but no more than 135 days, from the date the notice is given.

(d) If authorized by the commission pursuant to Section 56663, a change of organization or reorganization may be approved without notice, hearing, and election.

SEC. 215. Section 57003 of the Government Code is amended to read:

57003. Once notice is given by the executive officer of the commission pursuant to this chapter, and until proceedings are completed or terminated pursuant to this part, no conflicting petition or resolution of application seeking the change of organization or reorganization of all or part of the territory described by the notice given by the executive officer shall be filed with, or acted on, by the commission.

SEC. 216. Section 57004 of the Government Code is repealed.

SEC. 217. Section 57005 of the Government Code is repealed.

SEC. 218. Section 57006 of the Government Code is repealed.

SEC. 219. Section 57007 of the Government Code is amended to read:

57007. Except when a district formation is part of a reorganization, protest proceedings shall be conducted as set forth in the principal act of the district to be formed, and commission protest proceedings shall not apply, except for the provisions relating to the completion and effective date of a change of organization or reorganization contained in Chapter 3 (commencing with Section 57200). When the district formation is part of a reorganization, all of the proceedings shall be conducted pursuant to this part and Section 56100.

SEC. 220. Section 57008 of the Government Code is amended to read:

57008. For any proposal initiated by the commission pursuant to subdivision (a) of Section 56375, the commission shall hold a public protest hearing in the affected territory.

SEC. 221. Section 57025 of the Government Code is amended to read:

57025. (a) The executive officer of the commission shall give notice of the protest hearing to be held on the proposal by publication pursuant to Sections 56153 and 56154 and by posting pursuant to Sections 56158 and 56159.

(b) The executive officer shall also give mailed notice to each affected city, affected district, or affected county, the proponents, if any, all landowners owning land within any territory proposed to be formed into, or to be annexed to, or detached from, an improvement district within any city or district, and to persons requesting special notice, in accordance with the provisions of Sections 56155 to 56157, inclusive.

(c) In the case of a proposed annexation to a city of affected territory consisting of 75 acres or less, the executive officer of the commission shall give mailed notice to each landowner within the affected territory.

(d) In the case of a proposed change of organization or reorganization that would result in the extension of any previously

authorized special tax or benefit assessment to the affected territory, the executive officer of the commission shall give mailed notice to each landowner within the affected territory.

SEC. 222. Section 57026 of the Government Code is amended to read:

57026. The mailed notice required to be given by Section 57025 shall contain all of the following information:

(a) A statement of the distinctive short form designation assigned by the commission to the proposal.

(b) A statement of the manner in which, and by whom, proceedings were initiated. However, a reference to the proponents, if any, shall be sufficient where proceedings were initiated by a petition.

(c) A description of the exterior boundaries of the subject territory.

(d) A description of the particular change or changes of organization proposed for each of the subject districts or cities and new districts or new cities proposed to be formed, and any terms and conditions to be applicable. The description may include a reference to the commission's resolution making determinations for a full and complete description of the change of organization or reorganization, and the terms and conditions.

(e) A statement of the reason or reasons for the change of organization or reorganization as set forth in the proposal submitted to the commission.

(f) (1) Except as otherwise provided in paragraph (2), a statement of the time, date, and place of the protest hearing on the proposed change of organization or reorganization.

(2) Notwithstanding paragraph (1), if inhabited territory is proposed to be annexed to a city with more than 100,000 residents which is located in a county with a population of over 4,000,000 the date shall be at least 90 days, but not more than 105 days, after the date of adoption of the resolution initiating the proceedings. The resolution shall specify a date 90 days prior to the hearing when registered voters may begin to file protests.

(g) If the subject territory is inhabited and the change of organization or reorganization provides for the submission of written protests, a statement that any owner of land within the territory, or any registered voter residing within the territory, may file a written protest against the proposal with the executive officer of the commission at any time prior to the conclusion of the hearing by the commission on the proposal.

(h) If the subject territory is uninhabited and the change of organization or reorganization provides for submission of written protests, a statement that any owner of land within the territory may file a written protest against the proposal with the executive officer

of the commission at any time prior to the conclusion of the hearing by the commission on the proposal.

SEC. 223. Section 57050 of the Government Code is amended to read:

57050. (a) The protest hearing on the proposal shall be held by the commission on the date and at the time specified in the notice given by the executive officer. The hearing may be continued from time to time but not to exceed 60 days from the date specified for the hearing in the notice.

(b) At the protest hearing, prior to consideration of protests, the commission's resolution making determinations shall be summarized. At that hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which is made, presented, or filed. Any person who has filed a written protest may withdraw that protest at any time prior to the conclusion of the hearing.

SEC. 223.5. Section 57050 of the Government Code is amended to read:

57050. (a) The protest hearing on the proposal shall be held by the commission on the date and at the time specified in the notice given by the executive officer. The hearing may be continued from time to time but not to exceed 60 days from the date specified for the hearing in the notice. The hearing on a proposal that includes an incorporation may be continued from time to time but not to exceed 35 days from the date specified for the hearing in the notice.

(b) At the protest hearing, prior to consideration of protests, the commission's resolution making determinations shall be summarized. At that hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which is made, presented, or filed. Any person who has filed a written protest may withdraw that protest at any time prior to the conclusion of the hearing.

SEC. 224. Section 57051 of the Government Code is amended to read:

57051. At any time prior to the conclusion of the protest hearing in the notice given by the executive officer, but not thereafter, any owner of land or any registered voter within inhabited territory proposed to be annexed or detached, or any owner of land within uninhabited territory proposed to be annexed or detached, may file a written protest against the annexation or detachment. Each written protest shall state whether it is made by a landowner or registered voter and the name and address of the owner of the land affected and the street address or other description sufficient to identify the location of the land or the name and address of the registered voter as it appears on the affidavit of registration. Protests may be made on behalf of an owner of land by an agent authorized in writing by the owner to act as agent with respect to that land. Protests may be made

on behalf of a private corporation which is an owner of land by any officer or employee of the corporation without written authorization by the corporation to act as agent in making that protest.

Each written protest shall show the date that each signature was affixed to the protest. All signatures without a date or bearing a date prior to the date of publication of the notice shall be disregarded for purposes of ascertaining the value of any written protests.

SEC. 225. Section 57052 of the Government Code is amended to read:

57052. Upon conclusion of the protest hearing, the commission shall determine the value of written protests filed and not withdrawn. The value of written protests shall be determined in the same manner prescribed in Sections 56707, 56708, and 56710 for determining the sufficiency of petitions filed with the commission.

SEC. 226. Section 57053 of the Government Code is amended and renumbered to read:

56886.3. If the terms and conditions of any change of organization provide for the formation of a new improvement district, or the annexation or detachment of territory to, or from, an existing improvement district, the commission shall do all of the following:

(a) Exclude any lands proposed to be formed into, or to be annexed to, the improvement district which the commission finds will not be benefited by becoming a part of the improvement district.

(b) Exclude any lands proposed to be detached from an improvement district which the commission finds will be benefited by remaining a part of the improvement district.

SEC. 227. Section 57075 of the Government Code is amended to read:

57075. In the case of registered voter districts or cities, where a change of organization or reorganization consists solely of annexations, detachments, or formation of county service areas, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002.

(a) In the case of inhabited territory, take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:

(A) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(B) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

(b) In the case of uninhabited territory, take either of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

SEC. 228. Section 57075.5 of the Government Code is amended to read:

57075.5. Notwithstanding Section 57075, if territory proposed to be annexed to a city with more than 100,000 residents is inhabited and is located in a county with a population of over 4,000,000, the commission, not more than 30 days after conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and shall take one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory annexed subject to the confirmation by the voters on the question, and call a special election and submit to the voters residing within the affected territory the question of whether it shall be annexed to the city, if written protests have been filed and not withdrawn by either 15 percent or more of the registered voters within the territory, or 15 percent or more of the number of owners of land who also own not less than 15 percent of the total assessed value of land within the territory.

(c) Order the territory annexed without an election if written protests have been filed and not withdrawn by less than 15 percent of the registered voters within the territory and less than 15 percent of the owners of land who own less than 15 percent of the total assessed value of land within the territory.

SEC. 229. Section 57076 of the Government Code is amended to read:

57076. In the case of landowner-voter districts, where a change of organization or reorganization consists solely of annexations or detachments, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not

withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(b) Order the change of organization or reorganization subject to an election within the affected territory if written protests have been filed and not withdrawn represent either of the following:

(1) Twenty-five percent or more of the number of owners of land who also own 25 percent or more of the assessed value of land within the territory.

(2) Twenty-five percent or more of the voting power of landowner voters entitled to vote as a result of owning property within the territory.

(c) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the number of owners of land who own less than 25 percent of the assessed value of land within the affected territory.

SEC. 230. Section 57077 of the Government Code is amended to read:

57077. (a) Where a change of organization consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district.

(3) Order the change of organization without election if it is a change of organization that meets the requirements of Section 57081, 57102, or 57107; otherwise, the commission shall take the action specified in paragraph (2).

(b) Where a reorganization consists of one or more dissolutions, incorporations, formations, disincorporations, mergers, establishments of subsidiary districts, consolidations, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the reorganization subject to confirmation of the voters, or in the case of landowner-voter districts, subject to confirmation by

the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district.

(3) Order the reorganization without election if it is a reorganization which meets the requirements of Section 57081, 57102, 57107, or 57111; otherwise, the commission shall take the action specified in paragraph (2).

SEC. 231. Section 57078 of the Government Code is amended to read:

57078. In the case of any reorganization or change of organization, a majority protest shall be deemed to exist and the proposed change of organization or reorganization shall be abandoned if the commission finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent any of the following:

(a) In the case of uninhabited territory, landowners owning 50 percent or more of the assessed value of the land within the territory.

(b) In the case of inhabited territory, 50 percent or more of the voters residing in the territory.

(c) In the case of a landowner-voter district, 50 percent or more of the voting power of the voters entitled to vote as a result of owning land within the district.

SEC. 232. Section 57078.5 is added to the Government Code, to read:

57078.5. If a proposed annexation consists of two or more distinct communities, as defined in the county general plan, census unincorporated places listing, or other commonly recognized community designation, as determined by the commission, and any one community has more than 250 registered voters, any protest filed pursuant to Section 57078 shall be accounted separately for that community, unless the annexation is proposed pursuant to Section 56375.3.

SEC. 233. Section 57079 of the Government Code is repealed.

SEC. 234. Section 57079.5 of the Government Code is amended and renumbered to read:

56668.3. (a) If the proposed change of organization or reorganization includes a city detachment or district annexation, except a special reorganization, and the proceeding has not been terminated based upon receipt of a resolution requesting termination pursuant to either Section 56751 or Section 56857, factors to be considered by the commission shall include all of the following:

(1) Whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district.

(2) The commission's resolution making determinations.

(3) Any factors which may be considered by the commission as provided in Section 56668.

(4) Any resolution objecting to the action that may be filed by an affected agency.

(5) Any other matters which the commission deems material.

(b) The commission shall give great weight to any resolution objecting to the action that is filed by a city or a district. The commission's consideration shall be based only on financial or service related concerns expressed in the protest. Except for findings regarding the value of written protests, the commission is not required to make any express findings concerning any of the factors considered by the commission.

SEC. 235. Section 57080 of the Government Code is amended to read:

57080. (a) With respect to a proceeding initiated on or after January 1, 2000, when approved and authorized by the commission pursuant to Section 56745, the commission shall, not later than 35 days after conclusion of the hearing, adopt a resolution ordering the annexation without an election or shall terminate the proceedings. Sections 57050, 57051, 57052, subdivision (a) of 57075, and Section 57078 do not apply to any annexation subject to this subdivision.

(b) With respect to a proceeding initiated on or after January 1, 2007, when approved and authorized by the commission pursuant to Section 56375.3, Sections 57050, 57051, and 57052, shall apply and subdivision (a) of Section 57075 does not apply.

(1) If the territory proposed to be annexed is inhabited territory, the commission, not more than 30 days after conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and shall do either of the following:

(A) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(B) Order the territory annexed without an election.

(2) If the territory proposed to be annexed is uninhabited, the commission, not more than 30 days after conclusion of the hearing, shall adopt a resolution which does either of the following:

(A) Terminates proceedings.

(B) Orders the territory annexed.

SEC. 236. Section 57081 of the Government Code is amended to read:

57081. (a) If authorized by the commission pursuant to Section 56853, the protest proceedings shall be conducted for the consolidation of districts or the reorganization of all or any part of those districts into a single local agency pursuant to this section. The commission shall hold at least one noticed public hearing on the proposal within 30 days after approval of the application by the commission. After the conclusion of the hearing, the commission shall order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b).

(b) An election shall only be held if the commission finds either of the following:

(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(A) At least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization who own at least 25 percent of the assessed value of land within the territory.

(B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the territory.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization, owning at least 25 percent of the assessed value of land within the territory.

(c) The petition shall be filed with the commission prior to the conclusion of the protest hearing.

SEC. 237. Section 57082 of the Government Code is amended and renumbered to read:

57100. Any commission resolution ordering a change of organization or a reorganization shall contain all of the following:

(a) A statement that the action is being taken pursuant to this division.

(b) A statement of the type of change of organization or reorganization being acted on.

(c) A description of the exterior boundaries of the territory for each change of organization or reorganization approved by the commission.

(d) The name or names of any new or consolidated city or district.

(e) All of the terms and conditions upon the change of organization or reorganization approved by the commission.

(f) The reasons for the change of organization or reorganization.

(g) A statement as to whether the regular county assessment roll or another assessment roll will be utilized.

(h) A statement that the affected territory will or will not be taxed for existing general bonded indebtedness of any agency whose boundaries are changed.

(i) Any other matters that the commission deems material.

SEC. 238. Section 57082.5 of the Government Code is amended and renumbered to read:

57101. With respect to any proceeding that would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), for which the commission has determined pursuant to Section 56754 that the city may exercise its option to not succeed to the contract, the commission shall include

within its resolution ordering the annexation of the territory a finding regarding whether the city intends to not succeed to the contract.

SEC. 239. Section 57083 of the Government Code is amended and renumbered to read:

57102. (a) In any resolution ordering a dissolution, the commission shall make findings upon one or more of the following matters:

(1) That the corporate powers have not been used, as specified in Section 56871, and that there is a reasonable probability that those powers will not be used in the future.

(2) That the district is a registered-voter district and is unhabited.

(3) That the board of directors of the district has, by unanimous resolution, consented to the dissolution of the district.

(b) If the commission makes any of the findings specified in subdivision (a), the commission may, except as otherwise provided in Section 57103, order the dissolution of the district without election.

SEC. 240. Section 57083.5 of the Government Code is amended and renumbered to read:

57103. Any order in any resolution adopted by the commission on or after January 1, 1986, ordering the dissolution of a local hospital district, organized pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, is subject to confirmation by the voters.

SEC. 240.5. Section 57084 of the Government Code is amended and renumbered to read:

57104. Any order of merger may be adopted for a district of limited powers, including any district previously established as a subsidiary district, if the entire territory of the district is included within the boundaries of a city upon the date of the order.

SEC. 241. Section 57085 of the Government Code is amended and renumbered to read:

57105. An order establishing a district of limited powers as a subsidiary district may be adopted if upon the date of that order the commission determines that either of the following situations exists:

(a) The entire territory of the district is included within the boundaries of a city.

(b) A portion or portions of the territory of the district are included within the boundaries of a city and that portion or portions meet both of the following requirements:

(1) Represent 70 percent or more of the area of land within the district, as determined by reference to the statements and the maps or plats filed pursuant to Chapter 8 (commencing with Section 54900) of Division 2 of Title 5 for the current fiscal year.

(2) Contain 70 percent or more of the number of registered voters who reside within the district as shown on the voters' register in the office of the county clerk or registrar of voters.

SEC. 241.5. Section 57086 of the Government Code is amended and renumbered to read:

57106. For the purposes of Sections 57104 and 57105, the boundaries shall be determined as of the date of adoption of the order of the commission. Any then pending but uncompleted proceedings for changes in the boundaries of the city or district shall be disregarded.

SEC. 242. Section 57087 of the Government Code is amended and renumbered to read:

57107. In any resolution ordering a merger or establishment of a subsidiary district, the commission shall take one of the following actions:

(a) Order the merger or establishment of the subsidiary district subject to confirmation of the voters upon the questions, as the case may be, of merger, the establishment of a subsidiary district, or both merger and the establishment of a subsidiary district.

(b) Order the merger or establishment of the subsidiary district without election, if the legislative body of the city and the board of directors of the district have by resolution consented to the merger or the establishment of the subsidiary district.

SEC. 243. Section 57087.5 of the Government Code is amended and renumbered to read:

57108. At any time prior to the conclusion of the protest hearing by the commission ordering the district to be merged with or established as a subsidiary district of a city, a petition may be filed with the executive officer referring, by date of adoption, to the commission's resolution making determinations and requesting that any election upon that question be called, held, and conducted only within that district. Any petition so filed shall be immediately examined and certified by the executive officer by the same method and in the same manner as provided in Sections 56707 to 56711, inclusive, for the examination of petitions by the executive officer. The commission shall forward the proposal for an election upon the question of a merger or the establishment of a subsidiary district only within the district to be merged or established as a subsidiary district, if the executive officer certifies that any petition so filed was signed by either of the following:

(a) In the case of a registered voter district, by not less than 10 percent of the registered voters of the district.

(b) In the case of a landowner-voter district, by not less than 10 percent of the number of landowner-voters within the district who also own not less than 10 percent of the assessed value of land within the district.

SEC. 244. Section 57087.7 of the Government Code is amended and renumbered to read:

57109. At any time prior to the completion of the protest hearing by the commission and the adoption of a resolution ordering a

reorganization that includes an incorporation and the establishment of a subsidiary district or a merger, a petition may be filed with the executive officer referring, by date of adoption, to the commission's resolution making determinations and requesting that a separate election be called, held, and conducted only within that district on the establishment of the subsidiary district or the merger. That election shall be conducted at the same time as the election on the incorporation. Any petition so filed shall be immediately examined and certified by the executive officer by the same method and in the same manner as provided in Sections 56707 to 56711, inclusive, for the examination of petitions by the executive officer. The commission shall call, hold, and conduct any election upon the question of a merger or the establishment of a subsidiary district only within the district to be merged or established as a subsidiary district, if the executive officer certifies that any petition so filed was signed by either of the following:

(a) In the case of a registered voter district, by not less than 10 percent of the registered voters of the district.

(b) In the case of a landowner-voter district, by not less than 10 percent of the number of landowner-voters within the district who also own not less than 10 percent of the assessed value of land within the district.

SEC. 245. Section 57088 of the Government Code is amended and renumbered to read:

57110. In any resolution approving, subject to the confirmation of the voters, both an original and an alternative proposal as determined by the commission pursuant to paragraph (2) of subdivision (a) of Section 56863, the ballot at the election shall enable those voting to do one of the following:

(a) Disapprove both proposals.

(b) Approve either the original proposal or the alternative proposal.

The board of supervisors shall adopt a resolution confirming the proposal which was favored by a majority of votes cast at the election. Where both proposals were favored by a majority of the votes cast, the board of supervisors shall adopt a resolution confirming the proposal which received the greater number of votes.

SEC. 245.5. Section 57089 of the Government Code is amended and renumbered to read:

57111. In any reorganization proceeding where the component changes of organization would not individually require a confirmation election, no confirmation election shall be required to approve the reorganization.

SEC. 246. Section 57090 of the Government Code is amended to read:

57090. (a) Except as otherwise provided in subdivision (b), if proceedings are terminated, either by majority protest as provided

in Sections 57075, 57076, and 57077, or if a majority of voters do not confirm the change of organization or reorganization as provided in Section 57179, no substantially similar proposal for a change of organization or reorganization of the same or substantially the same territory may be filed with the commission within two years after the date of adoption of the certificate of termination adopted by the commission if the proposal included an incorporation or city consolidation and within one year for any other change of organization or reorganization.

(b) The commission may waive the requirements of subdivision (a) if it finds these requirements are detrimental to the public interest.

SEC. 247. Section 57091 of the Government Code is amended and renumbered to read:

57112. (a) Except as otherwise provided in subdivision (b), if proceedings are terminated by failure of a majority of voters to confirm a resolution ordering merger or establishment of a subsidiary district, no new proposal for a merger or establishment of a subsidiary district involving the same district may be filed with the commission within two years of the date of the certification adopted by the commission, pursuant to Section 57179.

(b) The commission may waive the requirements of subdivision (a) if it finds these requirements are detrimental to the public interest.

SEC. 248. Section 57092 of the Government Code is amended and renumbered to read:

57113. (a) Notwithstanding Section 57081, 57102, 57107, 57108, or 57111, for any proposal that was initiated by the commission pursuant to subdivision (a) of Section 56375, the commission shall forward the change of organization or reorganization for confirmation by the voters if the commission finds either of the following:

(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(A) At least 10 percent of the number of landowners within any affected district within the affected territory who own at least 10 percent of the assessed value of land within the territory. However, if the number of landowners within an affected district is less than 300, the petition requesting the proposal to be submitted to the voters shall be signed by at least 25 percent of the landowners who own at least 25 percent of the assessed value of land within the territory of the affected district.

(B) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory. However, if the number of voters entitled to vote within an affected district is less than 300, the petition requesting

the proposal to be submitted to the voters shall be signed by at least 25 percent of the voters entitled to vote.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 10 percent of the number of landowners within any affected district within the affected territory, owning at least 10 percent of the assessed value of land within the territory. However, if the number of voters entitled to vote within an affected district is less than 300, the petition requesting the proposal to be submitted to the voters shall be signed by at least 25 percent of the voters entitled to vote.

(b) The petition shall be filed with the commission prior to the conclusion of the protest hearing.

SEC. 249. Section 57093 of the Government Code is amended and renumbered to read:

57114. (a) Notwithstanding Section 56854 and Section 57089, for any proposal for the dissolution of one or more districts and the annexation of all or substantially all of their territory to another district, the commission shall forward the change of organization or reorganization for confirmation by the voters if the commission finds either of the following:

(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(A) At least 25 percent of the number of landowners within any affected district within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within any affected district within the affected territory, owning at least 25 percent of the assessed value of land within the territory of that district.

(b) If a petition that meets the requirements of this section has been filed, the commission shall approve the proposal subject to confirmation by the voters of each district that has filed such a petition. The voter confirmation requirements set forth in subdivision (a) shall not apply to any proposal initiated by the commission under Section 56375 or where each affected district has consented to the proposal by a resolution adopted by a majority vote of its board of directors.

SEC. 250. Section 57100 of the Government Code is amended and renumbered to read:

57115. Any resolution of the commission forwarding a change of organization or a reorganization for confirmation by the voters shall, in addition to any applicable requirements contained in Sections 57100 to 57111, inclusive, do all of the following:

(a) Designate the affected territory within which the special election or elections shall be held.

(b) Provide for the question or questions to be submitted to the voters.

(c) Specify any terms or conditions provided for in the change of organization or reorganization.

(d) State the vote required for confirmation of the change of organization or reorganization.

SEC. 251. Section 57101 of the Government Code is amended and renumbered to read:

57116. In addition to any other requirements, any resolution of the commission ordering an incorporation subject to an election shall do all of the following:

(a) Provide for the election of the officers of the proposed city required to be elected, except as provided in Section 56727 and except as to officers designated as appointive, pursuant to Section 56723.

(b) Provide for the election on the question of whether members of the city council in future elections are to be elected by district or at large.

(c) If the petition so requests, state that the voters may express a preference as to whether or not the city shall operate under the city manager form of government, the ballot question being for or against the city manager form of government.

(d) If the petition so requests, state that the voters may express their preference between names for the new city.

SEC. 252. Section 57102 of the Government Code is amended and renumbered to read:

57117. In addition to any other requirements, any resolution of the commission ordering a consolidation of cities subject to an election shall do all of the following:

(a) Provide for the election of officers of the successor city required to be elected.

(b) State that the voters may express their preference as to the name of the successor city.

SEC. 253. Section 57103 of the Government Code is amended and renumbered to read:

57118. In any resolution ordering a change of organization or reorganization subject to the confirmation of the voters, the commission shall determine that an election will be held:

(a) Within the territory of each city or district ordered to be incorporated, formed, disincorporated, dissolved or consolidated.

(b) Within the entire territory of each district ordered to be merged with or established as a subsidiary district of a city, or both within the district and within the entire territory of the city outside the boundaries of the district.

(c) If the executive officer certifies a petition pursuant to Section 57108 or 57109, within the territory of the district ordered to be merged with or established as a subsidiary district of a city.

(d) Within the territory ordered to be annexed or detached.

(e) If ordered by the commission pursuant to Section 56876 or 56759, both within the territory ordered to be annexed or detached and within all or the part of the city or district which is outside of the territory.

(f) If the election is required by Section 57114, separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57114.

SEC. 254. Section 57103.1 of the Government Code is amended and renumbered to read:

57119. Notwithstanding Section 57118, in any resolution ordering a special reorganization, the commission shall call an election in both of the following territories:

(a) The territory ordered to be detached from the city.

(b) The entire territory of the city from which the detachment is ordered to occur.

SEC. 255. Section 57104 of the Government Code is amended and renumbered to read:

57120. In addition to any other requirements, any resolution of the commission ordering an incorporation or a formation subject to an election shall provide for the establishment of the appropriations limit determined pursuant to Section 56811.

SEC. 256. Section 57125 of the Government Code is amended to read:

57125. Special elections called within all or any part of a city or registered-voter district shall be governed by the general election provisions and the local election provisions of the Elections Code, so far as they may be applicable, relating to the qualifications of voters, the manner of voting, the form of the ballot, the duties of precinct and election officers, the canvassing of returns, and all other particulars. If the commission determines that there is any inconsistency:

(a) Between the general elections provisions and the local elections provisions of the Elections Code, the local elections provisions shall control.

(b) Between this division and the Elections Code, this division shall control.

SEC. 257. Section 57126 of the Government Code is amended to read:

57126. Special elections called within all or any part of a landowner-voter district shall be governed by the general elections

provisions of the principal act, so far as they may be applicable, relating to the qualifications of voters, the manner of voting, the form of the ballot, the duties of precinct and election officers, the canvassing of returns, and all other particulars. To the extent of any inconsistency between the provisions of this division and the principal act as determined by the commission, the provisions of this division shall control.

SEC. 258. Section 57127 of the Government Code is amended to read:

57127. If the commission calls any special election within all or any part of any district, any references in the principal act to the board of directors of the district and to the clerk or secretary of the district shall be deemed to mean the commission and the executive officer, respectively.

SEC. 259. Section 57129 of the Government Code is amended to read:

57129. Where any records of a city or a district are required for the purpose of calling, holding, or conducting any special election called by the commission pursuant to this division, those records or certified copies of those records shall be delivered, upon request, to the elections official by the city or district officer having custody of the records or copies and shall be returned to that officer immediately after the canvass of the election returns. All other election records, documents, instruments, and election supplies, including, but not limited to, rosters, ballots, and tally sheets, shall be retained or disposed of by the elections official in the manner provided by law.

SEC. 260. Section 57130 of the Government Code is amended to read:

57130. The elections official shall cause notice of each change of organization or reorganization election to be given by publication, posting, and mailing as provided in Chapter 1 (commencing with Section 57025) of Part 4.

SEC. 260.5. Section 57131 of the Government Code is amended to read:

57131. The notice of election required to be given by Section 57130 shall contain all of the matters specified in Section 57115.

SEC. 261. Section 57133 of the Government Code is amended to read:

57133. The question or questions to be submitted at any special election or elections called pursuant to this part shall be in substantially the following form:

(a) For an incorporation: "Shall the order adopted on _____, 20 _____, by the Local Agency Formation Commission of _____ County ordering the incorporation of the territory described in the order and designated in the order as _____ (insert the distinct

short form designation previously assigned by the commission) be confirmed?"

(b) For an annexation: "Shall the order adopted on _____, 20____, by the _____ (insert Local Agency Formation Commission) ordering the annexation to _____ (insert city or district) of the territory described in that order and designated as _____ (insert the short form designation previously assigned by the commission) be confirmed?"

(c) For a detachment: "Shall the order adopted on _____, 20____, by the _____ (insert Local Agency Formation Commission) ordering the detachment from the _____ (insert city or district) of the territory described in the order and designated in the order as _____ (insert the short form designation previously assigned by the commission) be confirmed?"

(d) For a city consolidation: "Shall the order adopted on _____, 20____, by the _____ (insert Local Agency Formation Commission) of the County of _____ (insert name of city) ordering the consolidation of the Cities of _____ (insert names of all cities ordered consolidated) into a single city known as the City of _____ be confirmed?"

(e) For a disincorporation: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the disincorporation of the City of _____ be confirmed?"

(f) For a reorganization: "Shall the order adopted on _____, 20____, by the _____ (insert Local Agency Formation Commission) ordering a reorganization affecting the _____ (insert names of all affected cities or districts) and providing for _____ (insert list of all changes of organization or new cities proposed to be incorporated or districts to be formed) be confirmed?"

(g) For a district dissolution: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the dissolution of the _____ district be confirmed?"

(h) For a district consolidation: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the consolidation of _____ (insert the names of all districts ordered consolidated) into a single district known as the _____ District be confirmed?"

(i) For a merger: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the merger of the _____ District with the City of _____ be confirmed?"

(j) For establishment of a subsidiary district: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the _____ District

established as a subsidiary district of the City of _____ be confirmed?"

(k) For a district formation, use form of question under principal act of district being formed. If none, use substantially the following form: "Shall the order adopted on _____, 20 _____, by the Local Agency Formation Commission of _____ County ordering the formation of a district in the territory described, known as _____, be approved?"

SEC. 262. Section 57138 of the Government Code is amended to read:

57138. If the commission orders both a merger and the establishment of a subsidiary district, questions on each matter shall be printed on the ballot, one above the other. Immediately preceding the first question, there shall be printed in the words "Vote on both questions."

SEC. 263. Section 57144 of the Government Code is amended to read:

57144. Within five days after a special election is called pursuant to this part, the executive officer shall submit to the commission, for its approval or modification, an impartial analysis of the proposed incorporation or change of organization.

The impartial analysis shall not exceed 500 words in length in addition to a general description of the boundaries of the territory affected.

The commission shall approve or modify the analysis and submit the analysis to the elections official no later than the last day for submission of rebuttal arguments.

Immediately below the impartial analysis there shall be printed in no less than 10-point bold type a legend substantially as follows:

"The above statement is an impartial analysis of Proposition _____. If you desire a copy of the proposition, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

SEC. 264. Section 57145 of the Government Code is amended to read:

57145. (a) The legislative body of any affected agency, or any member or members of the legislative body of any affected agency authorized by it, or any individual voter or association of citizens entitled to vote on the change of organization or reorganization, or any combination of those voters and association of citizens may file a written argument for, or a written argument against, the question to be submitted to the voters.

Arguments shall not exceed 300 words in length and shall be filed with the elections official no later than the last day for submission of arguments specified by Section 57146.

(b) If more than one argument for or more than one argument against the proposal is filed with the elections official within the time

prescribed in Section 57145, the elections official shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the elections official shall give preference and priority in the order named to the following arguments:

- (1) The legislative body of an affected agency or any authorized member or members of the legislative body.
- (2) Individual voters or association of citizens or a combination of voters and associations.

SEC. 265. Section 57146 of the Government Code is amended to read:

57146. (a) On the basis of the time reasonably necessary to prepare and print the arguments, analysis, and sample ballots for the election, the elections official shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters. Notice of the date fixed shall be published in accordance with Section 56153 in a newspaper of general circulation which is circulated in the affected territory. Arguments may be changed until and including the date fixed by the elections official.

(b) The notice shall contain all of the following information:

- (1) A statement of the proposition to be voted on and a general description of the boundaries of the affected territory.
- (2) An invitation to any registered voter or association of citizens entitled to vote on the proposal to submit and file with the elections official for printing and distribution in the ballot pamphlet, an argument for or an argument against the proposal.
- (3) The date of the election.
- (4) A statement that only one argument for and one argument against will be selected and printed in the ballot pamphlet.
- (5) A statement that arguments shall not exceed 300 words in length and shall be accompanied by not more than five signatures.

SEC. 266. Section 57148 of the Government Code is amended to read:

57148. (a) The elections official shall cause a ballot pamphlet concerning the proposal to be printed and mailed to each voter entitled to vote on the question.

The ballot pamphlet shall contain all of the following information in the order prescribed:

- (1) The impartial analysis of the proposition prepared by the commission.
- (2) One argument for the proposal, if any.
- (3) One rebuttal to the argument for the proposal, if any.
- (4) One argument against the proposal, if any.
- (5) One rebuttal to the argument against the proposal, if any.

A copy of the complete text of the proposition shall be made available by the elections official, to any voter upon request.

(b) The elections official shall mail a ballot pamphlet to each voter entitled to vote in the election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 267. Section 57149 of the Government Code is amended to read:

57149. The canvass of ballots cast at any election held pursuant to this division shall be conducted pursuant to Sections 15300 to 15309, inclusive, of the Elections Code. The elections official shall immediately, upon the completion of any canvass, report the results to the executive officer of the local agency formation commission.

SEC. 268. Section 57150 of the Government Code is amended to read:

57150. All proper expenses incurred in conducting elections for a change of organization or reorganization pursuant to this chapter shall be paid, unless otherwise provided by agreement between the commission and the proponents, as follows:

(a) In the case of annexation or detachment proceedings, by the local agency to or from which territory is annexed, or from which territory is detached, or was proposed to be annexed or detached.

(b) In the case of incorporation or formation proceedings, by the newly incorporated city or the newly formed district, if successful, or by the county within which the proposed city or district is located if the incorporation proceedings are terminated. In the case of a separate election for city officers held following the election for incorporation pursuant to Section 56825.5, by the newly incorporated city.

(c) In the case of disincorporation or dissolution proceedings, from the remaining assets of the disincorporated city or dissolved district or by the city proposed to be disincorporated or the district proposed to be dissolved if disincorporation or dissolution proceedings are terminated.

(d) In the case of consolidation proceedings, by the successor city or district or by the local agencies proposed to be consolidated, to be paid by those local agencies in proportion to their respective assessed values, if proceedings are terminated.

(e) In the case of a reorganization:

(1) If the reorganization is ordered, by the affected local agencies or successor local agencies, as the case may be, for any of the above-enumerated changes of organization which may be included in the particular reorganization, to be paid by those local agencies in proportion to their assessed value.

(2) If the reorganization proceedings are terminated or the proposal is defeated, by the county within which the city is located.

SEC. 269. Section 57175 of the Government Code is repealed.

SEC. 270. Section 57176 of the Government Code is amended to read:

57176. The commission shall execute, within 30 days of the canvass of the election, a certificate of completion confirming the order of the change of organization or reorganization if a majority of votes cast upon the question are in favor of the change of organization or reorganization in any of the following circumstances:

(a) At an election called in the territory ordered to be organized or reorganized.

(b) At an election called within the territory ordered to be organized or reorganized and within the territory of the affected agency.

(c) At both an election called within the area to be organized or reorganized and an election called within the territory of an affected city, when required by the commission pursuant to Section 56759.

SEC. 271. Section 57176.1 of the Government Code is amended to read:

57176.1. Notwithstanding Section 57176, the commission shall execute, within 30 days of the canvass of the election, a certificate of completion confirming a special reorganization if a majority of votes cast upon the question are in favor of the special reorganization in both of the following circumstances:

(a) An election called in the territory ordered to be detached from the city.

(b) An election called in the entire territory of the city from which the detachment is ordered to occur.

SEC. 272. Section 57177 of the Government Code is amended to read:

57177. The commission shall execute a certificate of completion confirming either the order of a merger or the order for the establishment of a subsidiary district in the following manner:

(a) Where the question submitted to the voters was only upon merger or only upon establishment of a subsidiary district, the commission shall execute a certificate of completion confirming the order if a majority of the votes cast on the question favored the order either:

(1) At an election called only within the district.

(2) At each election, where one election was called within the district and another election was called within the territory of the city outside the boundaries of the district.

(b) Where both the question of merger and the question of establishment of a subsidiary district were submitted to the voters within the district only and both questions were favored by a majority of the voters, the commission shall order that change of organization favored by the greater number of voters. Where the number of votes was the same on both questions, the merger shall be ordered.

(c) Where both the question of merger and the question of establishment of a subsidiary district were submitted at an election called both within the district and at an election within the territory

of the city outside the district boundaries, and both questions were favored by a majority of the voters in both areas, that change of organization receiving the greater number of votes in both elections shall be completed. Where the number of votes was the same, or where the question of merger received the greater number of votes in one of the elections, a merger shall be completed.

SEC. 273. Section 57177.5 of the Government Code is amended to read:

57177.5. In the case of elections on an order of consolidation of cities or districts, the commission shall take one of the following actions:

(a) Execute a certificate of completion confirming the order of consolidation if, within the territory of each city or district ordered to be consolidated, a majority of the votes cast on the question favored the consolidation.

(b) Execute a certificate of completion terminating proceedings if, in one of the cities or districts ordered to be consolidated, the votes cast in favor of consolidation did not constitute a majority.

SEC. 274. Section 57178 of the Government Code is amended to read:

57178. In addition to any other requirements, the certificate of completion confirming an order of incorporation or consolidation of cities shall do all of the following:

(a) Give the name of the new or successor city favored by the electors.

(b) Declare the persons receiving the highest number of votes for the several offices of the new or successor city to be elected to those offices. If the incorporation applicant requested that the first election for city officers was to occur after the election on the proposal which included incorporation, the resolution shall call an election at which city officers shall be elected.

(c) In the case of an incorporation, declare which system of electing council members was favored, that is, election by district or election at large; and declare whether the city manager form of government was favored by the electors.

SEC. 275. Section 57179 of the Government Code is amended to read:

57179. If the majority of the votes cast is against the change of organization or reorganization, the commission shall execute a certificate of termination proceedings.

SEC. 276. Section 57200 of the Government Code is amended to read:

57200. (a) Immediately after completion of proceedings ordering a change of organization or reorganization without election or confirming an order for a change of organization or reorganization after confirmation by the voters, the executive officer shall prepare

and execute a certificate of completion and shall make the filings required by this division.

(b) Whenever the commission approves the inclusion of any territory of a landscape and lighting assessment district within a city, the executive officer shall notify the clerk of the landscape and lighting assessment district or other person designated by the district to receive notification.

SEC. 277. Section 57201 of the Government Code is amended to read:

57201. The certificate of completion prepared and executed by the executive officer shall contain all of the following information:

(a) The name of each newly incorporated city, each new district, and the name of each existing local agency for which a change of organization or reorganization was ordered and the name of the county within which any new or existing local agencies are located.

(b) A statement of each type of change of organization or reorganization ordered.

(c) A description of the boundaries of the new city ordered incorporated, the new district ordered formed or of any territory affected by the change of organization or reorganization, which description may be made by reference to a map and legal description showing the boundaries attached to the certificate.

(d) Any terms and conditions of the change of organization or reorganization. The terms and conditions shall provide public utilities, as defined in Section 216 of the Public Utilities Code, 90 days following the recording of the certificate of completion to make the necessary changes to impacted utility customer accounts.

SEC. 278. Section 57302 of the Government Code is amended to read:

57302. The general provisions of this part shall apply only if, and to the extent that, the terms and conditions of any change of organization or reorganization do not make specific provision for any of the matters referred to in this part. If a change of organization or a reorganization specifically provides for, and is made subject to any of, the terms and conditions authorized by Section 56886, the specific terms and conditions shall control over the general provisions of this part. Any of those terms and conditions may be provided for, and be made applicable to, any affected county, affected city, or affected district, to all or any part of the territory of the county, city, or district, to any territory proposed to be annexed to the county, city, or district and to the owner or owners of property within that territory.

SEC. 279. Section 57303 of the Government Code is amended to read:

57303. If no determination is made pursuant to subdivision (d) of Section 56886, the principal amount of bonded indebtedness which may be incurred or assumed by any city, county, or district, under any statute or charter provision imposing a limitation on bonded

indebtedness, shall not be affected by any change of organization or reorganization.

SEC. 280. Section 57379 of the Government Code is amended to read:

57379. If the first general municipal election following an incorporation election will occur less than one year after the effective date of incorporation, or occurred on or after November 1, 1987, and less than one year after the incorporation election, of the five elected members of the city council, the three receiving the lowest number of votes shall hold office until the second general municipal election following the incorporation election and until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office until the third general municipal election following the incorporation election and until their successors are elected and qualified.

The first general municipal election following the incorporation election shall not be held unless either a proposition is to be voted upon or offices other than city council member offices are to be filled.

In the event that, pursuant to Section 56727, the first election for city council members was held after the election on the incorporation proposal, the term "incorporation election" in this section means the first election for city council members.

SEC. 281. Section 57384 of the Government Code is amended to read:

57384. (a) Except as provided in subdivision (b), whenever a city has been incorporated from territory formerly unincorporated, the board of supervisors shall continue to furnish, without additional charge, to the area incorporated all services furnished to the area prior to the incorporation. Those services shall be furnished for the remainder of the fiscal year during which the incorporation became effective or until the city council requests discontinuance of the services, whichever occurs first.

(b) This subdivision applies only to incorporations for which the petition or resolution of application for incorporation is filed with the commission on or after January 1, 1987. Prior to the commission adopting a resolution making determinations, the board of supervisors may request that the city reimburse the county for the net cost of services provided pursuant to subdivision (a). The commission shall impose this requirement as a term and condition of its resolution. The city shall be obligated to reimburse the county within five years of the effective date of the incorporation or for a period in excess of five years, if the board of supervisors agrees to a longer period. As used in this subdivision, "net cost of services" means the total direct and indirect expense to the county of providing services, as determined pursuant to paragraph (2) of subdivision (c) of Section 56810, adjusted by any subsequent change in the California Consumer Price Index, less any revenues which the county retains

that were generated from the formerly unincorporated territory during the period of time the services are furnished pursuant to subdivision (a). This subdivision applies only to those services which are to be assumed by the city.

(c) At the request of the city council, the board of supervisors, by resolution, may determine to furnish, without charge, to the area incorporated all or a portion of services furnished to the area prior to the incorporation for an additional period of time after the end of the fiscal year during which the incorporation became effective. The additional period of time after the end of the fiscal year during which the incorporation became effective for which the board of supervisors determines to provide services, without charge, and the specific services to be provided shall be specifically stated in the resolution adopted by the board of supervisors.

SEC. 282. Section 57402 of the Government Code is amended to read:

57402. After ascertaining that disincorporation has carried, the commission shall determine and certify in a written statement to the board of supervisors the indebtedness of the city, the amount of money in its treasury, and the amount of any tax levy or other obligation due the city which is unpaid or has not been collected.

SEC. 283. Section 57404 of the Government Code is amended to read:

57404. If the commission does not provide the board of supervisors with the certified statement required by Section 57402, the board shall make the determinations provided for in that section.

SEC. 285. Section 99 of the Revenue and Taxation Code is amended to read:

99. (a) For the purposes of the computations required by this chapter:

(1) In the case of a jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215, the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1, or the annual tax increment determined pursuant to Section 96.5, for local agencies whose service area or service responsibility would be altered by the jurisdictional change, as determined pursuant to subdivision (b) or (c).

(2) In the case of a city incorporation, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56810 of the Government Code and the adjustments in tax revenues that may occur pursuant to Section 56815 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 56810 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the incorporation.

(3) In the case of a formation of a district as defined in Section 221.5, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56810 of the Government Code to the district and shall make the adjustment as determined by Section 56810 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the formation.

(b) Upon the filing of an application or a resolution pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory that is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to each local agency pursuant to Section 96.1 and Section 96.5.

(3) Within 45 days of notice of the filing of an application or resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the amount of, and allocation factors with respect to, property tax revenue estimated pursuant to paragraph (2) that is subject to a negotiated exchange.

(4) Upon receipt of the estimates pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. This negotiation period shall not exceed 60 days.

The exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years.

(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts,

negotiate any exchange of property tax revenues. Prior to entering into negotiation on behalf of a district for the exchange of property tax revenue, the board shall consult with the affected district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.

(6) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 56658 of the Government Code until the local agencies included in the property tax revenue exchange negotiation, within the 60-day negotiation period, present resolutions adopted by each such county and city whereby each county and city agrees to accept the exchange of property tax revenues.

(7) In the event that the commission modifies the proposal or its resolution of determination, any local agency whose service area or service responsibility would be altered by the proposed jurisdictional change may request, and the executive officer shall grant, 15 days for the affected agencies, pursuant to paragraph (4) to renegotiate an exchange of property tax revenues. Notwithstanding the time period specified in paragraph (4), if the resolutions required pursuant to paragraph (6) are not presented to the executive officer within the 15-day period, all proceedings of the jurisdictional change shall automatically be terminated.

(8) In the case of a jurisdictional change that consists of a city's qualified annexation of unincorporated territory, an exchange of property tax revenues between the city and the county shall be determined in accordance with subdivision (e) if that exchange of revenues is not otherwise determined pursuant to either of the following:

(A) Negotiations completed within the applicable period or periods as prescribed by this subdivision.

(B) A master property tax exchange agreement among those local agencies, as described in subdivision (d).

For purposes of this paragraph, a qualified annexation of unincorporated territory means an annexation, as so described, for which proceedings before the relevant local agency formation commission are initiated, as provided in Section 56651 of the Government Code, on or after January 1, 1998, and on or before January 1, 2005.

(9) No later than the date on which the certificate of completion of the jurisdictional change is recorded with the county recorder, the executive officer shall notify the auditor or auditors of the exchange of property tax revenues and the auditor or auditors shall make the appropriate adjustments as provided in subdivision (a).

(c) Whenever a jurisdictional change is not required to be reviewed and approved by a local agency formation commission, the

local agencies whose service area or service responsibilities would be altered by the proposed change, shall give notice to the State Board of Equalization and the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change and request the auditor and assessor to make the determinations required pursuant to paragraphs (1) and (2) of subdivision (b). Upon notification by the auditor of the amount of, and allocation factors with respect to, property tax subject to exchange, the local agencies, pursuant to the provisions of paragraphs (4) and (6) of subdivision (b), shall determine the amount of property tax revenues to be exchanged between and among the local agencies. Notwithstanding any other provision of law, no such jurisdictional change shall become effective until each county and city included in these negotiations agrees, by resolution, to accept the negotiated exchange of property tax revenues. The exchange may be limited to an exchange of property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years. Upon the adoption of the resolutions required pursuant to this section, the adopting agencies shall notify the auditor who shall make the appropriate adjustments as provided in subdivision (a). Adjustments in property tax allocations made as the result of a city or library district withdrawing from a county free library system pursuant to Section 19116 of the Education Code shall be made pursuant to Section 19116 of the Education Code, and this subdivision shall not apply.

(d) With respect to adjustments in the allocation of property taxes pursuant to this section, a county and any local agency or agencies within the county may develop and adopt a master property tax transfer agreement. The agreement may be revised from time to time by the parties subject to the agreement.

(e) (1) An exchange of property tax revenues that is required by paragraph (8) of subdivision (b) to be determined pursuant to this subdivision shall be determined in accordance with all of the following:

(A) The city and the county shall mutually select a third-party consultant to perform a comprehensive, independent fiscal analysis, funded in equal portions by the city and the county, that specifies estimates of all tax revenues that will be derived from the annexed territory and the costs of city and county services with respect to the annexed territory. The analysis shall be completed within a period not to exceed 30 days, and shall be based upon the general plan or adopted plans and policies of the annexing city and the intended uses

for the annexed territory. If, upon the completion of the analysis period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (B) shall apply.

(B) The city and the county shall mutually select a mediator, funded in equal portions by those agencies, to perform mediation for a period of not to exceed 30 days. If, upon the completion of the mediation period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (C) shall apply.

(C) The city and the county shall mutually select an arbitrator, funded in equal portions by those agencies, to conduct an advisory arbitration with the city and the county for a period of not to exceed 30 days. At the conclusion of this arbitration period, the city and the county shall each present to the arbitrator its last and best offer with respect to the exchange of property tax revenues. The arbitrator shall select one of the offers and recommend that offer to the governing bodies of the city and the county. If the governing body of the city or the county rejects the recommended offer, it shall do so during a public hearing, and shall, at the conclusion of that hearing, make written findings of fact as to why the recommended offer was not accepted.

(2) Proceedings under this subdivision shall be concluded no more than 150 days after the auditor provides the notification pursuant to paragraph (3) of subdivision (b), unless one of the periods specified in this subdivision is extended by the mutual agreement of the city and the county. Notwithstanding any other provision of law, except for those conditions that are necessary to implement an exchange of property tax revenues determined pursuant to this subdivision, the local agency formation commission shall not impose any fiscal conditions upon a city's qualified annexation of unincorporated territory that is subject to this subdivision.

(f) Except as otherwise provided in subdivision (g), for the purpose of determining the amount of property tax to be allocated in the 1979-80 fiscal year and each fiscal year thereafter for those local agencies that were affected by a jurisdictional change which was filed with the State Board of Equalization after January 1, 1978, but on or before January 1, 1979. The local agencies shall determine by resolution the amount of property tax revenues to be exchanged between and among the affected agencies and notify the auditor of the determination.

(g) For the purpose of determining the amount of property tax to be allocated in the 1979-80 fiscal year and each fiscal year thereafter, for a city incorporation that was filed pursuant to Sections 54900 to 54904 after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by the jurisdiction for the 1978-79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the

final local agency formation commission staff report pertaining to the incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978-79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977-78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for that incorporation, the commission shall by October 10, determine pursuant to Section 54790.3 of the Government Code the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980-81 fiscal year and each fiscal year thereafter for incorporations approved by the voters in June 1979.

(h) For the purpose of the computations made pursuant to this section, in the case of a district formation that was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1, 1978, but before January 1, 1979, the amount of property tax to be allocated to the district for the 1979-80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(i) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1 or its predecessor section, or the annual tax increment determined pursuant to Section 96.5 or its predecessor section, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by the jurisdictional change, as determined as follows:

(1) The governing body of each district, county superintendent of schools, or county whose service areas or service responsibilities would be altered by the change shall determine the amount of property tax revenues to be exchanged between and among the affected jurisdictions. This determination shall be adopted by each affected jurisdiction by resolution. For the purpose of negotiation, the county auditor shall furnish the parties and the county board of education with an estimate of the property tax revenue subject to negotiation.

(2) In the event that the affected jurisdictions are unable to agree, within 60 days after the effective date of the jurisdictional change, and if all the jurisdictions are wholly within one county, the county board of education shall, by resolution, determine the amount of property tax revenue to be exchanged. If the jurisdictions are in more than one county, the State Board of Education shall, by resolution,

within 60 days after the effective date of the jurisdictional change, determine the amount of property tax to be exchanged.

(3) Upon adoption of any resolution pursuant to this subdivision, the adopting jurisdictions or State Board of Education shall notify the county auditor who shall make the appropriate adjustments as provided in subdivision (a).

(j) For purposes of subdivision (i), the annexation by a community college district of territory within a county not previously served by a community college district is an alteration of service area. The community college district and the county shall negotiate the amount, if any, of property tax revenues to be exchanged. In these negotiations, there shall be taken into consideration the amount of revenue received from the timber yield tax and forest reserve receipts by the community college district in the area not previously served. In no event shall the property tax revenue to be exchanged exceed the amount of property tax revenue collected prior to the annexation for the purposes of paying tuition expenses of residents enrolled in the community college district, adjusted each year by the percentage change in population and the percentage change in the cost of living, or per capita personal income, whichever is lower, less the amount of revenue received by the community college district in the annexed area from the timber yield tax and forest reserve receipts.

(k) At any time after a jurisdictional change is effective, any of the local agencies party to the agreement to exchange property tax revenue may renegotiate the agreement with respect to the current fiscal year or subsequent fiscal years, subject to approval by all local agencies affected by the renegotiation.

SEC. 286. This act is intended to implement the recommendations of the Commission on Local Governance for the 21st Century, as transmitted to the Legislature on January 20, 2000.

SEC. 287. Sections 90.5, 97.5, 115.5, and 211.5 of this bill incorporate amendments to Sections 56828, 56833.1, 56840, and 56857 of the Government Code proposed by both this bill and AB 1495, which sections are renumbered respectively as Sections 56658, 56666, 56800, and 56895 of the Government Code in this bill, and Sections 214.5 and 223.5 of this bill also incorporate amendments to Sections 57002 and 57050 of the Government Code proposed by both this bill and AB 1495. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends or repeals Sections 56828, 56833.1, 56840, 56857, 57002, and 57050 of the Government Code, and (3) this bill is enacted after AB 1495, in which case Sections 56828, 56833.1, 56840, 56857, 57002, and 57050 of the Government Code, as amended by AB 1495, shall remain operative only until the operative date of this bill, at which time Sections 90.5, 97.5, 115.5, 211.5, 214.5, and 223.5 of this bill shall become operative, and Sections 90, 97, 115,

214, and 223 of this bill and Section 56895 of the Government Code, as added by Section 211 of this bill, shall not become operative.

SEC. 288. (a) Section 123.5 of this bill incorporates amendments to Section 56845 of the Government Code proposed by both this bill and AB 1495, which section is renumbered as Section 56815 of the Government Code in this bill. Section 123.5 shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends or repeals Section 56845 of the Government Code, (3) AB 2779 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1495, in which case Section 56815 of the Government Code, as added by Section 123 of this bill, and Section 123.7 of this bill shall not become operative.

(b) Section 123.7 of this bill incorporates amendments to Section 56845 of the Government Code proposed by both this bill and AB 2779. It shall become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill enacted amends or repeals Section 56845 of the Government Code, (3) AB 1495 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2779, in which case Section 56815 of the Government Code, as added by Section 123 of this bill, and Section 123.5 of this bill shall not become operative.

(c) Section 123.7 of this bill also incorporates amendments to Section 56845 of the Government Code proposed by this bill, AB 1495, and AB 2779. It shall also become operative if (1) all three bills are enacted and become effective on or before January 1, 2001, (2) all three bills amend or repeal Section 56845 of the Government Code, and (3) this bill is enacted after AB 1495 and AB 2779, in which case Section 56815 of the Government Code, as added by Section 123 of this bill, and Section 123.5 of this bill shall not become operative.

SEC. 289. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Assembly Bill No. 1948

CHAPTER 493

An act to amend Section 56381 of the Government Code, relating to local agency formation commissions.

[Approved by Governor September 12, 2002. Filed
with Secretary of State September 12, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1948, Kelley. Local agency formation commissions.

Existing law prescribes the apportionment for the net operating expenses of the local agency formation commission among the county and the cities and special districts within the county.

This bill would revise the method of calculating independent special district revenues in order to determine independent special districts' apportionments of the net operating expenses of a commission, and would provide that no independent special district shall be apportioned a share of more than 50% of the total independent special districts' share of the commission's operational costs. The bill would provide, with respect to a district formed under the Local Health Care District Law that operates a hospital, that the district may not be apportioned any share until the fiscal year following positive net revenue, as defined, or, if the district has filed for and is operating under federal bankruptcy, until the fiscal year after its discharge from bankruptcy.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Health care districts operating hospitals throughout California are under severe financial assault.

(2) District hospitals provide a substantial proportion of health care services to low-income residents of the state, to minority populations, and to the uninsured. District hospitals serve a disproportionately large number of Medicare and Medi-Cal beneficiaries, as compared to nonpublic hospitals.

(3) Health care districts constitute the single largest provider of basic and emergency health services in rural California. In some communities, health care districts are the only providers of health care services.

(4) Health care districts operate 35 of California's 71 rural hospitals. In addition, districts operate some 15 health care clinics and skilled

nursing facilities. Health care district facilities provide inpatient care to more than 200,000 Californians and support more than 1,800,000 outpatient visits annually.

(5) Reimbursement for health care services from Medi-Cal, Medicare, and health maintenance organizations currently covers less than one-half of the actual cost of hospital services and these reimbursements are declining.

(6) The cost of recruiting and retaining health care workers, especially nursing staff, has increased sharply in recent years.

(7) The average district hospital in California operates with a net annual operating deficit of one million five hundred thousand dollars (\$1,500,000).

(8) As a group, California's district hospitals lost a total in excess of seventy million dollars (\$70,000,000) on operations in the 2000-01 fiscal year. In the past five years, five district hospitals have been forced to declare bankruptcy, and one has closed permanently.

(9) Recently imposed government mandates including, but not limited to, seismic safety, data reporting, Local Agency Formation Commission (LAFCO) assessments, and the federal Health Insurance Portability and Accountability Act of 1996 have put major financial strains on district hospitals. More of these facilities may soon be forced into bankruptcy and closure.

(b) It is the intent of the Legislature to enact legislation that would more fairly allocate the cost of operating LAFCOs to be borne by health care districts, which are seldom involved in changes of organization, or other activities which require action or oversight by LAFCOs.

SEC. 2. Section 56381 of the Government Code is amended to read:

56381. (a) The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter. The commission shall transmit its proposed and final budgets to the board of supervisors; to each city; to the clerk and chair of the city selection committee, if any, established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1; to each independent special district; and to the clerk and chair of the independent special district selection committee, if any, established pursuant to Section 56332.

(b) After public hearings, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the

auditor shall apportion the net operating expenses of a commission in the following manner:

(1) (A) In counties in which there is city and independent special district representation on the commission, the county, cities, and independent special districts shall each provide a one-third share of the commission's operational costs.

(B) The cities' share shall be apportioned in proportion to each city's total revenues, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county, or by an alternative method approved by a majority of cities representing a majority of the combined cities' populations.

(C) The independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. Except as provided in subparagraph (D), an independent special district's total revenue shall be calculated for nonenterprise activities as total revenues for general purpose transactions less revenue category aid from other governmental agencies and for enterprise activities as total operating and nonoperating revenues less revenue category other governmental agencies, as reported in the most recent edition of the "Special Districts Annual Report" published by the Controller. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the independent special district share of costs. For the purposes of fulfilling the requirement of this section, a multicounty independent special district shall be required to pay its apportionment in its principal county.

(D) (i) For purposes of apportioning costs to a health care district formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code that operates a hospital, a health care district's share, except as provided in clauses (ii) and (iii), shall be apportioned in proportion to each district's net revenue from operations as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development, as a percentage of the combined independent special districts net operating revenues within a county.

(ii) A health care district for which net revenue from operations is a negative number may not be apportioned any share of the commission's operational costs until the fiscal year following positive net revenue from operations, as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development.

(iii) A health care district that has filed and is operating under public entity bankruptcy pursuant to federal bankruptcy law, shall not be apportioned any share of the commission's operational costs until the fiscal year following its discharge from bankruptcy.

(E) Notwithstanding the requirements of subparagraph (C), the independent special districts' share may be apportioned by an alternative method approved by a majority of the districts, representing a majority of the combined populations. However, in no event shall the independent special districts' share exceed the amount that would be calculated pursuant to subparagraphs (C) and (D).

(F) Notwithstanding the requirements of subparagraph (C), no independent special district shall be apportioned a share of more than 50 percent of the total independent special districts' share of the commission's operational costs. In those counties in which a district's share is limited to 50 percent of the total independent special districts' share of the commission's operational costs, the share of the remaining districts shall be increased on a proportional basis so that the total amount for all districts equals the share apportioned by the auditor to independent special districts.

(2) In counties in which there is no independent special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) In counties in which there are no cities, the county and its special districts shall each provide a one-half share of the commission's operational costs. The independent special districts' share shall be apportioned in the manner described for cities' apportionment in paragraph (1). If there is no independent special district representation on the commission, the county shall pay all of the commission's operational costs.

(4) Instead of determining apportionment pursuant to paragraph (1), (2), or (3), any alternative method of apportionment of the net operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the independent special districts representing a majority of the combined total population of independent special districts in the county.

(5) In no event shall the independent special districts' share exceed the amount that would be calculated pursuant to subparagraphs (C) and (D) of paragraph (1).

(c) After apportioning the costs as required in subdivision (b), the auditor shall request payment from the board of supervisors and from

each city and each independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county, city, or district. The auditor shall provide written notice to the county, city, or district prior to appropriating a share of the property tax or other revenue to the commission for the payment due the commission pursuant to this section. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the commission's operating expenses as specified by the commission. When the city and district payments are received by the commission, the county's portion of the commission's annual operating expenses shall be credited with funds already received from the county. If, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If, during the fiscal year, the commission is without adequate funds to operate, the board of supervisors may loan the commission funds and recover those funds in the commission's budget for the following fiscal year.

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GOVERNOR

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LAFCO
MUNICIPAL SERVICE REVIEW
GUIDELINES
FINAL DRAFT
2002

Governor's Office of Planning and Research

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LAFCO MUNICIPAL SERVICE REVIEW GUIDELINES FINAL DRAFT

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EXECUTIVE SUMMARY

These guidelines are the result of legislation (Chapter 761, Statutes of 2000) signed by Governor Gray Davis relating to powers and authorities of Local Agency Formation Commissions (LAFCO).

Development of the legislation resulted from the recommendations of the Commission on Local Governance for the 21st Century (Commission). The Commission published its recommendations in a final report, *Growth Within Bounds*, issued on January 20, 2000.

The report recommended and the legislation enacted a new process for LAFCO to review municipal services on a regular basis. As part of its review of municipal services, LAFCO is required to prepare a written statement of its determination with respect to each of the following:

1. Infrastructure needs or deficiencies;
2. Growth and population projections for the affected area;
3. Financing constraints and opportunities;
4. Cost avoidance opportunities;
5. Opportunities for rate restructuring;
6. Opportunities for shared facilities;
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
8. Evaluation of management efficiencies; and
9. Local accountability and governance.

The Governor's Office of Planning and Research (OPR) is directed by statute to prepare these guidelines to assist LAFCO in complying with the new requirement for municipal service reviews.

The guidelines were developed through five public workshops, numerous meetings of an OPR appointed stakeholder task force and four public review periods. The guidelines encourage public participation and consultation with stakeholder organizations at the earliest opportunity. OPR has tried to clearly identify those actions which are required by law and those where OPR recommends a particular process or policy when undertaking the municipal service review.

The guidelines are divided into three parts: Part I - Preparing to Undertake a Municipal Service Review, Part II - The Municipal Service Review Process, and Part III - Taking Action on the Municipal Service Review.

Part I describes the statutory framework and requirements of the municipal service review. This Part also provides guidance on how a LAFCO, service provider and the public can prepare to most effectively engage in the municipal service review process including, but not limited to:

- Development of a long-term schedule of all municipal service reviews which are required to be undertaken by LAFCO during the five-year cycle for Sphere of Influence (SOI) updates.
- Development of a work plan for an individual municipal service review.
- Gathering of data and information related to the municipal service review.
- Development of a strategy for preparing a municipal service review report.
- Identifying the boundary of the municipal service review study boundary

Part II includes guidance on the individual municipal service review process including integrating municipal service reviews with other LAFCO actions, application of the California Environmental Quality Act and potential environmental justice impacts, and the development of the nine determinations.

Part III contains information on how to draft the final individual municipal service review report, suggestions on public participation and the requirements for the hearing at which the report is adopted.

In developing the Guidelines, it is OPR's intent to provide a structure to assist LAFCOs to carry out their statutory responsibility of promoting orderly growth and development, preserving the state's finite open space and agricultural land resources, and working to ensure that high quality public services are provided to all California residents in the most cost effective and efficient manner.

PART I - PREPARING TO UNDERTAKE A MUNICIPAL SERVICE REVIEW

CHAPTER 1. INTRODUCTION

This Chapter provides background on the development of the Municipal Service Review Guidelines, an explanation of their purposes and information on the overall structure and use of this document.

A. STATUTORY BACKGROUND ON MUNICIPAL SERVICE REVIEW GUIDELINES

On September 26, 2000, Governor Gray Davis signed into law AB 2838 (Chapter 761, Statutes of 2000), authored by Assembly Speaker Robert M. Hertzberg. This legislation, titled the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) and codified as California Government Code §56000 et seq, marked the most significant reform to local government reorganization law since the 1963 statute that created Local Agency Formation Commissions (LAFCOs) in each county.

Development of the legislation resulted from the recommendations of the Commission on Local Governance for the 21st Century. The Commission, established through statute in 1997, published its recommendations in a final report, *Growth Within Bounds*, issued on January 20, 2000.

Pursuant to Government Code §56430, the Governor's Office of Planning and Research (OPR) is required to prepare guidelines for Local Agency Formation Commissions (LAFCO) to conduct reviews of local municipal services.

Prior to the 2000 amendments, the law already permitted LAFCOs to conduct municipal service review studies. These LAFCO service studies generally provided evaluation tools to support future LAFCO actions or were part of a reorganization committee effort.

Existing law (§56430), now states that in order to prepare and update a Sphere of Influence (SOI), LAFCOs are required to first conduct a municipal service review of the municipal services provided in the county or other appropriate designated area.

The term "municipal services" generally refers to the full range of services that a public agency provides or is authorized to provide. The definition is somewhat modified under the CKH Act, however, because LAFCO is only required to review services provided by agencies with SOIs. Therefore, general county government services, such as courts and social services, are not required to be reviewed.

As part of its review of municipal services, LAFCO is required to prepare a written statement of its determination with respect to each of the following:

10. Infrastructure needs or deficiencies;
 1. Growth and population projections for the affected area;
 2. Financing constraints and opportunities;
 3. Cost avoidance opportunities;
 4. Opportunities for rate restructuring;
 5. Opportunities for shared facilities;
 6. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
 7. Evaluation of management efficiencies; and
 8. Local accountability and governance.

These guidelines have been developed to assist LAFCOs step through the process of making these determinations.

B. DEVELOPMENT OF GUIDELINES

Pursuant to the requirements of the CKH Act, the Municipal Service Review Guidelines has been developed in consultation with the California Association of California LAFCOs and numerous other organizations representing service providers and the public. Participating organizations include the California Special Districts Association, the League of California Cities, the California State Association of Counties, the Association of California Water Agencies, the League of Women Voters, the California Fire Districts' Association, housing and environmental groups and dozens of representatives from cities, counties, special districts and interested parties.

Consultations and collaboration occurred during facilitated public workshops in Sacramento, Fresno, Santa Ana, Red Bluff and San Diego; five working group sessions with representatives from affected local government entities; and interviews and meetings with interested constituents.

An issues paper and draft outline of the Municipal Service Review Guidelines¹ was published in May 2001 and subjected to a 21-day public review period. The Preliminary Draft² LAFCO Municipal Service Review Guidelines was issued for a 21-day review in August 2001 and comments were reviewed and incorporated into the Final Draft Municipal Service Review Guidelines as appropriate.

¹ Prepared under contract with Graichen Consulting and edited by OPR

² Ibid

A 21-day public review of the Final Draft Guidelines was provided in October of 2002 with appropriate comments incorporated into the Final Municipal Service Review Guidelines.

California LAFCOs have been especially generous with their contributions of service studies, procedures, and other technical products. Special districts and cities have provided samples of model service practices. OPR wishes to recognize the contributions of the Napa County LAFCO in preparing Chapter 8 of this document. Every attempt has been made to incorporate successful procedures, processes and templates created by numerous public agencies.

C. HOW TO USE THE GUIDELINES

The Guidelines are organized into three parts: preparations for undertaking a municipal service review, the process of developing the municipal service review, and taking final actions on the municipal service reviews.

Part I - Preparing to Undertake a Municipal Service Review includes five chapters: Chapter 1 included introductory comments and background on the guidelines. Chapter 2 contains a description of the basic roles and responsibilities of LAFCO, service providers and the public in the municipal service review process. Chapter 3 includes a strategy for developing an overall schedule for municipal service reviews. Chapter 4 contains information on developing a work plan for individual municipal service reviews. Chapter 5 provides guidance on determining the study area boundaries for a municipal service review.

Part II - The Municipal Service Review Process includes three chapters. Chapter 6 provides guidance on integrating a municipal service review with other LAFCO actions, as appropriate. Chapter 7 includes information on compliance with the California Environmental Quality Act (CEQA). Chapter 8 describes the development of the nine required written determinations.

Part III - Taking Action on the Municipal Service Review includes two chapters. Chapter 9 provides guidance on preparing the draft and final municipal service review report for the LAFCO Commission's consideration. Chapter 10 describes the public hearing process.

Appendix A provides a list of important definitions. **Appendix B** includes a list of acronyms used in the Guidelines. Readers may wish to use the list of definitions and acronyms as reference tools when using the Guidelines. **Appendices C - L** provide additional background and templates.

The Municipal Service Review Guidelines is not a regulatory document. It is intended to enable LAFCOs to consistently make the most accurate and substantiated municipal

service review determinations possible using effectively compiled and analyzed information. The resultant municipal service reviews will be information tools available to the public, and to all cities, counties, special districts, agencies and groups that seek to improve the quality of California's public service infrastructure.

In developing the Guidelines, it is OPR's intent to provide a structure to assist LAFCOs to carry out their statutory responsibility of promoting orderly growth and development, preserving the state's finite open space and agricultural land resources, and working to ensure that high quality public services are provided to all California residents in the most cost effective and efficient manner.

CHAPTER 2. BASIC ROLES AND RESPONSIBILITIES

Beginning in January of 2001, LAFCOs became responsible for undertaking municipal service reviews prior to the update of an entity's SOI. This chapter outlines the basic roles and responsibilities of the LAFCO, the service provider and the public in implementing this requirement. Refer to Appendix C for general background information on the requirement for LAFCO to perform municipal service reviews.

IMPACT OF 2000 AMENDMENTS
The requirement to undertake municipal service reviews and make specified findings is one of the most significant modifications to the role and responsibilities of LAFCO in the enacting legislation since the 1960's. OPR recommends that each LAFCO, service provider and public advocacy group take time to review and understand their roles in this new statutory environment.

A. MUNICIPAL SERVICE REVIEW: ROLE OF LAFCO

In order to ensure that deliberations by LAFCO on municipal service reviews are consistent, it is important that LAFCO adopt standard written policies and procedures regarding the manner in which it exercise its powers including how it will review any municipal service (Government Code §56300). Municipal service reviews are required

WHAT SERVICES ARE COVERED?
Existing law requires that a service review be completed in preparation of the adoption and/or update of a SOI. Therefore, any municipal service which has a service area defined by LAFCO through a SOI will need to have a municipal service review. LAFCO may include one or more services in the review and the study area may be the whole county, multiple counties or any appropriate sub-area, as determined by LAFCO (Government Code §56430).

for services for which a SOI has been adopted. LAFCO is required to prepare a municipal service review for any municipal service which is provided by an entity which LAFCO approves a SOI.

As part of the municipal service review process, LAFCO should convene stakeholders as appropriate and facilitate collaborative efforts to address issues and challenges.

Stakeholders may include affected and interested LAFCOs and other government agencies, other interested parties and members of the public.

Cooperatively developed municipal service reviews enable LAFCO and service providers to more effectively accomplish mutual public service objectives. To the extent possible, stakeholders should work together to evaluate existing and future service needs and determine what structures are needed to support healthy growth while preserving important agricultural and open space resources. Although LAFCO does not have direct land use authority and is not enabled to manage or operate a service provider agency, LAFCO can serve as intermediaries for the State in addressing specific growth challenges.

An effective municipal service review process should include early consultations with stakeholders, an inclusive municipal service review design, public review of municipal service review work plans and municipal service review report, and an overall collaborative process (see the process flow chart in **Appendix D**).

Through collaboration, LAFCO and interested parties can: identify common goals and objectives and diffuse issues that foster competition rather than cooperation; share expertise and help lower costs by assisting LAFCOs in determining what types of information need to be gathered and in what form; identify information that is already available to streamline data collection; develop strategies for augmenting LAFCO's technical capabilities by funding or loaning technical staff to work under LAFCO's direction; develop strategies for constructively addressing overlapping service boundaries; and develop plans to implement recommendations developed as a result of a municipal service review.

B. MUNICIPAL SERVICE REVIEW: ROLE OF THE SERVICE PROVIDER

Service providers play an important role in the collaborative process for conducting a municipal service review. The cooperation of service providers is important to ensure that LAFCO has access to all necessary information in a timely manner, and to assist LAFCO in interpreting that information. The service provider should view the municipal service review process as an opportunity to share accurate and current data, accomplishments and information that will allow the LAFCO to make sound conclusions and determinations with respect to services. LAFCOs will use the information provided by service providers to review proposals for changes in services, including SOI updates, incorporations and other boundary decisions.

C. MUNICIPAL SERVICE REVIEW: ROLE OF THE PUBLIC

LAFCOs should encourage and provide multiple public participation opportunities in the municipal service review process. To this end, LAFCOs should develop and maintain a list of interested parties to whom such outreach can be extended. Service providers can assist in involving the public by including municipal service review information in newsletters or billing statements. Public comments should be

PUBLIC PARTICIPATION

A major goal of the CKH Act amendments was to increase public participation in public service planning and delivery. Consistent with that goal, public notice requirements for all LAFCO processes were strengthened or augmented. LAFCOs were also required to adopt service review determinations in a public forum

considered and incorporated into the municipal service review process and reports where appropriate and feasible.

The municipal service review process chart (Appendix D) recommends that LAFCO provide several opportunities for the public to provide input in the process. These opportunities can include stakeholder

meetings, public hearings or workshops to initiate municipal service reviews, a public review period of the draft municipal service review report, and a public hearing to consider adoption of written determinations.

CHAPTER 3. DEVELOPING A SCHEDULE OF MUNICIPAL SERVICE REVIEWS

LAFCO should develop a schedule for undertaking municipal service reviews reflective of the individual needs of their county and as a workload management tool. Key internal and external considerations in the development of a schedule for municipal service reviews include:

- To what extent are your SOIs current?
- Are there any pending proposals involving changes to SOIs that may trigger the need for a municipal service review?
- What is the relative complexity of the service(s) being reviewed? (Appendix E includes information on data collection that may assist the LAFCO to determine level of complexity.)
- What is the capacity of the LAFCO to undertake municipal service reviews? (Appendix F includes information about the use of consultants for municipal service reviews and Appendix G includes examples of funding options.)
- What are the general operating practices of the LAFCO (i.e., frequency of meetings, length of meetings, number of items typically on the agenda)

REVIEW DEADLINES

The CKH Act's most recent amendments took effect on January 1, 2001. Although §56430 does not directly provide a specific date when all service reviews must be completed, a deadline can be inferred from §56425, which states, "Upon determination of a sphere, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than every five years."

OPR recommends that LAFCO take the time to establish a schedule and process for undertaking municipal service reviews which reflects agreement of the board members, service providers, the public, the executive officer and LAFCO staff.

A. DEVELOPMENT OF THE SCHEDULE: LAFCO PREPARATION

Since existing law requires SOIs to be updated every five years, and municipal service reviews must be completed for SOI updates, municipal service reviews should be updated at least every five years. LAFCOs have complete flexibility in scheduling these reviews including identifying which services will be reviewed, whether similar services will be reviewed at the same time, and what service areas/geographic regions will be reviewed within an individual municipal service review.

TECHNICAL INPUT
LAFCO municipal service review procedures should include a specific process for service providers and the public to identify unique challenges to providing services to a particular area.

OPR recommends that LAFCOs develop a five-year schedule of reviews in order to ensure that all required municipal service reviews are completed in a timely manner. In developing any schedule of reviews, the LAFCO should develop policies and procedures on how it will handle reviews which occur due to changes in local circumstances such as proposals that may require changes to the SOI, proposed annexations, SOI amendments and incorporations.

LAFCO should also provide opportunities for service providers to be involved in the establishment of the schedule, development of the work plan for an individual municipal service review, designing of the review and preparation of the final municipal service review report for the LAFCO Commission. LAFCO should adopt standard policies and procedures relative to public involvement to ensure that community members and service providers have an opportunity to participate in these activities.

Below are some tools to assist LAFCO in preparing to undertake municipal service reviews including of service provider profiles, SOI status logs, maps, and matrices.

- GETTING PREPARED**
- Review service provider profiles
 - Review SOI status log
 - Obtain service provider maps
 - Create service provider matrices
 - Create five-year schedule

Review Service Provider Profiles: Many LAFCOs have developed service provider directories, profiles or inventories, which can be used as a resource. Service provider profiles vary from county to county but most include basic information such as service provider names, district maps, telephone numbers, key staff, size, population served, services provided,

appropriate enabling legislation, authorized and latent powers, date of formation and some budget information.

Some directories only include information on service providers with SOIs. Others include data on most providers including private purveyors and districts that are not subject to SOI or other requirements.

When available, directories can also be used by cities and counties when updating plans, conducting California Environmental Quality Act (CEQA) reviews, and reviewing development projects, and by the public when seeking basic information about services in their communities.

LAFCOs that have not compiled agency profiles should consider using information obtained during municipal service reviews and SOI updates to start compiling a directory of profiles. Appendices H, I, and J are examples of service provider profiles for a Community Service District (CSD), city and special district.³

Review SOI Status Logs: Some LAFCOs maintain a status log for all SOIs under its jurisdiction (See Appendix K for an example of a SOI status log). These logs identify past actions of the LAFCO relative to changes in the SOI of specific service providers. LAFCOs that have not kept status logs should consider keeping these logs and/or otherwise memorializing the information gained from the municipal service review.

Organize Your Data: Once LAFCO has assembled basic information about applicable services and service providers, it may want to use one or more of the following methods for organizing the information. Some suggestions include maps, matrices and timelines.

1. **Maps:** Countywide, regional and service area maps can be useful in identifying what geographic areas should be reviewed. Some of these maps may be obtained from existing sources such as service provider profiles. Before creating new maps, the LAFCO should check with local planning agencies to determine if they have prepared such maps as part of development reviews, EIRs or General Plan preparation. Useful maps include countywide, regional and service area maps. (Appendix E provides includes more information on how maps can assist in data collection.)
2. **Matrices:** LAFCOs may find it useful to prepare a matrix listing all service providers by the services that they provide or are authorized to provide. (See Table 1 below, sample template.) It may also be useful to identify latent powers either on a

ADVANTAGES OF ORGANIZING INFORMATION ON SPREADSHEETS

Data organized using a spreadsheet format or other flexible software, allows each column to be sorted individually. One service provider may provide several services which may or may not be reviewed at the same time. Also, the information can be resorted by area or region.

³ Appendices referenced in this Chapter are provided as examples. The exact content and style are not specifically endorsed.

separate or the same matrix. (Appendix E includes more information on data collection.)

3. **Timeline:** LAFCO may use the data compiled to develop a draft five year timeline for initiating and completing all municipal service reviews.

TABLE 1 - SERVICE PROVIDER MATRIX TEMPLATE⁴

| Provider | Area or Region | Fire (FI) | Sanitation (SA) | Water (WA) | Flood Control (FC) | Solid Waste (SW) | Recreation and Parks (R&P) | Other |
|--------------------|----------------|-----------|-----------------|------------|--------------------|------------------|----------------------------|-------|
| ARFPD | | FI* | | | | | | |
| ARFCD | | | | | FC | | | |
| Arcade R&P | | | | | | | R&P | |
| Arcade Water | | | | WA | | | | |
| AM R&P | | | | | | | R&P | |
| Brannan-Andrus LMD | | | | | FC | | | |
| Citizens Utilities | | | | WA | | | | |
| CH ID | | | | WA | | | | |
| Clay Water | | | | WA | | | | |
| RD 369 | | | | | FC | | | |
| Cordova R&P | | | | | | | R&P | |
| CSA9 | | | SA | | | | | |
| CSD #1 | | | SA | | | | | |

*Using letters facilitates sorts.

B. DEVELOPMENT OF THE SCHEDULE: SERVICE PROVIDER PREPARATION

Service providers can help shape municipal service reviews by getting involved early in the process and assisting in: the establishment of the schedule, providing information, developing a work plan, collecting data/information and completing the municipal service review report.

A municipal service review is only as good as the data on which it is based. LAFCO will need specific information on the services being provided in the region and will probably need to request this information from the service providers. The types of information will vary from agency to agency and by the type of service being reviewed.

⁴ This template is provided for illustration only and does not contain every type or class of municipal service.

Below is a list of the types of information a service provider may wish to gather to expedite the municipal service review process. It is not necessary to collect all types of data listed below. Select only those items that are relevant to the type of services under review.

1. A list of relevant statutory and regulatory obligations.
2. A copy of the most recent master services plan.
3. A metes and bounds legal description of the agency's boundary.
4. Service Area Maps (to the extent already prepared) including (1) A service boundary map; (2) A map indicating parcel boundaries (GIS maps may be available from the land use jurisdiction); (3) A vicinity or regional map with provider's boundary, major landmarks, freeways or highways, and adjacent or overlapping service provider boundaries (note: more than one map may need to be prepared to show all data); and (4) Maps indicating existing land uses within city or district boundaries and on adjacent properties.
5. Applicable excerpts from regional transportation, water, air quality, fair share housing allocation, airport land use, open space or agricultural plans or policies, or other environmental polices or programs.
6. Copies of regulatory and operating permits.
7. Number of acres or square miles included within the service area.
8. Type of sphere or sphere boundaries.
9. Assessed valuation.
10. Estimate of population within district boundaries.
11. As appropriate, the number of people, households, parcels or units currently receiving service, or the number of service connections.
12. Projected growth in service demand or planned new service demand/capacity.
13. Special communities of interest or neighborhoods affected by service.
14. Capital improvement plans.
15. Current service capacity.
16. Call volume.
17. Response time.
18. Annual operating budget.

Don't Reinvent the Wheel

Service providers may regularly submit reports to a regulatory or financing agency which contain the information the LAFCO needs to complete the municipal service review. Use the information in these reports to respond to information requests by LAFCO.

Early consultation with the LAFCO and meaningful input by the service provider can reduce the time and cost to both parties.

Share Best Practices and Unique Challenges

Service providers should take the opportunity to let LAFCOs know about best practices and other accomplishments of the agency when service information is requested.

In addition, service providers should inform the LAFCO about particular challenges that exist in providing services to a particular area so that this may be considered by the LAFCO during the municipal service review.

C. PRELIMINARY SCOPING - IF PREPARING FIVE YEAR SCHEDULE

A five year schedule for under taking all mandatory municipal service reviews is not required by existing law. However, OPR recommends the preparation of a schedule to ensure that all municipal service reviews are completed for use in updating SOIs at least once every five years.

As part of the development of the five-year schedule of reviews, the LAFCO should undertake preliminary scoping. This Chapter provides general guidance; however, LAFCOs may need to modify these recommendations to reflect local conditions and circumstances; knowledge of processes that work better in a specific area; the repetitive nature, simplicity or complexity of a service; and other factors that are municipal service review specific.

MENTORING LAFCOs
It may be useful to obtain guidance from experienced LAFCOs, such as mentor LAFCOs, to assist with processing complex service reviews. It will also be useful for LAFCOs to share completed municipal service reviews as they become available. CALAFCO may be contacted for recommendations of mentor LAFCOs and to ascertain the availability of completed service reviews. A list of LAFCOs is also available on the CALAFCO website at <http://www.calafco.org/>.

Preliminary scoping for the establishment of a five-year schedule of reviews includes, but is not limited to, the following steps:

Step 1. Service List - Create list of services and providers (see Table 1).

Step 2. Map - Prepare a map of study area boundaries.

Step 3. Single Service or Bundled Services - Decide whether to study individual or clustered services.

Step 4. Early Consultation - Consult with affected LAFCOs, regional planning staff, city and county planning staff, service providers, stakeholder groups and the public.

Step 5. Multi-County Review - Decide whether the municipal service review affects or overlaps adjacent LAFCOs. (See Appendix L.)

Step 6. LAFCO Capacity - Identify potentials for funding, staffing, mentoring or consultant arrangements or options.

Step 7. Data Assessment - Review existing sources of information. (Appendix E includes information on data collection.)

Step 8. Impact of Pending Proposals - If pending LAFCO proposals are driving the municipal service review, meet with proponents to define issues, and discuss funding, timeframes, and the coordination of the municipal service review, the pending proposal and any required SOI update.

Step 9. Funding Shares/Cost Sharing - Appendix G includes several examples of funding sources for municipal service reviews.

D. PREPARING THE SCHEDULE

The schedule for undertaking municipal service reviews can be as simple as a list of reviews by year, indicating the services to be reviewed, providers affected and on anticipated study area boundaries. OPR recommends that the schedule be posted on the LAFCO web site, distributed to individuals and organizations on its "interested parties mailing list" and to all affected service providers. Once the schedule is prepared, circumstances may arise that require it to be modified, especially if the schedule covers multiple years. LAFCO should review the schedule regularly to make necessary modifications.

CHAPTER 4. DEVELOPMENT OF A WORK PLAN FOR INDIVIDUAL MUNICIPAL SERVICE REVIEWS

This Chapter includes guidance on undertaking an individual municipal service review based on the schedule developed in Chapter 3. OPR recommends that a work plan be developed for each municipal service review. LAFCO may wish to develop a standard model for these work plans to ensure consistency and to save time. An effective work plan will assist the LAFCO to make key decisions about the following questions:

- Will the municipal service review include only one service or will several related services be reviewed together?
- Is there a need for inter-county coordination? (Appendix L includes a discussion of inter-agency coordination.)
- Will the municipal service review be integrated into some other LAFCO action(s)? (Chapter 6 includes a discussion of this issue.)
- Should the LAFCO use a consultant to complete the municipal service review? (Appendix G includes a discussion on use of consultants.)
- To what extent does the LAFCO budget reflect funding for the completion of the municipal service review? Will there be a need for supplemental funding? If so, how will that supplemental funding be provided, i.e. fees, dues, loans? (Appendix H includes additional information on funding options.)

Development of a work plan includes four major steps: (1) Review of the information gained through preliminary scoping, as it relates to the particular service being reviewed, (2) Gathering of additional data and information that may be needed to perform the particular municipal service review under consideration; (3) Development of a strategy for preparing a report which will adequately inform the Commission to make the nine required municipal service review determinations; and (4) Writing of the actual work plan.

This chapter provides general guidance, however, LAFCOs may need to modify these recommendations to reflect local conditions and circumstances, knowledge of processes that work better in a specific area, the repetitive nature, simplicity or complexity of a municipal service review, and other factors that are municipal service review specific.

A. REVIEW PRELIMINARY SCOPING DOCUMENTS

As a first step in developing the individual municipal service review work plan, LAFCO should review the information that was developed through preliminary scoping. This step is necessary because the preliminary scoping may have taken place a year or more prior to the initiation of a specific municipal service review. By reviewing information that has already been identified through preliminary scoping, the LAFCO can determine whether the information is still valid or requires updating and/or supplementing.

B. GATHER ADDITIONAL INFORMATION

In preparation for the completion of a work plan for a particular municipal service review, the LAFCO should continue its work in gathering information which it started when the LAFCO established its schedule for performing municipal service reviews. If

the preliminary scoping was not previously undertaken, refer to steps one through nine in Chapter 3 before proceeding to the steps below.

Step 1. Re-establish discussions of municipal service review issues with affected service providers, county and city planning staff, and regional planning agencies.

Step 2. To the extent feasible, the LAFCO should conduct meetings to identify sensitive issues and areas of concern that need to be considered during municipal service review preparation, such as open space and agricultural land preservation, infill and affordable housing issues, environmental justice concerns, land use or economic issues such as base closures, deteriorating or inadequate infrastructure, economic downturns, growth and market forecasts, immediate financial effects on agencies, cost sharing and budgeting, advocacy issues, area-specific characteristics, known or anticipated service rate and property tax payer concerns, regional issues, rural versus urban differences, suburban or emerging county needs and characteristics, environmental resources, or other issues, processes or constraints.

Step 3. List and discuss major known issues, such as permit violations or recent consolidations, relating to the nine written determinations that must be rendered.

Step 4. Determine if it is appropriate to integrate SOI updates, other applicable pending proposals and expected subsequent government reorganizations, within the scope of the municipal service review.

C. DEVELOP A STRATEGY FOR PREPARATION OF THE MUNICIPAL SERVICE REVIEW REPORT

A part of its review of municipal services, LAFCO must prepare a written statement of its determination with respect to each of the following (Government Code §56430):

1. Infrastructure needs or deficiencies.
2. Growth and population projections for the affected area.
3. Financing constraints and opportunities.
4. Cost avoidance opportunities.
5. Opportunities for rate restructuring.
6. Opportunities for shared facilities.
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
8. Evaluation of management efficiencies.
9. Local accountability and governance.

The LAFCO will need to decide what information and level of analysis is necessary to support sound and defensible determinations. Because the LAFCO Commission is responsible for making these determinations based on staff research, analysis and recommendations, it is important that the municipal service review report contain sufficiently detailed information that supports and justifies the recommended determinations. To this end, the LAFCO staff should consider the general format and content requirements of the final municipal service review report.

The amount of information and analysis necessary to complete a municipal service review report will vary depending upon the particular service being reviewed, local circumstances, and any additional actions that might need to be taken based on the municipal service review. To the extent that LAFCO is aware of other proposals or pending actions that will be related to or dependent upon a particular municipal service review, the LAFCO may wish to address other issues in the municipal service review report or require supplemental information and analysis in the municipal service review.

D. WRITING THE WORK PLAN

OPR recommends that each municipal service review be undertaken pursuant to a formalized work plan. This work plan does not necessarily have to be approved by the LAFCO Commission, but should be developed by staff with the Commission's knowledge and input.

OPR recommends the LAFCO develop a consistent format for the work plan, to streamline its preparation and encourage standardization of the process for conducting municipal service reviews. Consistency should be a primary goal in the LAFCO's review of municipal services, not only for the benefit of the LAFCO and its staff, but also for other stakeholders who will routinely be involved in the municipal service review process.

The work plan should minimally include the following elements:

- List of Service(s) to be reviewed.
- Service Providers that will be affected/involved.
- Study Area Boundaries for the municipal service review. (Chapter 5 includes more information on how to establish study area boundaries.)
- Data Collection process. (Appendix E includes a discussion of data collection.)
- Public Participation process. (Chapter 2 provides additional information on the role of public participation in the review of municipal services.)
- Public hearing process. (Chapter 10 contains more information on the hearing process. Appendix D, the process flow chart, illustrates how the hearing

process may work if the LAFCO chooses to integrate the municipal service review into other LAFCO actions.)

CHAPTER 5. IDENTIFYING THE MUNICIPAL SERVICE REVIEW STUDY BOUNDARY

The CKH Act requires that LAFCOs focus on services rather than individual SOIs, proposals or service providers. To review a service, LAFCO needs to identify the geographic area within which the service should be studied. Government Code §56430 states, "the commission shall include in the area designated for municipal service review the county, the region, the sub-region, or such other geographic area as is appropriate for an analysis of the service or services to be reviewed."

LAFCOs should consult with other affected LAFCOs when scoping a proposed municipal service review. An affected LAFCO is a LAFCO for a county other than the principal county that may be affected by a municipal service review. This is especially important for municipal service reviews which may lead to the consideration of proposals that have the potential to cause significant environmental, fiscal or economic impacts on the affected county.

A. METHODS FOR IDENTIFYING AN APPROPRIATE MUNICIPAL SERVICE REVIEW BOUNDARY

There is no single method for identifying an appropriate municipal service review boundary. Within the State, there are numerous combinations of services, and types of service regions and community service areas within in counties.

Each LAFCO will need to work with affected and interested agencies and planning jurisdictions, if different, to define logical municipal service review study boundaries that respond to local conditions, geography and circumstances. This includes:

- Selecting a service or group of services for review;
- Determining who provides, uses and is affected by that service (those services);

TAILOR BOUNDARIES TO SERVICES AND LOCAL AREA
LAFCO should tailor study boundaries to reflect local conditions and the specific service under review.
There are widely varying local conditions including numerous types of geologic, topographical and climate zones. Some counties have isolated rural and mountain communities. Other counties are densely populated.
Some counties have an agriculture based economy; others have urban or urban/suburban economies.
There are large and small drainage basins, and counties with mountains or large lakes. Some districts cross county boundaries, provide regional services, or serve a single isolated town.
LAFCO should have a clear methodology for establishing boundaries based on these and other factors.

- Determining what topographic features, tax zones, joint powers agreements, shared facilities, resources and infrastructure, among other factors, link a service to a particular location or locations that could be studied; and
- Mapping or otherwise identifying the area for study.

B. EXAMPLES OF MUNICIPAL SERVICE REVIEW BOUNDARY DETERMINATIONS

The following are examples of municipal service review study areas based on hypothetical conditions and circumstances.

Example 1: County A is a rural county generally bisected by a mountain range. The County's western slope contains two adjacent rapidly urbanizing communities with mainly large lot residential housing. Each of two community service districts provides parks and recreation, street lighting and landscaping, and road maintenance services to one of the communities. Only one district provides fire protection and emergency services. There are five fire districts that surround the potential study area and are planning to serve areas that are approved for urbanization, some of which are within CSD boundaries.

All fire districts are planning to construct new facilities near or in the two communities. There are definable areas where there is little relationship between the fire service providers' boundaries and first response fire protection and emergency service responsibilities. All of the districts have substantial territory within a State Responsibility Area, and, therefore, receive fire-fighting assistance from the California Department of Forestry (CDF). The CDF provides fire protection services by contract to one of the community services district. The County provides overlapping park and open space services in the area.

Analysis: OPR suggests that this study area's boundary include the western slope of the mountain ridge with the urban limit line forming a possible southern boundary. To maximize efficiency, this municipal service review should probably include multiple services.

Example 2: Nine sanitation service districts serve territory contained in a well-defined drainage basin. District A owns and operates a wastewater treatment plant in the basin. All districts are parties to a joint powers agreement to use the facility and share maintenance and operation costs. Other major service providers' boundaries are based on the location of urban areas and have little relationship to drainage basin boundaries.

Analysis: OPR suggests that this study area's boundaries be generally coterminous with drainage basin boundaries. Only wastewater service should be studied, although

LAFCO could determine whether a similar structure exists for water providers and consider the potential for a combined water/sanitation municipal service review.

Example 3: Two small cities are located in the southern portion of a rural county. Each city provides most of its own municipal services with the exception of water, sanitation, and mosquito abatement/vector control. Three regional districts provide those services.

Analysis: OPR suggests that this study area's boundary include the planning areas of both cities. Services to be studied would be limited to those provided by the two cities although an overview of the three regional districts could also be included. LAFCO could streamline the process by conducting joint SOI updates concurrent with the municipal service review, and a single CEQA review.

Example 4: County A is a large county with substantial rural, suburban and urban areas. During the past eleven years, the number of fire districts in County A has decreased from 25 to 16 due to service provider initiated consolidation proposals. Several fire districts are considering initiating consolidation proposals when their fire chiefs retire. Four of the service providers serve isolated rural areas. One urban/rural provider provides emergency services to smaller, adjacent rural districts. None have overlapping boundaries. All participate in mutual aid agreements. Developers on the east side of the county have been approaching fire service providers in an adjacent county for the purpose of obtaining fire service for proposed isolated senior citizen communities.

Analysis: OPR suggests that this study area's boundary include the entire county and include all fire protection service providers. The fire protection service providers from adjacent counties should be asked to participate in stakeholder meetings, and/or provide other input into the study. Providers could be clustered by geographic location, or urban/rural characteristics.

Example 5: One hundred thirty-five (135) flood control, drainage, land reclamation or levee maintenance service providers serve a 100 square mile drainage area with deteriorating or insufficient infrastructure. Property values in the area are depressed. Many share insurance, capital facilities, attorneys or staff. Several have no paid staff. There is significant variation in assessed service rates, which, in many cases, bears a direct relationship to levels of service. There are few overlapping boundaries. The districts are located in four counties.

Analysis: OPR suggests that study area's boundary include the entire 100 square mile area. The affected LAFCOs could develop a joint powers agreement and conduct a joint municipal service review study for flood control, drainage and levee maintenance.

PART II - THE MUNICIPAL SERVICE REVIEW PROCESS

CHAPTER 6. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH OTHER LAFCO ACTIONS

This Chapter provides guidance on how to integrate municipal service reviews with other LAFCO actions. LAFCOs are not required to review a SOI at the same time that it performs a municipal service review. Some LAFCOs may, however, find that integrating municipal service reviews with other LAFCO business proves a better context in which to review the information and streamlines both the municipal service review and SOI processes. Appendix D provides a flow chart which illustrates how an integrated municipal service review may be undertaken.

WHEN TO DO MUNICIPAL SERVICE REVIEWS

The CKH Act's most recent amendments took effect on January 1, 2001. Although §56430 does not directly provide a specific date when all service reviews must be completed, a deadline can be inferred from §56425, which states, "Upon determination of a sphere, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than every five years."

A. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH SOI ACTIONS

INTEGRATE MUNICIPAL SERVICE REVIEWS WITH OTHER ACTIONS

This Chapter provides guidance on how to integrate service reviews with other LAFCO actions. LAFCOs are not required to review a SOI at the same time that it performs a service review. Some LAFCOs may, however, find that integrating service reviews with other LAFCO business proves a better context in which to review the information and streamlines both the service and SOI processes. Appendix E provides a flow chart which illustrates how an integrated service review may be undertaken.

The information, recommendations and determinations, contained in a municipal service review, are intended to guide and inform SOI decisions. This includes actions to create or update an SOI. Government Code §56430(c) states,

"The commission shall conduct a municipal service review before, or in conjunction with, but no later than the time it is considering an action to establish a SOI in accordance with §56425 or §56426.5 or to update a SOI pursuant to §56425."

Any SOI adopted prior to December 31, 2000 must be updated, as necessary, but at least by January 1, 2006. Some updates may simply involve an affirmation of the existing SOI boundaries or some modifications to the SOI to achieve consistency with the CKH Act. §56430 states that municipal service reviews must be conducted prior to, or concurrent with, those updates. Therefore all municipal service reviews must be completed by January 1, 2006.

A LAFCO may have several reasons for prioritizing a specific municipal service review. Perhaps there is a pending proposal to create, update or substantially amend an SOI; a pending health and safety issue; or the SOI is many years old. Whatever the reason, LAFCO should consider combining municipal service reviews and related SOI processes where feasible. Reasons for combining municipal service reviews with SOI reviews include:

- Several districts with affected SOIs may be included in a single municipal service review.
- SOI actions, staff reports, planning documents and public hearings may be consolidated with those required for municipal service reviews.
- Prudent clustering of SOI actions and related municipal service reviews may reduce processing costs, and enable costs to be spread among more affected or interested parties.
- CEQA encourages the consideration of multiple related actions where appropriate. It may be possible to evaluate a municipal service review and its associated SOI action(s) in a single CEQA review.
- Service review determinations and SOIs actions may be viewed from a more inclusive or regional perspective.

B. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH OTHER PROPOSALS

During the conduct of a municipal service review, LAFCO may determine that study conclusions will strongly support specific government organization or reorganization proposals or actions. In those cases, LAFCO, or affected service providers, may desire to initiate recommended actions concurrent with the municipal service review. Under certain circumstances, concurrent processing could ensure that the municipal service review information gathering process focuses on issues relevant to anticipated subsequent actions.

C. MUNICIPAL SERVICE REVIEWS IN THE REGIONAL CONTEXT

While LAFCO does not have any direct land use authority, the CHK Act assigns LAFCOs a prominent role in regional planning issues by charging it to consider a wide range of land use and growth factors when it acts on matters under its jurisdiction. LAFCO has broad statutory responsibility to consider planned, orderly, efficient patterns of urban development which also preserve agricultural lands and achieve a fair share of the region's housing needs. (§56668 and §56668.5)

LAFCOs can have a powerful influence on local land use planning decisions through participation in city and county general plan processes. Section 65352 (a) of state planning law requires cities and counties to refer their general plans to LAFCO before

adopting or amending their general plans. This is an example of many opportunities that LAFCO has to influence local and regional land use decisions in ways that are consistent with LAFCO's charge. On one hand, LAFCO must consider consistency with local general plans when it makes boundary decisions, but LAFCO also has the ability to influence the nature of those local general plans through active participation in their development.

Regional planning initiatives are another opportunity for LAFCO to collaborate with planning agencies and encourage development of coordinated goals and policies. Examples of regional initiatives include habitat conservation plans, regional transportation plans, and watershed management plans, to mention a few.

Service reviews occur in the larger context of county and regional planning efforts that are not always in harmony. LAFCO should use every opportunity to engage in these other planning efforts to ensure that LAFCO's concerns are reflected in land use planning decisions. LAFCO should also take advantage of the opportunity to use its municipal service review process as a means of encouraging collaboration with planning agencies on important policy issues. By both participating in these other planning efforts and using information gained from these activities LAFCO can help improve the quality and consistency of data. Service reviews should help put into context the relationship between service options and regional issues, goals and policies.

Refer to Government Code §56377, §56378, §56386, §56430, §56668, and §56668.5 for specific requirements for LAFCOs to consider regional issues or coordination with regional planning agencies.

D. ENVIRONMENTAL JUSTICE CONSIDERATIONS AND MUNICIPAL SERVICE REVIEWS

In undertaking municipal service reviews and making the nine determinations, LAFCO board members should consider their responsibilities under civil rights and environmental justice laws. In general, these laws prohibit actions by public entities which disproportionately affect one category of individuals as defined by race, creed, ethnicity, disability, family status and income.

OPR recommends that LAFCO request legal counsel guidance to assure that the policies and processes that it implements are appropriate. These guidelines include a number of recommendations which encourage broad public participation and municipal service review analysis which would affirmatively support the broad civil rights and environmental justice responsibilities of LAFCO including:

- Adopt general policies and procedures relative to the undertaking of the municipal service review. This will avoid any appearance of an unequal review of some services.
- Develop and publish a five-year schedule for municipal service reviews to maximize the ability of the public to participate in the process.
- Convene stakeholders and facilitate collaborative efforts to address issues and challenges that are identified during the municipal service review process.
- Undertake municipal service reviews across county lines if that would more appropriately address the community of interest.
- Adopt the work plan for the individual municipal service review at a public meeting.
- Incorporate the municipal service review with other LAFCO actions (such as a SOI update) for the purpose of demonstrating the context in which the information gained in the municipal service review will be used.
- Publish the Draft Municipal Service Review Report and provide for a 21-day public review period before scheduling the report to be considered by LAFCO.
- Sponsor public workshops prior to the hearing at which the Final Municipal Service Review Report will be adopted.

CHAPTER 7. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Public Resources Code §21000 et sequitur, also known as the California Environmental Quality Act (CEQA), requires public agencies to evaluate the potential environmental effects of their actions. Only discretionary actions that are defined as projects are subject to CEQA. A project is the whole of an action, which has the potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change to the environment (CEQA Guidelines §15378).

In order for CEQA to apply to a municipal service review, it must be considered a project under CEQA. Service reviews may meet this definition particularly if viewed in light of *City of Livermore v. Local Agency Formation Commission of Alameda County* (1986). In that court decision, LAFCO adoption of SOI guidelines was held to be a project because the revised guidelines could affect future growth patterns. A municipal service review may have the same effect of influencing future growth patterns.

A. APPLICABILITY OF CEQA

Service reviews are intended to support SOI updates, which may include expansions or reductions in SOI boundaries, the creation of new SOIs, or SOIs amendments that trigger a need to update the pertinent SOI. The language of §56430 of the CKH Act requires that LAFCO will:

- Consider municipal service reviews, and municipal service review recommendations, during noticed public hearings;
- Render determinations regarding a number of issues including various government options, the advantages and disadvantages of the consolidation and reorganization of service providers, and the identification of infrastructure needs; and
- Use the reviews when rendering future decisions to create, update or amend an SOI, or approve or disapprove government organization or reorganization proposals.

In some cases, a municipal service review, and its required determinations, will provide policy guidance for future LAFCO decisions that may direct or affect the location and pattern of growth. Because of the nature of the analysis required, municipal service reviews may be perceived or interpreted by some as the first step in creating, updating or amending SOIs or initiating other government organizations or reorganizations. In other cases, municipal service reviews may actually be an integral part of a larger project. Service reviews may frequently be triggered by pending applications to LAFCO for SOI amendments, or for annexations that cannot proceed without an SOI update.

To ensure compliance with CEQA, and avoid unnecessary legal challenges, LAFCOs should consider municipal service reviews as projects subject to CEQA. The LAFCO would be the "lead agency" responsible for complying with CEQA because it is the entity with the principal responsibility for approving or carrying out the municipal service review (i.e., the project) (Public Resources Code §21067). As the CEQA lead agency, the LAFCO must ensure that all required elements of the CEQA review process are conducted consistent with the requirements of CEQA and LAFCOs' own adopted CEQA procedures.

B. CEQA DETERMINATIONS

CEQA requires a lead agency to make one of three basic environmental determinations with respect to the potential environmental effects of a project. The project may qualify for an exemption, which requires no further analysis. If the project is not exempt and there are no potentially significant environmental effects, the lead agency may prepare a Negative Declaration (ND). If the project is not

exempt and there is the potential for one or more significant environmental effects, an Environmental Impact Report (EIR) must be prepared.

No two municipal service reviews will be exactly alike and each needs to be evaluated on its specific merits and characteristics. Each LAFCO should ensure that its own locally adopted CEQA procedures and guidelines are updated to account for environmental determinations on municipal service review activities.

C. EXEMPTIONS

Each lead agency must first review a project to determine if it is exempt from CEQA review. There are three types of exemptions that a LAFCO could review for applicability to a specific municipal service review: statutory, categorical and "general rule" exemptions. The lead agency should support its reliance on an exemption with substantial evidence in the record.

A municipal service review may potentially qualify for a statutory exemption as a Feasibility and Planning Study:

"A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors. This Chapter does not apply to the adoption of a plan that will have a legally binding effect on later activities." (CEQA Guidelines §15262).

There are two categorical exemptions that might apply to a municipal service review. These are Class 6 and Class 20 categorical exemptions. Categorical exemptions may not be used if there are special circumstances that would raise the potential for the project to have a significant environmental effect (CEQA Guidelines §15300.2).

"Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted or funded." (CEQA Guidelines §15306)

"Class 20 consists of changes in the organization or reorganization of local government agencies where the changes do not change the geographical area in which previous existing powers are exercised. Examples include but are not limited to: (a) Establishment of a subsidiary district; (b) Consolidation of two or more districts having identical powers; and (c) Merger with a city of a district lying entirely within the boundaries of the city." (CEQA Guidelines §15320)

A general rule exemption may apply to a project, where it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse environmental effect (CEQA Guidelines §15061(b)(3)). LAFCOs are advised to use this exemption with particular caution because legal challenges to the use of this exemption may be more difficult to defend.

If a LAFCO determines that an exemption is appropriate, it is recommended that the LAFCO prepare and file a Notice of Exemption (NOE) as described in §15062 of the CEQA Guidelines. If an NOE is not filed, the statute of limitations is 180 days from the date of the lead agency's decision to approve the project, as opposed to 35 days if an NOE is filed.

D. INITIAL STUDY

If LAFCO determines that a municipal service review project is not exempt, then an Initial Study must be prepared to determine whether a Negative Declaration or an EIR is the appropriate level of review under CEQA. LAFCO is required to consult with responsible and trustee agencies prior to its determination of the appropriate environmental document to prepare (see CEQA Guidelines §15063.)

E. NEGATIVE DECLARATION

A Negative Declaration may be prepared by LAFCO for a project when the Initial Study shows that there is no substantial evidence that the project may have a significant effect on the environment (CEQA Guidelines §15070-§15075).

The Negative Declaration must be made available to the public and others who have expressed an interest in the project, not less than 20 days before the project is heard by LAFCO. Prior to approval of the project, the LAFCO Commission must consider any comments received on the Negative Declaration.

If LAFCO determines to carry out or approve the project, a Notice of Determination (NOD) must be filed with the County Clerk within five working days. The County Clerk must post the NOD within 24 hours of receipt. The posting of the NOD starts a 30-day statute of limitations for challenges under CEQA. If an NOD is not filed, the statute of limitations is 180 days from the date of the lead agency's decision to approve the project.

F. ENVIRONMENTAL IMPACT REPORT

If a municipal service review is subject to an EIR process because of potentially significant effects, the LAFCO should rely upon §15080-§15097 of the CEQA Guidelines for guidance on the preparation of an EIR. An EIR may be required where the

municipal service review is closely tied to a larger action, such as an SOI update, that may have a significant effect on the environment.

An EIR may require up to a year to complete, and associated costs can reach \$50,000 or more. Where LAFCO resources to prepare an EIR are limited, it is recommended that LAFCO consider using the services of a consultant.

CHAPTER 8. DEVELOPING WRITTEN DETERMINATIONS

This Chapter provides guidance for evaluating each of the nine categories for which written determinations must be rendered pursuant to Government Code §56430.

The tables contained in this Chapter were developed to illustrate the factors or issues a LAFCO may wish to consider when making the nine mandatory municipal service review determinations pursuant to §56430 of the Government Code. Each LAFCO should use the issues identified in the tables to the extent that they are appropriate to the service being reviewed and local conditions.

For example, the review of a cemetery service will not include the complex evaluation of items applicable to an infrastructure-intensive provider such as a sanitation district. A cemetery municipal service review discussion for water supply would at most pertain to on-site drinking or irrigation water needs, not the complex water rights and water supply negotiations affecting major urban water service providers. The level of evaluation and discussion should be driven by the specific service or issues relating to that service.

The nine municipal service review determinations are interdependent. Therefore, some of the issues related to each of the nine determinations may overlap, and information about one determination may substantially affect other determinations. For example, Subsection (H), Government Structure Options, includes issues which may be pertinent to all other subsections because those categories provide input into an evaluation of the advantages and disadvantages of various government structure options.

WORK TOGETHER TO TAILOR ISSUE LISTS

The lists of issues in this Chapter are very general and were designed to address a variety of services provided in all parts of the state.

LAFCOs and service providers are encouraged to work together to develop regionally appropriate and service specific lists of issues.

The individual LAFCO can then work from these more focused lists and further tailor lists to reflect the specific area and services being studied.

1. INFRASTRUCTURE NEEDS AND DEFICIENCIES

In identifying an agency's infrastructure needs and deficiencies, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 1. | Government restructure options to enhance and/or eliminate identified infrastructure needs and/or deficiencies. |
| 2. | Expansion of services to eliminate duplicate infrastructure construction by other agencies. |
| 3. | Condition of infrastructure and the availability of financial resources to make necessary changes. |
| 4. | Level of service and condition of infrastructure in light of revenue and operating constraints. |
| 5. | Infrastructure capabilities to accommodate future development with flexible contingency plans. |
| 6. | Reserve capacity for properties not served within current boundaries and estimate of properties within current boundaries not eligible for service. |
| 7. | Provisions for adequate service for properties not currently being served within current boundaries. |
| 8. | Location of existing and/or planned facilities. |
| 9. | Location of existing and/or planned infrastructure in relation to affordable housing programs. |
| 10. | Compliance with environmental and safety standards. |
| 11. | Applicable permit status (i.e. CEQA, etc.). |
| 12. | Consistency with service and/or capital improvement plans and local and regional land use plans/policies. |

2. GROWTH AND POPULATION PROJECTIONS FOR THE AFFECTED AREA

In identifying an agency's growth and population projections, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Projected growth in and around the agency's service areas. |
| 2. | Historic and expected land use absorption trends. |
| 3. | Estimate of future service needs. |
| 4. | Impact of land use plans and growth patterns on service demands. |
| 5. | Impact of service plans and policies on growth and/or land use patterns for adjacent areas, on mutual or regional social and economic interest, and on the local governmental structure of the county. |

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 6. | Relationship between an agency's boundary and SOI with the projected growth in the study area. |
| 7. | Compatibility of service plan(s) with other local agency land use/development plans. |
| 8. | Compatibility between agency service plans, regional growth projections and efficient urban development. |

3. FINANCING CONSTRAINTS AND OPPORTUNITIES

In identifying an agency's financing constraints and opportunities, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Implementation of appropriate financing/funding practices. |
| 2. | Potential for shared financing and/or joint funding applications. |
| 3. | Combination of enterprise and/or non-enterprise financing functions. |
| 4. | Compared analysis of financing rates between other agencies in study area. |
| 5. | Bond rating(s). |
| 6. | Ability to obtain financing. |
| 7. | Existing and/or proposed assessment district(s). |
| 8. | Opportunities for additional revenue streams, including joint agency grant applications, untapped resources, or alternative government structures. |
| 9. | Methods to pay down existing debt(s), including using excess revenues. |

4. COST AVOIDANCE OPPORTUNITIES

In identifying an agency's cost avoidance opportunities, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 1. | Opportunity for joint agency practices, including shared insurance coverage opportunities. |
| 2. | Availability of outsourcing for financial and administrative duties, and cost-benefits of outsourcing versus in-house management. |
| 3. | Duplication of services. |
| 4. | Impact of service practices and/or facilities in relation to land: available for infill; where excess capacity exists; planned for growth; easiest to serve; and with the fewest topographic and geographic constraints; and in a manner that supports affordable housing objectives. |
| 5. | Impact of service practices and/or facilities in relation to benefit/detriment of service cost. |
| 6. | Impact of growth inducement measures on construction costs and near-term infrastructure deficiencies. |

| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 7. | Policies and/or plans to extend services to an area proposed for annexation or new development, particularly with respect to the impact of extending services on existing customers. |
| 8. | Impact of service practices and/or facilities on affordable housing objectives. |
| 9. | Impact of additional services/capacity on agency's fiscal viability, including cost and adequacy of services in existing or proposed service areas and/or areas served by other special districts, cities, or the county. |
| 10. | Relationship between current level of service and customer needs and preferences. |
| 11. | Opportunities for savings or augmentation in overhead, including employee salary or benefits, elected official compensation or benefits, equipment purchases, planning, etc. |
| 12. | Pro-rata service costs for customer/ratepayer and/or taxpayer. |
| 13. | Application and/or bid process for contractor assistance, including comparison of rates. |

5. OPPORTUNITIES FOR RATE RESTRUCTURING

In identifying an agency's opportunities for rate restructuring, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 1. | Agency's methodology for determining rates. |
| 2. | Availability of revenue enhancement opportunities to lessen and/or stabilize rates. |
| 3. | Relationship between rate differences among service providers and levels of service. |
| 4. | Rate comparison between service providers with similar service conditions. |
| 5. | Cost of services versus fees. |
| 6. | The services that ratepayers and/or assessed properties are receiving for which they are paying. |
| 7. | Financial impacts on existing customers caused by the funding of infrastructure needed to support new development. |
| 8. | Impacts of standby rates (charges assessed to under-or-undeveloped land used for rural, agricultural or open spaces uses) on open space and affordable housing plans. |
| 9. | Relationship between rate and service policies and the provision of decent and affordable housing. |
| 10. | Availability of reasonable emergency reserves. |
| 11. | Use of annual savings. |

6. OPPORTUNITIES FOR SHARED FACILITIES

In identifying an agency's opportunities for shared facilities, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Current shared activities with other service providers, including shared facilities and staff. |
| 2. | Suggested existing and/or future shared facility opportunities by the agency. |
| 3. | Opportunities for conjunctive and/or joint use projects, such as groundwater storage/parks, schools/parks, or flood detention/parks. |
| 4. | Duplication of existing and/or planned facilities of other service providers. |
| 5. | Availability of excess capacity to serve customers of other agencies. |

7. GOVERNMENT STRUCTURE OPTIONS

In identifying an agency's government structure options, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 1. | Available government options to provide more logical service boundaries to the benefit of customers and regional planning goals and objectives. |
| 2. | Recommendations by a service provider and/or an interested party for government options. |
| 3. | Anticipated proposals to LAFCO that will affect the service provider. |
| 4. | Prior proposals or attempts by the agency to consolidate and/or reorganize. |
| 5. | Availability of government options that improve public participation, local accountability, and governance. |
| 6. | Opportunities to create definite and certain boundaries that conform to lines of assessment or ownership and/or eliminate islands, corridors of unincorporated territory, and other difficult or illogical service areas. |
| 7. | Existing boundary disputes. |
| 8. | Elimination of overlapping boundaries that confuse the public, cause service inefficiencies, unnecessarily increase in the cost of infrastructure, exacerbate rates and/or undermine good planning practices. |
| 9. | Reevaluation of boundaries, including downsizing SOI boundaries and/or approving other boundary modifications that remove important open space and agricultural lands from urban services areas. |
| 10. | Availability of government options that stabilize, steady and/or clarify the government process in order to reduce costs or increase customer satisfaction. |
| 11. | Availability of government options that may produce economies of scale and improve buying power in order to reduce service and housing costs. |

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| 12. | Availability of government options that cause appropriate facilities to be shared and avoid the construction of extra and/or necessary infrastructure. |
| 13. | Making excess capacity available to other service users in order to eliminate duplicate infrastructure construction by multiple agencies and reduce costs to customers. |
| 14. | Opportunities to improve the availability of water rights and/or supplies (surface, reclaimed or groundwater) to a larger customer base through a change in government organization. |
| 15. | Availability of government options that could facilitate construction, financing and/or eliminate the need for new facility construction. |
| 16. | Cost-benefit of restructuring current elected board and/or administration to any proposed alternative. |
| 17. | Cost-benefit of restructuring overhead, including staff, capital outlays, allocation of reserves or savings, loaded administrative charges for grant administration, accounting, and other contracted services. |
| 18. | Cost-benefit of restructuring the direct distribution of costs or debts from shared facilities to a larger user population. |
| 19. | Opportunities for the sale of surplus properties through a change in government organization. |
| 20. | Availability of excess reserves for service improvements and/or rate reductions through a change in government organization. |
| 21. | Opportunities to enhance capital improvement plans and programs through a change in government structure. |
| 22. | Opportunities to streamline services through the reorganization of service providers that no longer provide services for which they were formed. |
| 23. | Opportunities for early debt repayment and related savings through a change in government structure. |
| 24. | Elimination of rate structures that impose growth pressures on open space resources. |
| 25. | Identification of illogical boundaries and their effect on rates. |
| 26. | Impact of government structure options on an agency's financial stability. |
| 27. | Rationale for an agency's emergency and/or undesignated reserves (fund equity or balance), particularly in relation to their gross annual revenue. |
| 28. | Changes and/or modifications in boundaries in order to promote planned, orderly, and efficient patterns of urban development. |
| 29. | Changes and/or modifications in boundaries in order to avoid premature inducement, facilitation, or conversion of existing open space lands, including: the direction of growth away from prime agricultural and important open space lands towards infill areas or areas containing nonprime agricultural land; the development of vacant land adjacent to existing urban areas and within existing spheres of influence. |
| 30. | Boundary adjustments in order to minimize the amount of land needed to accommodate growth in the next 5-10 years within the spheres of influence of special districts and cities. |

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|----------|---|
| 31. | Prevention of extensions of urban services to important agriculture and open space areas not planned for growth or within the boundaries of the city or special district. |
| 32. | Impact of a change in government structure on the implementation of regional transportation, water quality, air quality, fair share housing allocation, environmental justice, airport land use, open space, agricultural, and other environmental polices or programs. |
| 33. | Impacts of government structures on fair housing programs. |
| 34. | Available government options that improve the ability to provide and explain budget and financial data. |
| 35. | Opportunities for improvement in the quality and/or levels of service through changes in government structure. |
| 36. | Impact of investment policies on service levels and quality. |
| 37. | Evaluation of bond rates, ability to borrow or obtain grants, budget practices and other aid. |
| 38. | Ability to gain environmental benefits (wetland restoration, water conservation, and other conservation policies) through government structure options. |
| 39. | Opportunities to integrate services without excessive cost. |
| 40. | Cost-benefit analysis of potential changes in government structure through merging staff, staff reduction by attrition, phasing out of elected or appointed positions, and management staff. |
| 41. | Opportunities for improved service delivery and/or an increase in system standards by system integration through changes in government structure. |
| 42. | Identify prohibitions in the affected Principal Acts that would affect government structure options, including pending litigation, court judgments, other legal issues, restricted assets, financial or other constraints. |
| 43. | Integration of debts and obligations analyses. |
| 44. | Potential successor agencies. |
| 45. | Impact on existing systems (upgrades) due to government structure changes. |
| 46. | Impact on operating cost (short and long term) due to government structure changes. |
| 47. | Evaluation of long term savings through government structure changes versus related transition costs. |
| 48. | Evaluation of permit status upon integration. |

8. EVALUATION OF MANAGEMENT EFFICIENCIES

In evaluating an agency's management efficiencies, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Evaluation of agency's capacity to assist with and/or assume services provided by other agencies. |
| 2. | Evaluation of agency's spending on mandatory programs. |
| 3. | Comparison of agency's mission statement and published customer service goals and objectives. |
| 4. | Availability of master service plan(s). |
| 5. | Contingency plans for accommodating existing and planned growth. |
| 6. | Publicized activities. |
| 7. | Implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement. |
| 8. | Personnel policies. |
| 9. | Availability of resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service. |
| 10. | Available technology to conduct an efficient business. |
| 11. | Collection and maintenance of pertinent data necessary to comply with state laws and provide adequate services. |
| 12. | Opportunities for joint powers agreements, Joint Powers Authorities, and/or regional planning opportunities. |
| 13. | Evaluation of agency's system of performance measures. |
| 14. | Capital improvement projects as they pertain to §65401 and §651039c. |
| 15. | Accounting practices. |
| 16. | Maintenance of contingency reserves. |
| 17. | Written policies regarding the accumulation and use of reserves and investment practices. |
| 18. | Impact of agency's policies and practices on environmental objectives and affordable housing. |
| 19. | Environment and safety compliance. |
| 20. | Current litigation and/or grand jury inquiry involving the service under LAFCO review. |

9. LOCAL ACCOUNTABILITY AND GOVERNANCE

In evaluating an agency's local accountability and governance structure, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Compliance with state disclosure laws and the Brown Act. |
| 2. | Level of public participation (i.e. open meetings, accessible staff and elected officials, an accessible office open to the public, a phone and/or message center, customer complaint and suggestion opportunities). |
| 3. | Agency representatives (i.e., board members, employees, staff). |
| 4. | Public outreach efforts (i.e. newsletters, bill inserts, TV, website). |
| 5. | Media involvement (i.e. meetings publicized, evening board meetings, evening or weekend public planning sessions). |
| 6. | Accessibility of meetings (i.e. meetings publicized, evening board meetings, evening or weekend public planning sessions). |
| 7. | Election process. |
| 8. | Participation of service users in elections (i.e. elections publicized, day and evening voting). |
| 9. | Public access to adopted budgets. |
| 10. | Budget reports' compatibility with state law. |
| 11. | Audits. |
| 12. | Access to program progress reports. |
| 13. | Current provision of service(s). |

PART III - TAKING ACTION ON THE MUNICIPAL SERVICE REVIEW

CHAPTER 9. PREPARING THE MUNICIPAL SERVICE REVIEW REPORT

After collecting and evaluating municipal service review information, LAFCO's Executive Officer should prepare a written report to document the analysis and determinations.

A. DRAFT MUNICIPAL SERVICE REVIEW REPORT

The Draft Municipal Service Review Report should minimally contain the following elements:

- An Executive Summary.
- Review of baseline data and information related to the service or services being reviewed.
- A description of the public participation process.
- An analysis of services, service providers and other issues consistent with the intent of the CKH Act (§56001, §56300, §56301), and including, but not limited to, factors to be considered (§56668), areas of required determination (§56430), SOI concerns (§56425, §56425.5) and environmental justice issues, if any.
- Draft Determinations. (see section B below for more information).
- Follow-up recommendations, if any.
- Appropriate maps that identify service areas, and clearly delineate overlapping areas using GIS generated maps, if available, to ensure consistency among agencies.

B. WRITTEN DETERMINATIONS

The nine determinations that must be made by the LAFCO Commission are critical because they represent the culmination of the municipal service review process. The CKH Act does not identify a particular format for the nine required determinations nor does it dictate the substance of these determinations. OPR provides the following recommendations for preparation of written determinations, and recommends that each LAFCO establish its own policy or procedure for using a consistent method of preparing written determinations.

A determination is one or more declaratory statements that make a conclusion, based on all the information and evidence presented to the Commission (i.e., the administrative record), with respect to the nine factors enumerated in Government Code §56430. These determinations must be supported by evidence in the record of the municipal service review proceedings, including all of the information collected, the LAFCO's analysis and interpretation of the information, verbal and written information presented by the public, and verbal and written testimony given at public hearings. Each of the nine determinations must be adequate to bridge the gap between raw data and the final conclusion about the status or condition of the municipal service under review. OPR recommends that the determinations be written in qualitative and/or quantitative terms, as appropriate, and refer to specific information or examples relative to the municipal service under review and the particular factor (determination) being considered.

While the Commission is ultimately responsible for making these determinations, OPR recommends that the LAFCO staff report include proposed determinations for the Commission to consider, adopt and include in its final resolution.

C. DISTRIBUTION AND COMMENT PERIOD

OPR recommends that LAFCO provide a formal public review period on the draft municipal service review report and hold at least one public meeting and/or workshop prior to the report being considered by LAFCO. It may be helpful to conduct a stakeholder meeting during the review period to obtain constructive input from those who helped shape the municipal service review.

D. FINALIZING THE REPORT TO THE COMMISSION

Comments received during the public review period should be considered and incorporated in the final report as appropriate. Any person or entity that submits comments should receive a copy of the final municipal service review report and a mailed notice of the public hearing at which the municipal service review determinations will be considered by the Commission.

The determinations will still be draft until they are accepted by the Commission at a public hearing. OPR recommends that the report, at a minimum, be issued concurrent with the notice for the public hearing (21-days in advance of the hearing) to consider and adopt municipal service review determinations.

CHAPTER 10. ADOPTING THE MUNICIPAL SERVICE REVIEW REPORT

A. INTRODUCTION

After a Final Municipal Service Review Report is issued, the Commission will need to take steps to complete its municipal service review responsibilities. LAFCO will need to conduct a hearing to consider and adopt the municipal service review report which will include the draft determinations.

A well-crafted municipal service review is an information and planning resource for LAFCOs, cities, counties, special districts and regional planning agencies. The Final Municipal Service Review Reports should be made available to affected and interested agencies and local and regional planning agencies for use as data resource documents.

B. PUBLIC NOTICE

The Final Municipal Service Review Report is required to be considered by LAFCO at a noticed public hearing. Government Code §56150-§56160 include public notice provisions. Government Code §56154 and §56156 require that published and mailed notice be provided at least 21 days prior to the public hearing. All affected and interested agencies, and persons and entities requesting notice, should receive a mailed notice. The notice should include a description of the municipal service review, and any actions that may be taken by LAFCO at the hearing. Those actions may include approval of the report, adoption of the draft determinations and any other actions recommended by staff.

REMINDER
If LAFCO has initiated other proposals that are being processed concurrent with a service review, it must also comply with processing steps for those actions.

Copies of the Final Municipal Service Review Report, including draft determinations, should be made available on the LAFCO's web site and mailed to affected and interested agencies. Although not required by law, OPR recommends that the report be made available to the public at least 21 days prior to the public hearing.

C. ACTIONS AT THE HEARING

The hearing should be conducted consistent with LAFCO's adopted written procedures. Some of the actions that LAFCO could take during the hearing include:

- Adoption of Resolution of Written Determinations
Service review determinations should be adopted by Resolution.
- Adoption of Municipal Service Review Report Recommendations

LAFCO may adopt staff recommendations and direct staff to take follow up actions as appropriate.

- **Adoption of City or District SOI Updates or Amendments**

If the municipal service review supports a particular action such as an SOI update or amendment, and LAFCO has complied with required processes, those actions could be approved at the same hearing.

- **Initiation or Adoption of Other Proposals**

If the municipal service review supports a particular action such as an initiation or adoption of an organization or reorganization proposal, and LAFCO has complied with required processes, those actions could be approved or initiated at the same hearing.

D. RECONSIDERATION

The CKH Act includes a process for interested persons and entities to request LAFCO to reconsider its determinations. Pursuant to §56895, when a Commission has adopted a resolution making determinations, any person or affected agency may file a written request with the LAFCO executive officer requesting amendments to or reconsideration of the resolution. The request must include the recommended modification and state what new or different facts or applicable new law, that could not have been known previously, warrant this reconsideration.

The request for reconsideration must be filed within 30 days of the LAFCO Commission's action. The reconsideration action should be scheduled for the next LAFCO hearing for which adequate notice can be given. Oral and written testimony may be received at the reconsideration hearing. LAFCO may continue the hearing from time to time but not longer than 70 days from the date of the first hearing (§56895).

FOR MORE INFORMATION

This guidance document was prepared by OPR to assist the public, LAFCOs and service providers to effectively engage in the service review process. Additional information on LAFCO may be found on the OPR website at www.opr.ca.gov.



Gray Davis
GOVERNOR

STATE OF CALIFORNIA



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LAFCO
MUNICIPAL SERVICE REVIEW
GUIDELINES
FINAL DRAFT
APPENDICES
2002

Governor's Office of Planning and Research

October 3, 2002

APPENDICES

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APPENDIX A

DEFINITIONS¹

| TERM | DEFINITION | SECTION |
|-----------------------|---|---------------|
| Affected city | Any city which: (a) contains, or its sphere of influence (SOI) contains, territory for which a change of organization is proposed or ordered either singularly or as part of a reorganization; or (b) would contain the territory described in subdivision (a) as a result of proceedings for a change of organization or reorganization taken pursuant to this division. | <u>§56011</u> |
| Affected county | Each county which contains, or would contain, any territory for which a change of organization or reorganization is proposed or ordered or which contains all or any part of a district for which a change of organization or reorganization is proposed or ordered with respect to territory outside that county. | <u>§56012</u> |
| Affected district | A special district, as defined by <u>§56036</u> , which contains, or whose SOI contains, any territory for which a reorganization or a change of organization is proposed or ordered. | <u>§56013</u> |
| Affected LAFCO | When more than one county is affected by, or participating in a municipal service review, the LAFCO for a county other than the principal county, in which a municipal service review is conducted. | |
| Affected local agency | Any agency which contains, or would contain, or whose SOI contains, any territory within any proposal or study to be reviewed by the Commission. | <u>§56014</u> |
| Affected territory | Any territory for which a change of organization or reorganization is proposed or ordered. | <u>§56015</u> |
| Annexation | The annexation, inclusion, attachment, or addition of territory to a city or district. | <u>§56017</u> |
| Board of Directors | The legislative body or governing board of a district. | <u>§56019</u> |
| Board of Supervisors | The elected board of supervisors of a county. | <u>§56020</u> |

¹ Citations refer to sections of the Government Code. Some definitions are taken from other sources or have been developed for the Guidelines so they do not have specific Code references.

| TERM | DEFINITION | SECTION |
|---------------------------|--|---------------|
| Change of organization | A city incorporation, district formation, annexation to, or detachment from, a city or district, disincorporation of a city, district dissolution, consolidation of cities or special districts, or merger or establishment of a subsidiary district. | <u>§56021</u> |
| City | Any charter or general law city, including any city the name of which includes the word "town." | <u>§56023</u> |
| City Council | The elected legislative body of a city. | <u>§56024</u> |
| Consolidation | The uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district. In the case of consolidation of special districts, all of those districts shall have been formed pursuant to the same principal act. | <u>§56030</u> |
| Cost avoidance | Actions to eliminate unnecessary costs derived from, but not limited to, duplication of service efforts, higher than necessary administration/operation cost ratios, use of outdated or deteriorating infrastructure and equipment, underutilized equipment or buildings or facilities, overlapping/inefficient service boundaries, inefficient purchasing or budgeting practices, and lack of economies of scale. | |
| County Service Area (CSA) | A dependent agency governed by the Board of Supervisors of a County pursuant to <u>§25210.1 - §25211.33</u> of the Government Code. A CSA may perform most services, which the county is authorized to perform by law, and does not perform to the same extent on a countywide basis both within and outside city boundaries. | |
| Detachment | The detachment, deannexation, exclusion, deletion, or removal from a city or district of any portion of the territory of that city or district. | <u>§56033</u> |
| Disincorporation | The disincorporation, dissolution, extinguishment, and termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city. | <u>§56034</u> |
| Dissolution | The dissolution, disincorporation, extinguishment, and termination of the existence of a district and the cessation of all its corporate powers, except for the purpose of winding up the affairs of the district. | <u>§56035</u> |

| TERM | DEFINITION | SECTION |
|-------------------------------------|--|-----------------|
| District or special district | An agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" or "special district" includes a county service area. | <u>§56036</u> |
| District of limited powers | An airport district, community services district, municipal utility district, public utilities district, fire protection district, harbor district, port district, recreational harbor district, small craft harbor district, resort improvement district, library district, local hospital district, local health district, municipal improvement district formed pursuant to any special act, municipal water district, police protection district, recreation and park district, garbage disposal district, garbage and refuse disposal district, sanitary district, county sanitation district, or public cemetery district. | <u>§56037</u> |
| Education Revenue Augmentation Fund | The state mechanism for shifting property tax revenues from local governments to schools. | |
| Enterprise activities | Activities accounted for in a manner similar to a private business such as a water utility. The acquisition, operation, and maintenance of governmental facilities and services are entirely or predominantly self-supporting through user charges or fees. The State Controller separates enterprise activities into seven categories: airports, electric, harbor and port, transit, waste disposal, utility, and hospital. | |
| Feasible | Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social and technological factors. | <u>§56038.5</u> |
| Formation | The formation, incorporation, organization, or creation of a district. | <u>§56039</u> |
| Function | Any power granted by law to a local agency or a county to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of all persons or property. | <u>§56040</u> |
| Functional revenues | Revenues generated from direct services or associated with specific services, such as a grant or statute, and expenditures. | |
| General revenues | Revenues not associated with specific services or retained in an enterprise fund. | |

| TERM | DEFINITION | SECTION |
|---------------------------------------|--|-----------------|
| Government Structure Option | | |
| Incorporation | The incorporation, formation, creation, and establishment of a city with corporate powers. Any area proposed for incorporation as a new city must have at least 500 registered voters residing within the affected area at the time commission proceedings are initiated. | <u>§56043</u> |
| Independent special district | Any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms. "Independent special district" does not include any district excluded from the definition of district contained in §56036. | <u>§56044</u> |
| Independent SD officer | The presiding officer or a member of the legislative body of an independent special district. | <u>§56045</u> |
| Infrastructure needs and deficiencies | The term, "infrastructure" is defined as public services and facilities, such as sewage-disposal systems, water-supply systems, other utility systems, and roads (General Plan Guidelines). Any area needing or planned for service must have the infrastructure necessary to support the provision of those services. The term, "infrastructure needs and deficiencies," refer to the status of existing and planned infrastructure and its relationship to the quality and levels of service that can or need to be provided. | |
| Interested agency | Each local agency, which provides facilities or services in the affected territory that a subject agency would provide. | <u>§56047.5</u> |
| Joint Commission | A single Commission formed to preside over the functions of a multi-LAFCO Joint Powers Agreement. The Commission may be comprised of all or a portion of the Commissioners of the individual Commissions that are participating in the Joint Powers Agreement. A Joint Commission, as herein defined, does not constitute an individual agency. It is intended to jointly exercise existing powers common to each agency. | |
| Lead LAFCO | The LAFCO with primary responsibility for conducting a municipal service review affecting more than one county. | |

| TERM | DEFINITION | SECTION |
|-------------------------------------|---|---------------|
| Loaded Cost | A cost that has overhead and/or other fees or charges added to the actual and direct service or item cost. | |
| Local accountability and governance | The term, "local accountability and governance," refers to public agency decision making, operational and management styles that include an accessible staff, elected or appointed decision-making body and decision making process, advertisement of, and public participation in, elections, publicly disclosed budgets, programs, and plans, solicited public participation in the consideration of work and infrastructure plans; and regularly evaluated or measured outcomes of plans, programs or operations and disclosure of results to the public. | |
| Local agency | A city, county, or special district or other public entity, which provides public services. | <u>§56053</u> |
| Management efficiency | The term, "management efficiency," refers to the organized provision of the highest quality public services with the lowest necessary expenditure of public funds. An efficiently managed entity (1) promotes and demonstrates implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement, (2) has the ability to provide service over the short and long term, (3) has the resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service, (4) meets or exceeds environmental and industry service standards, as feasible considering local conditions or circumstances, (5) and maintains adequate contingency reserves. | |
| Mentor LAFCO | A LAFCO with the experience and resources necessary to advise, or contract with, other LAFCOs for the implementation of municipal service reviews. | |
| Merger | The extinguishment, termination, and cessation of the existence of a district of limited powers by the merger of that district with a city as a result of proceedings taken pursuant to this division. | <u>§56056</u> |

| TERM | DEFINITION | SECTION |
|-------------------------|---|--------------------------------|
| Municipal services | The full range of services that a public agency provides, or is authorized to provide, except general county government functions such as courts, special services and tax collection. Municipal service reviews are triggered by requirements to create or update SOIs for public agencies. Therefore, a LAFCO will review services that are provided by public agencies that have, or are required to have, SOIs with review and consideration of the operations of other providers that service the same region. | |
| Non-enterprise activity | A non-enterprise activity, such as fire protection, is an activity that has an accounting system organized on a governmental fund basis. | |
| Open space | Any parcel or area of land or water, which is substantially unimproved and devoted to an open-space use. | <u>§56059</u> <u>§65560</u> |
| Overlapping territory | Territory which is included within the boundaries of two or more districts or within one or more districts and a city or cities. | <u>§56061</u> |
| Out of Agency Contract | A contract to provide services outside of an agency's boundaries. | |
| Parent district | Any district, a metropolitan water district, or any of the entities enumerated in subdivision (c) of <u>§56036</u> , which includes all or any part of another district, the first-mentioned district or entity being obligated, under the provisions of the principal act of the first-mentioned district entity, to provide and furnish any governmental or proprietary service or commodity to the second-mentioned district. | <u>§56062</u> |
| Planning area | The area directly addressed by the general plan. A city's planning area typically encompasses the city limits and potentially annexable land within its SOI (General Plan Guidelines (GPG) page 230). | |
| Plan of reorganization | A plan or program for effecting a reorganization and which contains a description of all changes of organization included in the reorganization and setting forth all terms, conditions, and matters necessary or incidental to the effectuation of that reorganization. | <u>§56063</u> |

| TERM | DEFINITION | SECTION |
|--|---|----------------------|
| <p>Prime agricultural land</p> | <p>An area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications: (a) Land-that, if irrigated, qualifies for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible; (b) Land that qualifies for rating 80 through 100 Storie Index Rating; (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935; (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre; (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.</p> | <p><u>§56064</u></p> |
| <p>Principal act</p> | <p>In the case of a district, the law under which the district was formed and, in the case of a city, the general laws or a charter, as the case may be.</p> | <p><u>§56065</u></p> |
| <p>Principal county</p> | <p>The county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed.</p> | <p><u>§56066</u></p> |
| <p>Principal LAFCO for municipal service review</p> | <p>The LAFCO with the lead responsibility for a municipal service review. Lead responsibility can be determined pursuant to the CKH Act definition of a Principal LAFCO as it applies to government organization or reorganization actions, by negotiation, or by agreement among two or more LAFCOs.</p> | |
| <p>Proceeding</p> | <p>Proceedings taken by the commission for a proposed change of organization or reorganization pursuant to Part 4 (commencing with <u>§57000</u>).</p> | <p><u>§56067</u></p> |

| TERM | DEFINITION | SECTION |
|--------------------|--|---------------|
| Proposal | A request or statement of intention made by petition or by resolution of application of a legislative body or of a school district proposing proceedings for the change of organization or reorganization described in the request or statement of intention. | <u>§56069</u> |
| Public agency | The state or any state agency, board, or commission, any city, county, city and county, special district, or other political subdivision, or any agency, board, or commission of the city, county, city and county, special district, or other political subdivision. | <u>§56070</u> |
| Rate restructuring | Rate restructuring does not refer to the setting or development of specific rates or rate structures. During a municipal service review, LAFCO may compile and review certain rate related data, and other information that may affect rates, as that data applies to the intent of the CKH Act (<u>§56000</u> , <u>§56001</u> , <u>§56301</u>), factors to be considered (<u>§56668</u>), SOI determinations (<u>§56425</u>) and all required municipal service review determinations (<u>§56430</u>). The objective is to identify opportunities to positively impact rates without adversely affecting service quality or other factors to be considered. | |
| Regional | Pertaining to activities or economies at a scale greater than that of a single jurisdiction, and affecting a broad geographic area (GPG page 231) | |
| Reorganization | Two or more changes of organization initiated in a single proposal. | <u>§56073</u> |
| Responsible LAFCO | The LAFCO of a county other than the Principal County that may be impacted by recommendations, determinations or subsequent proposals elicited during a municipal service review being initiated or considered by the Lead LAFCO. | |
| Retained Earnings | The accumulated earnings of an enterprise or intragovernmental service fund which have been retained in the fund and are not reserved for any specific purpose (debts, planned improvements, contingency/emergency). | |

| TERM | DEFINITION | SECTION |
|---------------------------------|--|-----------------|
| Reserve | (1) For governmental type funds, an account used to earmark a portion of fund balance, which is legally or contractually restricted for a specific use or not appropriable for expenditure. (2) For proprietary type/enterprise funds, the portion of retained earnings set aside for specific purposes. Unnecessary reserves are those set aside for purposes that are not well defined or adopted or retained earnings that are not reasonably proportional to annual gross revenues. | |
| Service | A class established within, and as a part of, a single function, as provided by regulations adopted by the commission pursuant to Chapter 5 (commencing with <u>§56820</u>) of Part 3. | <u>§56074</u> |
| Service review | A study and evaluation of municipal service(s) by specific area, sub-region or region culminating in written determinations regarding nine specific evaluation categories. | |
| Special reorganization | A reorganization that includes the detachment of territory from a city or city and county and the incorporation of that entire detached territory as a city. | <u>§56075.5</u> |
| Sphere of influence (SOI) | A plan for the probable physical boundaries and service area of a local agency, as determined by the commission. | <u>§56076</u> |
| Staged municipal service review | A municipal service review method structured to consider unique conditions, circumstances and characteristics and limit the depth of review and evaluation to that necessary to render substantiated written determinations. In this approach, Stage 1 is a general, less complicated level of review. LAFCOs proceed with a more complicated focused Stage 2 review only if the Stage 1 review did not produce the information needed to substantiate required determinations. Stage 3 focuses on those items needing extensive review. | |
| Stakeholder | Refers to LAFCOs, members of the public, affected and interested agencies, and other entities interested in, and affected by, service(s) being reviewed. | |
| Subject agency | Each district or city for which a change of organization is proposed or provided in a reorganization or plan of reorganization. | <u>§56077</u> |

| TERM | DEFINITION | SECTION |
|---------------------------|--|---------------|
| Sub-region | The study area for a municipal service review chosen because of characteristics, such as geography, government structure, or development characteristics, which produces meaningful comparisons and evaluations of government structure options. | |
| Subsidiary district | A district of limited powers in which a city council is designated as, and empowered to act as, the ex officio board of directors of the district. | <u>§56078</u> |
| Substantial SOI amendment | An amendment to an SOI which causes the SOI to be internally inconsistent, is inconsistent with provisions of the CKH Act, has the potential to cause significant adverse social, economic, environmental or other consequences, or has substantial adverse regional planning implications. A substantial amendment to an SOI prior to a municipal service review is inconsistent with <u>§56430</u> . | |
| Urban service area | Developed, undeveloped, or agricultural land, either incorporated or unincorporated, within the SOI of a city, which is served by urban facilities, utilities, and services or which are proposed to be served by urban facilities, utilities, and services during the first five years of an adopted capital improvement program of the city if the city adopts that type of program for those facilities, utilities, and services. The boundary around an urban area shall be called the "urban service area boundary" and shall be developed in cooperation with a city and adopted by a commission pursuant to policies adopted by the commission in accordance with <u>§56300</u> , <u>§56301</u> , and <u>§56425</u> . | <u>§56080</u> |

APPENDIX B

ACRONYMS

- CAFR - Comprehensive Annual Financial Reports
- CEQA - California Environmental Quality Act
- CKA - Cortese-Knox Local Government Reorganization Act of 1985 as amended
- CKH - Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
- CLG - Commission on Local Governance for the 21st century
- COG - Council of Governments
- CSD - Community Services District
- DOF - State Department of Finance
- ERAF - Education Revenue Augmentation Fund
- GWB - Growth Within Bounds
- GP - General Plan Guidelines
- JPA - Joint Powers Agreement
- LAFCO - Local Agency Formation Commission
- LHC - Little Hoover Commission
- MSRG - Municipal Service Review Guidelines
- PUC - Public Utilities Commission
- SD - Special Districts: Relics of the Past or Resources of the Future
- SOI - Sphere of Influence
- TOC - Table of Contents

APPENDIX C

BACKGROUND ON MUNICIPAL SERVICE REVIEWS

The following is a discussion of the purpose and intent of the new municipal service review requirements and a description of the statutory requirements.

A. BACKGROUND AND LEGISLATIVE INTENT

In 1997, the State Legislature approved, and the Governor signed, AB 1484 (Hertzberg), establishing the Commission on Local Governance for the 21st Century (Commission). The members of the Commission included a broad spectrum of constituent groups and perspectives including counties, cities, special districts, educators, industry, and elected officials.

The Commission was charged with evaluating local governance issues and make appropriate recommendations. They were directed to focus special attention to the Cortese-Knox Local Government Reorganization Act of 1985, the 57 Local Agency Formation Commissions (LAFCOs) governed by the Act, and citizen participation in local government.

The results of those efforts were published in Growth Within Bounds (GWB) in January 2000. In GWB, the Commission stated that the role and responsibility of LAFCO is to have a:

"Comprehensive knowledge of the services available within its county, the current efficiency of providing service within various areas of the county, future needs for each service, and expansion capacity of each service provider.

Although some LAFCOs may have access to such essentials, many do not, and the Cortese-Knox Act offers no mechanism for assisting and encouraging them to gather the basic necessary information. The Commission believes that such provision should be added to the statute.

Information on public service capacity could be gathered as part of the implementation of a new requirement for periodic municipal service reviews. LAFCOs could conduct such reviews prior to or in conjunction with amendments to spheres of influence. A municipal service review would encompass a comprehensive study of each identifiable public service provided by counties, special districts, and the cities in the region.

The review would not focus exclusively on an individual jurisdiction to determine its future boundary or service areas. Rather, it would require LAFCO to look broadly at all agencies within a geographic region that

provide a service. The review would also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers.

LAFCOs should be provided flexibility in designating the geographic area to be analyzed, the timing of conducting particular reviews, and the scope of the reviews." (GWB, pages 98-99)

The GWB further states:

"The focus of the public policy debate should be on the adequacy of provision of services to citizens, not on the number of districts. The commissioners believe that there clearly needs to be an ongoing examination of the efficiency of governmental services, and that LAFCO is the appropriate agency to oversee this review. Where district consolidations or absorption of district functions into general purpose local governments will improve efficiency or transparency of service delivery, they should be aggressively pursued. Consolidating districts solely for the sake of reducing their numbers, however, is a disservice to the citizens who desire the services provided ." (GWB, pages 71-72)

B. STATUTORY MUNICIPAL SERVICE REVIEW REQUIREMENTS

The State Legislature and the Governor codified much of the Commission's findings and created a formal process that could be used to collect information and evaluate service provision from a broader perspective (Government Code §56430).

Government Code §56430 requires that a review of municipal services be conducted as part of its preparing and updating a sphere of influence (SOI).

"In order to prepare and to update SOIs in accordance with §56425, LAFCOs are required to conduct a municipal service review of the municipal services provided in the county or other appropriate designated area. LAFCOs must include in the area designated for municipal service review the county, the region, the sub-region, or other geographic area as is appropriate for an analysis of the service or services to be reviewed and, as noted previously, must prepare a written statement of its determination with respect to each of the following:

1. Infrastructure needs or deficiencies;
2. Growth and population projections for the affected area;
3. Financing constraints and opportunities;
4. Cost avoidance opportunities;
5. Opportunities for rate restructuring;

6. Opportunities for shared facilities;
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
8. Evaluation of management efficiencies; and
9. Local accountability and governance.

"In conducting a municipal service review, LAFCOs must comprehensively review all of the agencies that provide the identified service or services within the designated geographic area."
(Government Code §56430)

In addition, municipal service reviews are to be conducted before, or in conjunction with, but no later than the time it is considering an action to establish (§56430) or update an SOI (§56425 or §56426.5). The Commission also recommended that a municipal service review not replace designations or updates of spheres of influence, but should be conducted in the establishment or amendment of any spheres (GWB, page 99).

C. ANALYSIS OF STATUTORY REQUIREMENTS

Existing law requires that municipal service reviews begin with an evaluation of existing and future circumstances and may lead to consideration of different government structure options. LAFCO is required, for example, to evaluate the "advantages and disadvantages of consolidation or reorganization of service providers." The latter requirement has long been a statutory LAFCO function.

Government Code §56820.5 of the CKH Act authorizes LAFCOs to adopt, amend, or repeal regulations affecting the functions and services of special districts within the county. This statewide duty is unrelated to whether special districts are seated on individual LAFCOs. Government Code §56820.5 states LAFCOs may do any of the following:

"Classify the various types of service, which customarily are, or can be, provided within a single function of a special district. A class may be based on the type of service, the purpose or use of the service, the facilities used to provide the service, the type of consumers or users of the service, the extent of territory provided with the service, and any other factors which, in the opinion of the commission, are necessary or convenient to group persons, properties, or activities into a class having common characteristics distinct from those of other classes.

Require existing districts to file written statements with the commission specifying the functions or classes of service provided by those districts.

Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district."

However, the regulations do not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service, which the commission, pursuant to this section, has established is currently being provided by that special district (§56820.5).

The municipal service review process does not require that LAFCOs initiate any changes of organization or force any actions. It only requires that LAFCOs make determinations regarding the benefits or disadvantages of changes in government structure.

The CKH Act does, however, require that LAFCOs, and municipal service review stakeholders, consider (1) LAFCO's intrinsic mission and legislated intent; (2) the bigger picture or regional perspective needed to perceive and understand California's growth issues; and (3) the need to provide the highest quality services possible to the residents of the State of California.

D. MUNICIPAL SERVICE REVIEW GOALS AND OBJECTIVES

LAFCOs are required to conduct comprehensive reviews of all municipal services provided by agencies with existing or needed SOIs. These reviews become information tools that can be used by LAFCO, the public or local, regional and state agencies based on their area of need, expertise, or statutory responsibility. Municipal service reviews can be used to:

- Promote orderly growth and development in appropriate areas with consideration of service feasibility, service costs that affect housing affordability, and preservation of open space, important agricultural land and finite natural resources; and
- Encourage infill development and direct growth to areas planned for growth in General Plans;
- Learn about service issues and needs;
- Plan for provision of high quality infrastructure needed to support healthy growth;
- Provide tools to support regional perspectives or planning that address regional, cross county or statewide issues and processes;
- Develop a structure for dialogue among agencies that provide services;
- Develop a support network for smaller or ill funded districts that provide valuable services;

- Provide backbone information for service provider directories or inventory reference documents for counties that do not have them;
- Develop strategies to avoid unnecessary costs, eliminate waste, and improve public service provision;
- Provide ideas about opportunities to streamline service provision through use of shared facilities, approval of different or modified government structures, joint service agreements, or integrated land use planning and service delivery programs; and
- Promote shared resource acquisition, insurance policies, joint funding requests or strategies.

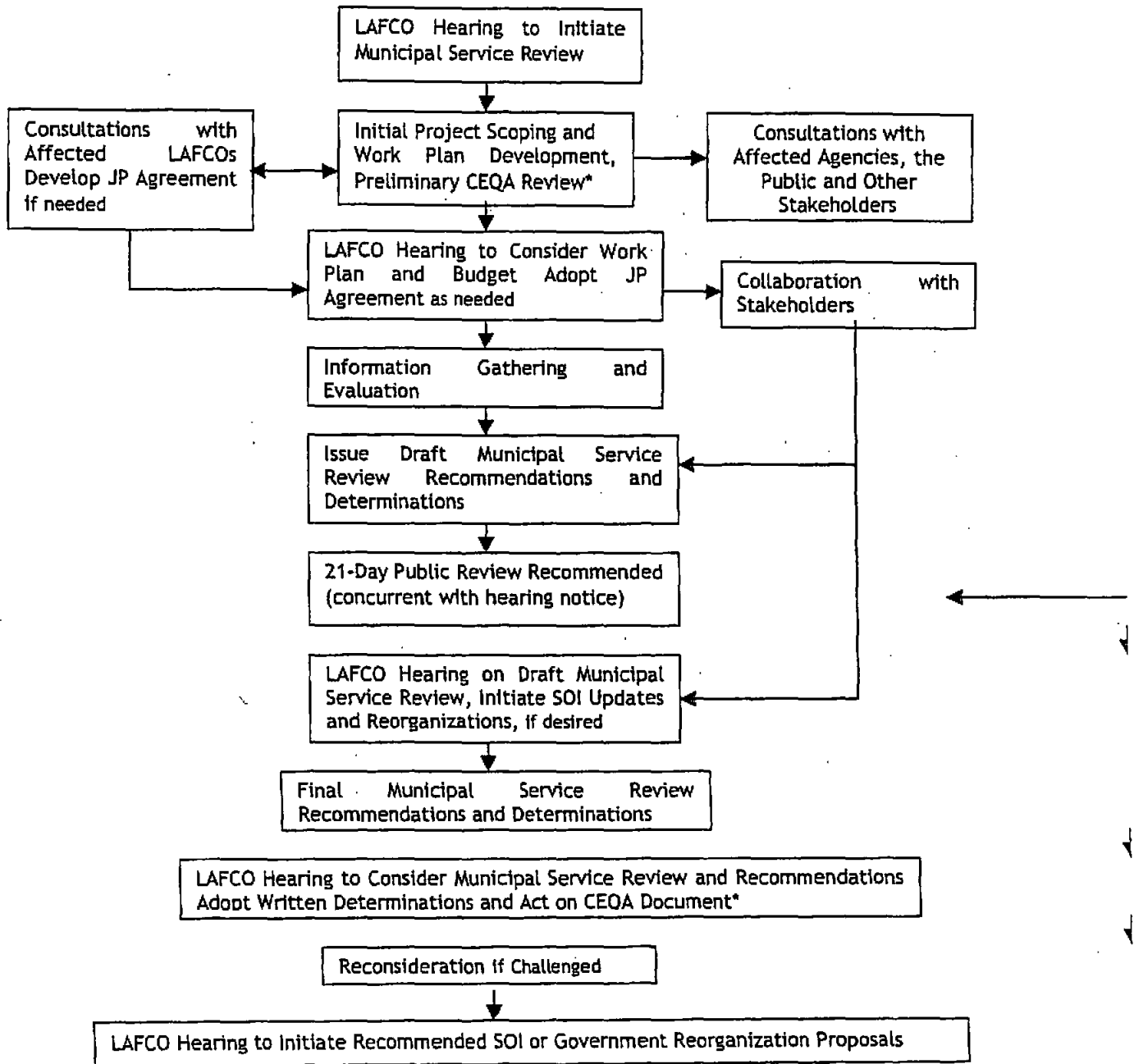
E. IMPLEMENTATION

Effective January 1, 2000, the CKH Act requires that all SOIs be updated as necessary but not less than every five years. Therefore, all SOIs, at a minimum, need to be updated by January 1, 2006.

Municipal service reviews are required to be completed prior to, or in conjunction with the update or creation of SOIs. This means that all municipal service reviews also need to be completed by January 1, 2006.

APPENDIX D

MUNICIPAL SERVICE REVIEW PROCESS FLOW CHART



*References to CEQA are placeholders. Refer to the CEQA Guidelines and LAFCOs' adopted Procedures for specific steps.

APPENDIX E

DATA COLLECTION

The municipal service review is an evaluation of how a service is being delivered in a specified area of a county by the LAFCO. The municipal service review is not an end in its self, but will form the basis of future LAFCO decisions.

Taking a comprehensive look at the services being provider within an area requires effective data collection and maintenance. Even if a LAFCO has not historically kept extensive records, good information management going forward will save time and effort the next time the service is reviewed.

OPR recommends that LAFCO work with service providers in developing the type of information it will use in evaluating the service. Extensive and overly broad information requests will cost money for both the service provider to compile and the LAFCO to review. A solid understanding of the service to be reviewed will allow the information collected to be limited to only what is reasonably necessary to undertake the review.

I. GENERAL INFORMATION COLLECTION STRATEGIES

Some targeted information collection and management options that a LAFCO may wish to consider include:

- Have mentor LAFCOs assist LAFCOs with preparing information collection formats, determining specific needed information, and evaluating compiled information.
- Have mentor districts and cities assist other agencies, especially those that are recently formed or less skilled in data compilation, budgeting, or record keeping, with information compilation.
- Have stakeholders assist with determining information needs, compiling information and initial review, with independent evaluation by LAFCO.
- Use existing information resources as feasible rather than duplicating efforts with LAFCO evaluating information to ensure that it is up-to-date and accurate.
- Augment staff or hire technical consultants to assist with individual reviews.
- Integrate municipal service review information collection with efforts related to land use plan development, urban water management plan development, National Pollution Discharge Elimination programs, State Transportation Implementation Plans, or other capital improvement program development.
- To set the long-term stage for producing municipal service reviews and updating SOIs, LAFCO can become more proactive in exercising its Responsible

Agency role in CEQA reviews. This is especially critical for proposals that include amendments to SOIs, or require annexations or district formations as conditions of approval or mitigation measures. LAFCOs can inform planning and/or environmental review departments of municipal service review information and evaluation requirements so that appropriate review is undertaken and efforts are not duplicated.

- Land use agencies can be encouraged to adopt and maintain a General Plan public facilities element. LAFCO would participate to ensure that municipal service review related information is compiled and updated.

II. SPECIFIC INFORMATION SOURCES

A. GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

One important information collection resource is OPR's General Plan Guidelines (GPG). The GPG contains a list of state and federal agencies and their web sites (page 28), a list of local, state and federal governmental agencies and the types of information that they acquire and may provide (pages 25 and 26). The GPG can be viewed on OPR's web site at www.opr.ca.gov/.

B. THE STATE CONTROLLER'S OFFICE

The State Controller's Accounting Standards and Procedures for Counties (ACPC) contains a list of organizations with contact information, and publications pertaining to budgets and financial practices for all types of agencies (ACPC, Appendix E). Other information pertaining to cities and districts is also available. Information can be accessed on the State Controller's website at www.cso.ca.gov/.

Local and regional growth and population data and projections are available from the following sources.

C. THE STATE DEPARTMENT OF FINANCE (DOF)

The following information is taken from the DOF website at www.dof.ca.gov/html/Demograp/druhpar:

Legislation created the Demographic Research Unit within the Department of Finance in 1951 to serve as the single official source of demographic data for State planning and budgeting. Population data are used to establish appropriation limitations; distribute subvention funds, various Federal program funds, wastewater treatment funds, and other State funds; allocate capital outlay funds; and aid in the planning and evaluation of programs. State agencies and departments, local governments, the Federal government, school districts, public utilities, the private sector, and the public use demographic data. DOF provides demographic research and analysis, produces publications of current population estimates and future projections of

population and school enrollment, and disseminates census data. DOF consults with other government agencies and the private sector.

The State Census Data Center (SCDC) was established on January 1, 1979 to serve as the central point for dissemination of census data to State and local government agencies and the general public in California. The SCDC program is a national effort by the U.S. Bureau of the Census designed to increase and improve public access to census statistical products. The SCDC provides services to State Agencies in processing machine-readable data, user consultation, and data analysis and provides user-training workshops upon request. The SCDC library houses a broad spectrum of data sources including the 1970, 1980, and 1990 decennial censuses, the Census of Agriculture, the Economic Censuses, and several special and periodic surveys.

Annual population estimates of the State, counties and cities are provided by the Unit. Information on housing units, vacancies, average household size, components of population change, and special populations are also available. The data are used in determining the annual appropriations limit for all California jurisdictions, to distribute State subventions to cities and counties, to comply with various State codes, and for research and planning purposes by Federal, State and local agencies, the academic community and the private sector.

The Unit projects the State and county population by age, race/ethnicity and sex, K-12 enrollment and high school graduates, and post-secondary education enrollment. As direct inputs to the State Budget, the Unit produces short-term annual statewide projections of the population by age and K-12 Average Daily Attendance.

D. THE REGIONAL COUNCIL'S OF GOVERNMENT (GOG)

The following information was obtained from the California Association of Regional Councils of Government website.

Up-to-date population and census data can often be obtained from regional COGs. COGs are Joint Powers Authorities that analyze relationships between policies in a local area and their impact on regional issues. Two important COG functions are to serve as the regional transportation planning agency under state law and as the federal metropolitan (transportation) planning organization (MPO). This involves preparation of long-range transportation plans and, in most instances, development and adoption of transportation improvement programs which allocate state and federal funds for highway, transit and other surface transportation projects.

COGs also provide allocations of regional housing needs to all cities and counties within its boundaries. (Where there is no Council of Governments that duty is carried out by the State Department of Housing and Community Development.) Some COGs tie regional housing allocation or other plans to SOI boundaries. Most COGs prepare growth and population data needed to support short and long term local and regional planning efforts. Contact data for all California COGs, and other information is

available on the California Association of Councils of Governments website at www.calcog.org/.

E. THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

The Policy Unit at HCD is responsible for developing California's five-year Consolidated Plan for receiving certain federal community development funds. As part of the plan, HCD is required to identify impediments to fair housing which includes examining demographics, housing and market conditions and practices, potentially discriminatory practices, infrastructure deficiencies and needs.

For smaller communities HCD prepares the Consolidated plan. Larger communities prepare individual plans which also contain significant information about the current conditions in the areas. HCD's website can be found at www.housing.hcd.ca.gov/.

F. LAFCO INFORMATION RESOURCES

Some LAFCOs maintain data on service providers, and files of previous LAFCO proposals and related research and analysis documents. These may include, but are not limited to, inventories, profiles or directories of local service providers, staff reports, and supporting documents for previous government reorganization actions, such as formations, incorporation, consolidations, and SOI Plans, Amendments, and Updates. Some LAFCO have compiled service provider maps for all or portions of a county.

G. CITY AND COUNTY PLANS, AND REVIEWS

Counties and cities prepare data and plans, which include growth and population projections, and maps that identify areas that are planned to urbanize within 5-20 year periods. Some counties and cities have developed Geographic Information Systems (GIS) Maps. Most cities, counties and special districts can provide copies of short and long-term infrastructure planning documents. Market land absorption studies can often be obtained from real estate associations or private developers.

It is important to discuss plans and other data sources with local planners and service providers before using them to ensure that information is still correct and usable. Plans that may be used to support and simplify the municipal service review process include:

- General Plans. - General Plans identify existing capital facilities/infrastructure, and short and long-term deficiencies or needs. Some land use jurisdictions also adopt an optional public facilities element. All land use, open space, conservation, circulation, noise, and safety elements may be checked for useful information. The California Chapter of the American Planning

Association can be contacted for information on cities and counties with public facility elements or General Plan data that have been recognized as exceptional. Their website is located at www.calapa.org/.

- Capital Improvement Plans or Program Reports. All cities, special districts, counties, and school districts are required to submit an annual capital improvement program to the local planning agency. The program must include a list of proposed projects (§65401). The local planning agency then reviews the capital improvement program for consistency with the pertinent general plan or plans (§65103 [c]). Some cities and counties prepare five (5) to seven (7) year capital improvement programs (CIP) which they update each year and submit to the appropriate planning agency. CIPs generally provide a summary of expenditures budgeted for infrastructure upgrades, acquisitions, rehabilitation, replacement, construction and maintenance.

H. MASTER SERVICES AND RESOURCE ACQUISITION PLANS, CAPITAL IMPROVEMENT PLANS AND SERVICE RELATED MAPS

Cities and special district should be able to provide copies of their adopted plans and other information resources.

I. PUBLIC INFRASTRUCTURE FINANCING PLANS AND MECHANISMS

To qualify or use certain types of financing mechanisms, such as Mello-Roos Assessment Districts, a public agency is required to prepare infrastructure maps and plans as well as growth projections. The agency generally evaluates proposed development plans or projects to determine whether they are consistent with public infrastructure financing plans.

III. PROFESSIONAL ORGANIZATIONS

Professional organizations are excellent resources for information on industry standards and Best Practices. Many produce criteria or maintain information libraries. These organizations can often provide contacts to assist with determining industry standards. The California League of Cities (www.ca.cities.org/), for example, distributes Helen Putnam awards for excellence in financial management and planning, public works and transportation, civic involvement and other categories. The recipients of those awards may be excellent information resources.

A. OTHER STATE OR FEDERAL MANDATED PLANS AND PERMITS

Public agencies are often required to obtain permits to construct or operate certain types of public facilities, such as wastewater treatment plants, and adopt plans to minimize environmental or other impacts of certain types of development. These plans and permits include data and assessments that may assist with the municipal

service review process. LAFCOs may contact other agencies to determine if they have service provider specific information or permit data that can facilitate the information gathering process.

Some agencies that might be contacted are:

- State Water Quality Control Board (www.swrcb.ca.gov) (Permits, evaluation criteria).
- Housing Authority (Demographic data, plans and budgets).
- COG and Congestion Management Agency (Regional Housing Allocation Plan, Regional Transportation Plan, Congestion Management Plan).
- County and City Water Departments (NPDES Permit).
- State Department of Conservation (www.consrv.ca.gov/dlrp/index), County (Land Conservation Contracts, important farmland maps)
- State Integrated Waste Management Board (www.ciwmb.ca.gov/local) (County Integrated Waste Management Plan, Hazardous Waste Management Plan)
- State Mining and Geology Board or State Geologist (www.consrv.ca.gov/smmm/index) (Surface Mining and Reclamation Ordinances, Seismic or geologic hazards' maps and plans).
- State Department of Water Resources (wwwwdpla.water.gov/cgi-bin/index), State Reclamation Board, county and city water services departments (Permits, floodplain maps, flood hazard mitigation plans).
- Coastal Commission (www.ceres.ca.gov/coastalcomm/web) (Local Coastal Element or program).
- Federal Aviation Administration (www.faa.gov), Airport Land Use Commission (Permits, Airport Land Use Plan).
- State Air Resources Board (www.arb.ca.gov), local air pollution control district (State Implementation Plan).
- U.S. Army Corps of Engineers (www.usace.army.mil/whatwedo/statelocal), State Department of Fish and Game (www.dfg.ca.gov/), local planning or public works agency (CEQA mitigation monitoring programs, and Section 404 of the Clean Water Act permits).
- State Controller's Office (www.sco.ca.gov) (annual budgets, audits, definitions and templates for accounting and budgeting practices).

B. OBTAINING COMPARABLE INFORMATION

One obstacle to service focused data compilation and review is data format. Different agencies compile and use information in different ways and for different purposes. This is especially true of budget, service level, and other fiscal

information. It is recommended that LAFCOs collaborate with CALAFCO, the CSDA, CSAC and League of Cities on the development of standard budget information formats. While this may not assist with early municipal service reviews, it should improve the process over the long term.

The State Controller divides enterprise districts into seven activities: airport, electric, harbor and port, transit, waste disposal, water utility, and hospital activities. The introduction to each year's Special District Annual Report provides summary budgets for those 7 types of districts. Non-enterprise districts are also summarized.

State budget categories can be used to produce budget templates. **Exhibit 10** is a sample budget information format that can be tailored to fit specific municipal service review needs. Alternatively, it may be appropriate to ask enterprise districts to compile budget information using the state's format with additional detail for certain costs and revenue categories. It may be useful to compare data contained in State summaries with that received from enterprise special districts. Information on state formats and documents regarding cities, counties and special districts can be obtained from the State Controller's website at www.sco.ca.gov.

IV. SUMMARY

It is recommended that LAFCOs meet with agencies before information compilation begins to discuss submittal formats or opportunities to obtain descriptive information that makes budget data easier to evaluate and compare. A follow-up meeting after budget data is received is generally helpful. Where possible, stakeholders can be asked to review data, and collaborate on reasonable or appropriate comparison methods.

APPENDIX F

USE OF CONSULTANTS

At times, LAFCO may wish to secure the services of consultants or mentor LAFCOs to assist with municipal service review processing. Consultants can be useful when working under clear direction from LAFCO. Sometimes, the use of consultants is warranted because a LAFCOs' workload may not permit additional time expenditures for municipal service reviews or LAFCO may desire specialized services, which cannot be provided economically in-house. In some cases, a municipal service review may be too complex for LAFCO to independently review all of the needed data or so controversial that a third party may be needed to provide a review that is perceived as more impartial.

Page 20 of the State General Plan Guidelines provides the following guidance on using a consultant:

The first step in selecting a consultant should be to send to prospective candidate firms a request for qualifications (RFQ) and a description of the consultants' expected role. The RFQ will help narrow the search for qualified consultants. After evaluating the responses, the agency should send a request for proposal (RFP) to the three to five firms, which seem to be the Best Match. Responding to an RFP is costly for consultants, so the RFP should only be sent to those firms, which the agency would consider hiring. The firms with the top responses to the RFP can be interviewed to select the firm best suited to agency's needs, work program, and budget.

LAFCO may wish to advertise the RFP on its own or CALAFCO's website or in the appropriate trade publication. Executive Officers may also communicate with other LAFCOs through CALAFCO's website (<http://www.calafco.org/>) in order to secure model RFQs, RFPs, contracts or scopes of work that have been used by other LAFCOs. LAFCOs can use pertinent SRG outline sections as a template for developing scopes of work.

APPENDIX G

FUNDING OPTIONS

Prior to January 2001, county governments funded LAFCOs. The CKH Act now apportions funding responsibilities among cities, counties and special districts that choose to be represented on LAFCOs. Although this change increases LAFCO's potential funding resources, it does not set limits for funding or require that special districts participate on LAFCOs. As a result, LAFCOs will need to develop funding strategies and budget the funds necessary to implement municipal service review requirements. It is recommended that LAFCOs develop appropriate funding policies and procedures and include them in their written procedures to ensure consistency and fairness.

There are several municipal service review funding approaches that LAFCOs could consider: They include:

- **Incentives for special district representation on LAFCOs.** LAFCOs could adopt polices requiring LAFCOs to assume responsibility for funding all municipal service reviews only if special districts participate on LAFCOs and a negotiated funding plan is developed. In this approach, LAFCOs would not require the agencies with SOIs to separately fund the municipal service reviews that are a necessary component of SOI actions. Instead, LAFCOs would work with cities and special districts to develop a funding strategy, which could include (1) joint grant or funding applications, (2) reduced rates for fee-based services requested by represented agencies, (3) negotiations among private project proponents and citizens groups for shared funding, or (4) a combination of the other approaches listed in this section. The objectives would be to enhance special districts' LAFCO involvement, and make the municipal service review process as affordable to all agencies as possible including those with very limited funding resources.
- **Integration with General Plan Budgets and Processes.** If a General Plan is in-process, LAFCOs would work with planning staff to scope and design the General Plan update process in a manner that facilitates some municipal service reviews. General Plan public facilities' discussions would be designed to include information required for municipal service reviews in a format useful to the development of written municipal service review determinations. To ensure objectivity, LAFCO would reserve the right to independently verify or confirm General Plan information. The advantage of this approach is that it eliminates duplication of effort and makes General Plan technical experts available to LAFCO.
- **Distribute costs among reviewed agencies.** Municipal service review costs would be shared by all agencies (1) with SOIs and (2) included in the municipal service review studies. Costs could be allocated based on size of districts, size

of budgets, sources of revenue or other options with consideration of ability to pay and as negotiated by LAFCO. Agencies could lobby agencies included in the review but exempted from CKH Act SOI requirements, such as Joint Powers Authorities or metropolitan water districts, to contribute a fair share because their service users ultimately benefit from the reviews.

- **Augment LAFCO's budget to include funding for all municipal service reviews.** LAFCOs would assume responsibility for 100% of municipal service review costs. Costs would be spread among all special districts, cities and the county based on the negotiated LAFCO funding mechanism.
- **Negotiate on a case-by-case basis.** LAFCO would develop a cost estimate, review specific circumstances and negotiate a plan to share funding costs. The negotiated plan could include strategies for agencies under review to loan technical staff, compile information, donate the use of office space and conference rooms, or provide other resources which may reduce LAFCO's costs. LAFCOs could consider crediting donations of staff time as in lieu processing fees.
- **Develop different funding strategies for staged reviews.** Various review stages could be funded differently. A Stage 1 review could be funded by the LAFCO. Service providers could fund Stage 2 and 3 reviews especially if it appeared that alternative government structure options were under consideration. Another option would apply to reviews that are not staged.
- **Incentives for self-initiation.** LAFCO would develop incentives for entities to share municipal service review costs. For example, any agency requesting a review and agreeing to assist in the funding could be entitled to priority processing and funding of pending proposals or needed SOI amendments or updates. Service providers that have initiated service studies, SOI updates, or consolidations and are cooperatively compiling information could receive a credit. Alternatively, service providers could scope the project, develop a timeline, and provide preliminary information and a funding match. The product could be submitted to LAFCO for costing and for public and other agency review. In case LAFCO or other service providers disagree with the approach and/or cost, they could reserve the right to withdraw the proposed study.
- **Project proponents pay.** Public and private proponents of pending proposals that cannot be processed without the municipal service review bear reasonable processing costs.

APPENDIX H

COMMUNITY SERVICES DISTRICT PROFILE - EXAMPLE

| | | | |
|--|---|---|--|
| District: El Dorado Hills Community Services District | | | |
| Address: 1021 Harvard Way, El Dorado Hills, CA 95762 | | | |
| Meeting Schedule: Monthly - Second Thursday, 7:30 p.m. | | | |
| CONTACT | Wayne A. Lowery | TITLE | General Manager |
| PHONE | 916 / 933-6624 | FAX | 916 / 933-6359 |
| ALT PHONE | | E-MAIL | edhcsd@eldoradohillscsd.org |
| BOARD OF DIRECTORS | | TITLE | TERM OF OFFICE |
| Ann M. Murray | | President | 12/96 - 12/2000 |
| Brett McFadden | | Vice President | 12/98 - 12/2002 |
| Constance Hasting | | Director | 12/98 - 12/2002 |
| F. J. Leslie | | Director | 12/96 - 12/200- |
| Tony DiGaetano | | Director | 12/98 - 12/2002 |
| DISTRICT STAFF | | FORMATION INFORMATION | SOI |
| | | | Resolution #: 83-04 |
| NAME | TITLE | LAFCO | Date: 4/7/83 |
| Wayne A. Lowery | General Manager | Resolution #: Boundary Commission Report | |
| | | Date Adopted: 2/5/62 | MAPPING |
| | | CONDUCTING AUTHORITY | GIS Date: 5/28/98 |
| | | Resolution #: 98-62 | Other: |
| | | Date Adopted: 5/21/62 | |
| | | EFFECTIVE FORMATION DATE: Unknown | |
| Robert Thurbon | Legal Counsel | Recorded: | |
| Major Facilities / Stations | | | |
| Yes | | | |
| Purpose | | Area Served | |
| 1. Enabling Legislation: Gov. Code Sections 61000-61936 | | 1. Area Size: 22.5 +/- square miles | |
| 2. Empowered Services: Water, Fire, Parks, Recreation, Sewer, Garbage, Lighting, Landscaping, Mosquito Abatement, Police, Library, Roads and Bridges, Cable Television, Electricity, CC&R Enforcement. | | 2. Supv. Dist. | |
| 3. Provided Services: Parks and recreation, CC&R enforcement, street lighting and landscape, solid waste management, cable television services | | 3. Reg. Voters: 10,592 | |
| | | 4. Estimated Population: 17,200 | |
| | | 5. Location Description: Located west of Cameron Park to the Sacramento County line in the El Dorado Hills Area | |
| Financial Information | | Administrative Policies | |
| Assessments/Fees: | Per Parcel: \$10 (CC&R Enforcement) | Master Plan: Yes | |
| Other Fee Schedules: | Light/Landscaping - Call District for Assessments | Policies & Procedures Adopted: Yes | |
| 1998-99 Budget: | \$1,120,861 | By-laws Adopted: No | |
| Appropriation (GANN) Limit: | \$1,980,759 | Encroachment Permit Process: N/A | |
| NOTES: Supervisorial Districts I and IV | | ISO Rating (for Fire Providers) | |

APPENDIX I

CITY PROFILE - EXAMPLE

CONTACT PERSON: David Mora, City Manager

ADDRESS: 200 Lincoln Avenue Phone: 831 / 758-7201
 Salinas, CA 93901 FAX: 831 / 758-7368

DATE OF AGENCY FORMATION: March 4, 1874

ENABLING LEGISLATION: City Charter; Government Code Section 34450

GOVERNING BODY: Seven (7) member Council elected at large; four (4) year terms;
 Mayor two (2) year term

MEMBERSHIP: Anna Caballero, Mayor **TERM EXPIRES:** November, 2002
 Ernesto Gonzales November, 2004
 Roberto Ocampo November, 2002
 Janet Barnes November, 2002
 Jyl Lutes November, 2002
 Jan Collins November, 2002
 Gloria de la Rosa November, 2004

COMPENSATION: Mayor - \$800/month; Council Members - \$600/month

PUBLIC MEETINGS: Generally meets 1st, 2nd and 3rd Tuesdays at 4:00 p.m. and 7:30 p.m. in City Council Chambers Rotunda

SERVICES PROVIDED: Non-contractual: police, fire, library, recreation and parks, community center, public works including street maintenance and sweeping, building inspection, sewage collection, library service, comprehensive planning and land use control.
 Contractual: First aid and ambulance service, solid waste disposal, and rural fire service

AREA SERVED/ POPULATION: 18.5 square miles
 151,060

STAFFING: 595 employees

| | Actual 1997-98 | Actual 1998-99 | Actual 1999-00 | Budget 2000-01 | Budget 2001-02 |
|-----------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| EXPENDITURES | 45,543,578 | 49,283,477 | 49,148,889 | 53,906,300 | 61,412,700 |
| CAPITAL/FIXED ASSETS: | 398,952 | 652,598 | 474,848 | 307,600 | 531,300 |
| PROPERTY TAX: | 6,886,697 | 7,334,259 | 7,827,998 | 7,721,000 | 8,291,000 |
| USER FEES: | | | | | |

APPENDIX J

SPECIAL DISTRICT POWERS COMPARISON CHART

PUBLIC UTILITY DISTRICTS

Principal Act: *Public Utilities Code, §§155001-18055*

| POWERS/FUNCTIONS/SERVICES | Donner Summit PIID | Truckee Donner PUD |
|---|--------------------------|-----------------------|
| Acquire, construct, own, operate, control, or use works for supplying district inhabitants with: | | |
| 1. Light | | |
| 2. Power | | ✓ |
| 3. Heat | | |
| 4. Water | ✓ | ✓ |
| 5. Transportation | | |
| 6. Telephone service | | |
| 7. Other means of communication | | |
| 8. Means for disposition of garbage or refuse matter | | |
| 9. Means for disposition of sewage | ✓ | |
| Acquire, construct, own, complete, use, and operate: | | |
| 10. Fire department: [†] | | |
| 10.1 Fire protection | ✓ | |
| 10.2 Rescue | ✓ | |
| 10.3 Emergency medical services | ✓ | |
| 10.4 Hazardous material emergency response | ✓* | |
| 10.5 Ambulance services | ✓ | |
| 11. Street lighting system | | |
| 12. Public parks & playgrounds, golf courses, public swimming pools, public recreation buildings | | |
| 13. Buildings to be used for public purposes | | |
| 14. Works to provide for drainage of roads, streets and public places (e.g., curbs, gutters, and sidewalks) | | |
| 15. Pavement of streets | | |

[†] §16463.5 (a) of the Public Utilities Code provides: "A district may exercise any of the powers, functions, and duties which are vested in, or imposed upon, a fire protection district pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health & Safety Code."

* Hazardous Materials First Response—Operational Level (Defensive Mode), required of all fire protection districts.

Active powers for each district are indicated by check marks. Exercise of any other power requires prior approval by LAFCO.

Courtesy of Nevada LAFCO

APPENDIX K

SOI STATUS LOG - EXAMPLE

| District | Ref. No. | Type or Action | Acreage | Date | Type of Service and Miscellaneous Information |
|---|------------------------|-----------------------|--|---------|---|
| Alpine Fire Protection District | S183-9 | Larger than | Dist. = 19 sq. miles Add'l - unknown | 4-4-83 | <i>Fire Protection.</i> Adopted in conjunction with East County Fire Protection Agencies Spheres of Influence Study and "Formation of the Rural FPD" (DF82-2). Additional territory located north, east, and south of District boundary. |
| | ◇ | Add to sphere | 2± sq. miles | 11-5-84 | <i>Resolution of McCain/Viewside Special Study Area:</i> Some territory also added to spheres for Lakeside FPD and Crest FPD (now part of East County FPD). |
| Alpine Sanitation District | S183-24 | Larger than | Dist = 616 acres Add'l = unknown | 11-7-83 | <i>Sewer Service.</i> Four (4) additional areas are included in the sphere: three (3) are residential communities, located along the District's southern boundary at the western corner, center and eastern corner that are served by private septic systems; the fourth is adjacent to the District's non-contiguous territory located north and west of the main portion of the District, and designated for commercial and industrial development. All sphere territory is contained within the Country Town boundary. |
| | SA86-2 (see DA85-1) | Add to Dist. & sphere | 238.32 acres | 2-3-86 | <i>"Lively Annexation" (DA85-1):</i> TM to develop 333-unit mobile home park. |
| Bonita-Sunnyside Fire Protection District | S184-7 | Larger than | Dist. = 7.5± sq. miles Add'l = 7.5± sq. miles | 7-1-85 | <i>Fire Protection:</i> Sphere essentially coterminous on west; additional territory is primarily located east of current District boundary. |

APPENDIX L

MULTI-COUNTY LAFCO REVIEW

LAFCO should consult with other affected LAFCOs when scoping a proposed municipal service review. An affected LAFCO is a LAFCO for a county other than the principal county that is conducting the municipal service review. This is especially important for municipal service reviews which may lead to the consideration of proposals that have the potential to cause significant environmental, fiscal or economic impacts on the other county.

A. DEVELOPMENT OF MUNICIPAL SERVICE REVIEW BOUNDARIES CAN TRIGGER MULTI-LAFCO REVIEWS

- Municipal service reviews may frequently involve more than one LAFCO because the CKH Act states, "the commission shall include in the area designated for municipal service review the county, the region, the sub-region or other geographic area as is appropriate for an analysis of the service or services to be reviewed..." To comply with this directive, LAFCO may need to develop service study area boundaries which cross county lines. Some examples of cases where LAFCOs may encounter cross-jurisdictional issues include:
 - When service or study areas are located in more than one county;
 - When multi-county special districts or multi-county joint powers authorities (JPAs) are involved in providing the service under review; and
 - When expected recommendations or determinations may lead to actions that significantly impact more than one county.

B. COORDINATION OF MULTIPLE-LAFCO REVIEWS

Municipal service reviews affecting multiple counties and multiple LAFCOs could be ineffective if LAFCOs do not develop processes for coordinating them. LAFCOs should work cooperatively to develop functional agreements and conduct joint municipal service reviews when appropriate .

A sample LAFCO Joint Powers Agreement to conduct cross-county municipal service reviews is in the attached exhibit². The following are examples of reviews that may be facilitated through joint agency agreements.

Example 1: LAFCO A is developing a municipal service review study of reclamation districts, levee maintenance and other districts that provide flood control planning

² Nevada and Placer County LAFCOs' joint powers agreement for government organizations and reorganizations was used in the development of the exhibit.

and implementation services and for which it approved SOIs in 1986. During a stakeholder meeting, LAFCO A learns that two of the affected reclamation districts belong to a JPA. The JPA is assessing the districts' residents for projects to strengthen the levees owned and maintained by the districts, and is constructing them. The JPA serves two counties, and residents from both of those counties pay the assessments. LAFCO A needs to contact LAFCO B and involve that LAFCO in the municipal service review process.

Example 2: LAFCO A is developing a municipal service review study of fire and emergency service districts on the western edge of County A. While conducting initial research, LAFCO A learns that Fire District A has a contract to serve a 1,000-acre development on the eastern edge of County B. District A is providing first response to several thousand additional acres in County B with approximately 11,000 dwelling units. None of the fire service providers in County B intend to serve those residences, and County B's General Plan states that it will contract with District A for additional services needed in the eastern county. District A is funded solely through property taxes, and permit fees. Residents in County B are paying for Fire District B's services. LAFCO A needs to contact LAFCO B and involve that LAFCO in the municipal service review process.

Example 3: LAFCO A is developing a municipal service review study of water supply services. The study boundary has been drawn to include all districts receiving surface water supplies from Reservoir A. Some districts share distribution facilities; some do not. Study boundaries include two districts in County B, and one cross-county district that serve Counties B and C. LAFCO A needs to contact LAFCOs B and C and involve those LAFCOs in the municipal service review process.

C. JOINT POWERS AGREEMENTS

LAFCOs should work together to develop a plan for managing cross-county municipal service reviews. One approach is to enter into a joint powers agreement that could be applied to the subject review as well as any other cross-county reviews that are identified. LAFCOs do not need to create a separate agency to implement a Joint Powers Agreement. The agreement only has to provide for joint exercise of certain powers common to each LAFCO. LAFCOs can set specific timeframes for the duration of the agreement or define methods for termination by either party.

After evaluating Nevada/Placer and Alameda/Contra Costa LAFCOs' Joint Powers Agreement processes for reorganization proposals that cross-county boundaries, the Commission on Local Governance commended the joint agreement approach with the following statement:

These agreements allow an expedited determination of which LAFCO will assume jurisdiction over a proposal and may thereby avert unnecessary hearings or delays. Perhaps as important, they facilitate dialogue among adjoining LAFCOs, thereby providing more comprehensive guidance to

applicants, ensuring consistency in the decision-making process of participating LAFCOs, and developing a regional perspective on issues (Growth Within Bounds, page 79).

Joint power agreements should be considered because they may provide the following additional benefits:

- Cooperation and shared decision making efforts may reduce municipal service review processing time and costs, and enhance information gathering and municipal service review funding plans;
- It offers opportunities to identify beneficial strategies to avoid adverse environmental, economic and social impacts;
- Duplication of efforts is avoided and more efficient use of government resources is effected;
- Fewer scoping and consultation meetings are required, and stakeholder, public review and public hearing processes are streamlined;
- Plans that encourage collaboration are more likely to attract grant or private funding resources. (§56378 specifically permits a Commission to request or accept financial or other assistance from another agency when conducting studies.)

Once LAFCO decides a cross-county municipal service review may be appropriate, OPR recommends early consultations begin with all relevant LAFCOs. Even if it is decided later not to undertake a joint review, at a minimum, LAFCO can share information and technical expertise gained in the municipal service review process.

D. DETERMINING THE LEAD LAFCO

If LAFCOs decide to proceed with a joint review, or agreement to conduct a joint review, they will need to determine which LAFCO should lead the municipal service review. The CKH Act (§56066 and §56388) currently contains guidance for determining which LAFCO should assume the principal role for an organization or reorganization. While this section does not specifically apply to municipal service reviews, it does include guidance for determining which LAFCO could serve as the Lead LAFCO for a municipal service review.

Government Code §56066 defines the term, "Principal County," as "the county having all or the greatest portion of the entire assessed value, as shown on the latest equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed."

The CKH Act also provides a means for delegating the lead role when a change of organization or reorganization is proposed. Section 56388 provides that the commission of the principal county can vest jurisdiction in another LAFCO subject to the agreement of the LAFCO assuming jurisdiction. For municipal service reviews,

LAFCOs may choose their own options based on experience, desire to lead or other factors. Options for determining roles should be included in the joint powers agreement where applicable.

E. STEPS FOR CONDUCTING A JOINT REVIEW

The following steps may be used to conduct a joint LAFCO review. Step 1. When a municipal service review is undertaken which involves (1) a service area that is located in, or affects, more than one county, and/or (2) involves multi-county special districts or joint powers authorities, the Lead LAFCO should initiate municipal service review design processes for the review.

Step 2. The Lead LAFCO notifies, and consults with, any affected or potentially Responsible LAFCOs. The intent is to determine whether a joint review is needed, and if so, identify a strategy for conducting it.

Step 3. Once it is determined that a joint municipal service review should be conducted, the Lead and Responsible LAFCOs should negotiate a funding plan which (1) provides for funding by a single or combination of service providers, private entities, state, federal or local funding resources, (2) assigns each LAFCO responsibility for funding in proportion to the percentage of the service area included in the municipal service review, (3) splits equally the cost of operation of the Joint Commission and any fees received to reimburse those costs; (3) requires funding by the LAFCO, city, county, special district or private entity that desires to conduct the review; or a combination of funding strategies consistent with applicable Government Codes³.

Step 4. The Lead LAFCO should be assigned to serve as municipal service review manager and be responsible for administrative and technical support for the project, subject to the funding plan developed in Step 3. A Responsible LAFCO may assume the Lead LAFCO role subject to the agreement of the Executive Officers, the individual Commissions, or a Joint Commission if one is formed (see attached exhibit). The latter arrangement may be preferable if the Responsible LAFCO is more experienced than the Lead LAFCO, or is already conducting a similar review in another part of its county.

Step 5. The Lead LAFCO will work with the Responsible LAFCO to determine and define the technical support to be provided by the Responsible LAFCO, and any contractor assistance, if applicable.

Step 6. The municipal service review management, staff support and funding plans should be reviewed, modified and approved by each Commission before the municipal service review is initiated.

³ Subsection 9 includes some possible funding options..

Step 7. All phases of the joint review should be conducted.

Step 8. Municipal service reviews should be considered and written determinations rendered by the Joint Powers Authority.

EXHIBIT

JOINT POWERS AGREEMENT FOR THE CONDUCT OF MUNICIPAL SERVICE REVIEWS TEMPLATE

Resolution No: _____

JOINT POWERS AGREEMENT

For the
Conduct of Municipal service reviews

Between _____ and _____.

WHEREAS, the _____ Local Agency Formation Commission ("_____ LAFCO") and the _____ Local Agency Formation Commission ("_____ LAFCO"), hereafter referred to as the "Commissions", are public agencies of the State of California, and are authorized, pursuant to Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (Government Code §565000 et sequitur), to enter into joint powers agreements to exercise powers common to said agencies; and

WHEREAS, §56375 (q) specifically permits LAFCOs of adjoining counties to enter into joint arrangements for the purpose of determining procedures for the considerations of municipal service reviews that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county; and

WHEREAS, §56430 requires that LAFCOs conduct municipal service reviews prior to, or in conjunction with, consideration of actions to establish a Sphere of Influence (SOI) as defined in §56076, and in accordance with §56425 or §56426.5, or update an SOI pursuant to §56425; and

WHEREAS, as part of such reviews, LAFCOs must make written determinations regarding government structure options, including the advantages and disadvantages of consolidation or reorganization of service providers; and

WHEREAS, some required municipal service reviews may include service areas that cross county boundaries, or services provided by agencies that cross county boundaries or multiple service providers located in different counties; and

WHEREAS, the Commissions recognize that decisions based on municipal service reviews and made by each affected LAFCO may have the potential to cause significant environmental, economic or fiscal impact on the other's county; and

WHEREAS, cooperation and shared decision making efforts may serve to lessen or avoid such impacts; and

WHEREAS, the subject counties possess multi-county special districts and that jurisdiction over change of organization proposals for such districts, as defined in 556069, normally resides in the "principal county" of such district, even where the change occurs wholly in the other county; and

WHEREAS, municipal service reviews are not considered proposals, pursuant to 556069, but include recommendations or determinations that may encourage proposals, or are precursors to actions that are considered proposals; and

WHEREAS, 556378 specifically permits a Commission to request or accept financial or other assistance from another agency when conducting studies; and

WHEREAS, the two Commissions desire to jointly design, conduct and consider municipal service reviews to ensure effective evaluation of issues affecting all counties and all service providers; and

WHEREAS, the two Commissions desire to conduct reviews that avoid duplication of efforts and maximize efficient use of government resources;

WHEREAS, the two Commissions desire to ensure greater cooperation among the Commissions and affected service providers in actions that have effects in both counties;

NOW, THEREFORE, be it resolved that _____ LAFCO and _____ LAFCO, in consideration of the mutual promises, covenants and conditions contained herein, agree as follows:

1. Definitions.

Certain terms used in this agreement shall have the meanings as provided in this section. All other terms shall have the meaning as provided in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (556000 *et seq.* of the Government Code), if applicable:

- (a) "Affected County" - The county in which the service providers or territory evaluated in the municipal service review is located.
- (b) "Lead LAFCO" - The LAFCO with primary responsibility for conducting a municipal service review affecting more than one county.
- (c) "Principal LAFCO for Municipal Service Reviews" - The LAFCO with the lead responsibility for a municipal service review. Lead responsibility can be determined pursuant to the CKH definition of a Principal LAFCO as it applies to government organization or reorganization actions, by negotiation, or by agreement among two or more LAFCOs.
- (d) "Responsible LAFCO" - The LAFCO other than the Lead LAFCO that may be impacted by recommendations, determinations or subsequent proposals elicited during a municipal service review being initiated or considered by the Lead LAFCO.

2. Agreed Notice and Consultation on All Municipal Service Reviews That Involve or May Impact More than One County.

(a) The Lead LAFCO shall notify the Responsible LAFCO of any municipal service review being considered by the Lead LAFCO which includes: (1) a service area that includes a Responsible LAFCO's county; (2) involves multi-county special districts or joint powers authorities; or (3) has the potential to significantly impact the county of the Responsible LAFCO. This notice requirement applies to all municipal service reviews that affect more than one county, not just those involving multi-county districts.

(b) A Responsible LAFCO will inform a Lead LAFCO of any circumstances which elicit a priority status for municipal service reviews that it believes should be initiated by that LAFCO. The Commissions will provide a reasonable opportunity for the other LAFCOs to respond to such notice.

(c) All LAFCOs will consult with affected LAFCOs when scoping a proposed municipal service review.

(d) Municipal service reviews, with the potential for significant impact on another county, are reviews that may lead to the consideration of proposals that have the potential to generate significant environmental, fiscal or economic impacts on the other county.

3. Treatment of Municipal Service Reviews.

(b) Where a municipal service review is proposed which involves (1) a service area that is located in more than one county, (2) involves multi-county special districts or joint powers authorities, or (3) has the potential to significantly impact more than one county, the project shall be initiated by the Lead LAFCO.

(c) The Lead and Responsible LAFCOs shall negotiate a funding plan which (1) provides for funding by a single or combination of service providers, private entities, state, federal or local funding resources, (2) assigns each LAFCO responsibility for funding in proportion to the percentage of the service area included in the municipal service review, (3) splits equally the cost of operation of the Joint Commission and any fees received to reimburse for those costs; (3) requires funding by the LAFCO that desires to conduct the review; or (4) a combination of funding strategies consistent with local Ordinances and applicable Government Codes.

(c) The Lead LAFCO shall serve as project manager and be responsible for administrative, technical and clerical support for the project, subject to the funding plan developed in (b) above.

(d) The Lead LAFCO will work with the Responsible LAFCO to determine and define the technical support to be provided by the Responsible LAFCO, and any contractor assistance if applicable.

(e) A Responsible LAFCO may assume the Lead LAFCO role subject to the agreement of the Executive Officers, or if specifically designated Lead Agency by the Joint Commission.

(f) The project management, staff support and funding plans shall be reviewed, modified and approved by each Commission before the municipal service review is initiated.

(g) Municipal service reviews shall be considered and written determinations rendered by the Joint Commission.

4. Operation of the Joint Commission.

(a) The Joint Commission shall be composed of the Commissioners of the LAFCOs subject to this Agreement. Alternates may substitute for their Commissioners on the Joint Commission in the same manner as for regular commission meetings.

(b) Four (4) commissioners from each county must be present to form a quorum, and action of the Joint Commission shall be by majority vote of those present, regardless of county of origin. A tie vote shall be a negative vote on the action. A tie vote may be broken by a second vote.

(c) The Chairman of the Lead LAFCO shall serve as the Chairman of the Joint Commission, and the Joint Commission shall normally meet at the time, date and place specified for regular meetings by the Lead LAFCO, unless otherwise determined.

(d) The Executive Officers shall jointly develop staff reports and provide support functions for the Joint Commission pursuant to 3(e). Legal Counsel for the Commissions shall jointly provide legal advice, unless the Joint Commission agrees to use only one of the Counsels.

(e) Except as specifically provided herein, or required by its joint character, the Joint Commission shall operate in the same manner as a regular LAFCO, and have all of the powers that either LAFCO could exercise individually.

5. No Separate Agency Created.

The parties do not intend to create a separate agency by this Joint Powers Agreement, but to merely provide for joint exercise of certain powers common to each LAFCO.

6. Accounting for Funds; Property.

No separate accounts or property are contemplated as part of this JPA. Each Commission shall be provided with monthly statements of any costs to be shared for their review and approval.

7. Term.

(a) This JPA shall remain in force and effect until terminated by either party by resolution, upon six (6) months prior written notice.

(b) Any municipal service reviews in process at time of termination shall continue to be subject to the terms of this JPA until LAFCO action is completed, but this JPA shall have no effect on municipal service reviews initiated after the date of termination.

8. Amendment.

This agreement may be amended by subsequent agreement of the parties.

This agreement is executed by the undersigned officers pursuant to authority granted by resolution of their respective Commissions:

_____ Local Agency Formation
Commission

Dated: _____, 200_

_____, Chair

_____ Local Agency Formation
Commission

Dated: _____, 200_

_____, Chair

APPROVED AS TO FORM:

_____, Counsel

LAFCO

_____, Counsel

LAFCO

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300

SACRAMENTO, CA 95814

TEL: (916) 323-3562

FAX: (916) 445-0278

E-mail: csmInfo@csm.ca.gov

EXHIBIT B

September 26, 2007

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

And Interested Parties and Affected State Agencies (See enclosed mailing list)

Re: Test Claim Amendment
Local Agency Formation Commission (LAFCO), 07-TC-02, 02-TC-23
Government Code Sections 56326.5, 56381, et al.
"LAFCO Municipal Service Review Guidelines" and "LAFCO Municipal Service
Review Guidelines Appendices" of the Governor's Office of Planning and
Research
Sacramento Metropolitan Fire District, Claimant

Dear Mr. Burdick:

The Commission received the above-named proposed test claim amendment on September 26, 2007. The original test claim on this matter is scheduled for hearing on September 27, 2007. The proposed amendment is being severed from the original test claim.

Government Code section 17530 authorizes the executive director to expedite matters within the jurisdiction of the Commission. The original test claim on this matter has been fully analyzed by Commission staff, and the test claim can be decided without reference to the proposed amendment. Therefore, severing the test claim and the test claim amendment will prevent the hearing on the original test claim from being delayed.

The Commission will review the test claim amendment for completeness on or before October 8, 2007.

The claimant may appeal any decision of the Executive Director to the Commission pursuant to California Code of Regulations, title 2, section 1181, subdivision (c).

Please call Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,


PAULA HIGASHI
Executive Director



November 30, 2007

Ms. Juliana Gmur
MAXIMUS
2380 Houston Ave
Clovis, CA 93611

Re: Test Claim Amendment

Local Agency Formation Commission (LAFCO), 07-TC-02, 02-TC-23

Government Code Sections 56326.5, 56381, et al.

"LAFCO Municipal Service Review Guidelines" and "LAFCO Municipal Service Review Guidelines Appendices" of the Governor's Office of Planning and Research
Sacramento Metropolitan Fire District, Claimant

Dear Ms. Gmur:

Commission staff has reviewed this filing and determined that it is incomplete under the Commission's regulations because all the content requirements for a test claim filing have not been met. The specific sections that remain incomplete are as follows:

- Section 1183, subdivision (d)(3), which requires: "A written narrative which includes a detailed description of (A) What activities were required under prior law or executive order, (B) What activities are required under the statute or executive order alleged to contain or impact a mandate, and (C) How any increased level of service and/or cost was incurred or is expected to be incurred."
- Section 1183, subdivision (d)(4), which requires: "All documentary evidence must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief."
- Section 1183, subdivision (d)(5), which requires: "A statement of actual and/or estimated costs which result from the alleged mandate should be identified by function and fiscal year."

To complete the filing, the claimant must complete the above-mentioned requirements. If the test claim filing is not completed within 30 days of the date of this letter, the executive director may disallow the original test claim filing date (Cal. Code Regs., tit. 2, § 1183, subd. (g)).

Please contact me at (916) 323-3562 if you have any questions.

Sincerely,



NANCY PATTON
Assistant Executive Director

Enclosure: Test Claim Filing

December 28, 2007

RECEIVED

DEC 28 2007

**COMMISSION ON
STATE MANDATES**

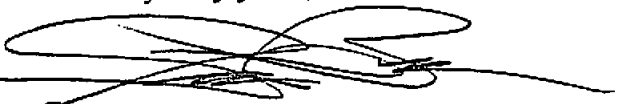
Ms. Nancy Patton
Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Test Claim Amendment
Local Agency Formation Commission
Test Claim nos. 02-TC-23 & 07-TC-02
Sacramento Metropolitan Fire District, Claimant

Dear Ms. Patton:

In response to your letter of November 30, 2007, attached please find corrected sections five and six of the amended test claim. I trust that this will complete the original filing. Should you have any questions, please do not hesitate to contact me.

Very truly yours,



Allan P. Burdick

Enc.

SECTION 5: WRITTEN NARRATIVE

INTRODUCTION

Overview

Under prior existing law, the Cortese-Knox Local Government Reorganization Act of 1985, the local agency formation commission (LAFCO) in each county was required to review and approve or disapprove proposals for changes of organization or reorganization of cities and districts within the county. The two purposes assigned LAFCOs: "the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies." The counties maintained control over the LAFCOs providing staff, legal and other services while absorbing the costs.

In 2000, Assembly Bill 2838 (Chapter 761, Statutes of 2000) was passed significantly expanding the scope and responsibilities of the LAFCOs and their member counties, cities and special districts. The Act was renamed the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and revised the prior Act to change the policies, powers, and procedures that control the LAFCOs. As a result, the LAFCOs experienced a significant increase in the costs of providing services. Moreover, due to the nature of the new funding provisions, these costs were passed on to and apportioned among each LAFCO's member counties, cities and special districts. In 2002, AB 1948 made small changes to and refined the cost apportionment statute.

AB 2838¹ made the following specific changes:²

Government Code³ section 56001 was amended⁴ to read:

The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in

¹ Test Claimant has omitted those sections and legislation, specifically AB 748, that deal solely with those issues already adjudicated in the bifurcated portion of the original filing of this test claim.

² To further judicial economy, Test Claimant generally pleads the legislation involved in the expansion of the LAFCO program and in so doing includes those sections, without specific mention, that do not result in increased costs, such as definitions, but do have a bearing on the program and on the interpretation of the sections more relevant to this test claim. Test Claimant reserves the right to augment later filings and argument, whether oral or written, to include these sections.

³ All further references shall be to the Government Code unless otherwise stated.

⁴ Any additional text is underlined and deleted text, struck through.

balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services. The Legislature also recognizes that providing housing for persons and families of all incomes is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible.

The Legislature recognizes that urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The Legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities are required to be established regarding the type and levels of services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that those community service priorities are required to reflect local circumstances, conditions, and limited financial resources. The Legislature finds and declares that a single multipurpose governmental agency rather than several limited purpose agencies, is in many cases better able to assess and be accountable for community service needs and financial resources and, therefore, the best mechanism for establishing community service priorities. is accountable for community service needs and financial resources and, therefore, may be the best mechanism for establishing community service priorities especially in urban areas. Nonetheless, the Legislature recognizes the critical role of many limited purpose agencies, especially in rural communities. The Legislature also finds that, whether governmental services are proposed to be provided by a single-purpose agency, several agencies, or a multipurpose agency, responsibility should be given to the agency or agencies that can best provide government services.

Under existing law, the legislation declares that there are connections between orderly development and local agencies' boundaries, and expresses a preference for a single governmental agency over several limited purpose agencies. AB 2838 recognizes that local officials must balance competing state interests, including discouraging urban sprawl and providing housing for all income groups. This section, as amended, states that boundary decisions should grant a preference for accommodating additional growth within the boundaries of local agencies that can best provide services and housing in the most efficient manner feasible. AB 2838 also declares that a multipurpose agency is accountable for community needs and financial resources and may be the best means for setting priorities. The roles of limited purpose

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governments are critical in rural areas. Although this section creates no costs upon the LAFCOs and their member entities, the intent of the Legislature is relevant to understand the framework that created the modern LAFCO.

Section 56133 was amended to read:

(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

(1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be

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provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on January 1, 1994. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

Existing law authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries if it receives written approval from the commission but provides that this approval requirement does not apply to contracts or agreements solely involving 2 or more public agencies. This section would permit this exception where the public service to be provided is an alternative to or substitute for public services already being provided, as specified. Additionally, the executive officer is required to determine whether the request is complete and acceptable for filing and, if not, to transmit that determination to the requester, specifying the parts that are incomplete. When the request is deemed complete, the executive officer is required to place the request on the agenda of the next commission meeting.

Section 56150 was amended to read:

Unless the provision or context otherwise requires, whenever this division requires notice to be published, posted, or mailed, the notice shall be published, posted, or mailed as provided in this chapter. Unless the provision or context otherwise requires, whenever this division requires notice to be given that notice shall also be given in electronic format on a website provided by the commission, to the extent that the commission maintains a website.

Existing law specifies the procedures that notices shall be published, posted, or mailed with respect to the proceedings of a local agency formation commission. It also requires that notice shall be given in electronic format on a website provided by the commission, if the commission maintains a website.

Section 56300 was amended to read:

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(a) It is the intent of the Legislature that each commission, not later than January 1, 2002, shall establish written policies and procedures and exercise its powers pursuant to this part in a manner consistent with those policies and procedures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns.

(b) Each commission with a proposal pending on January 1, 2001, shall, by March 31, 2001, hold a public hearing to discuss the adoption of policies and procedures to require the disclosure of contributions, expenditures, and independent expenditures authorized by Section 56100.1. Reporting requirements adopted pursuant to this section shall be effective upon the date of adoption or a later date specified in the resolution. Any commission that does not have a proposal pending on January 1, 2001, shall hold a public hearing to discuss the adoption of those policies and procedures within 90 days of submission of a proposal or at any time prior to submission of a proposal. Once a hearing has taken place under this subdivision, no subsequent hearing shall be required except by petition of 100 or more registered voters residing in the county in which the commission is located.

(c) A commission may require, through the adoption of written policies and procedures, lobbying disclosure and reporting requirements for persons who attempt to influence pending decisions by commission members, staff, or consultants. Disclosure shall be made either to the commission's executive officer, in which case it shall be posted on the commission website, if applicable, or to the recorder, registrar of voters, or clerk of the board of supervisors of the county in which the commission is located. Each commission that on January 1, 2001, has a pending proposal, as defined in Section 56069 shall, by March 31, 2001, hold a public hearing to discuss the adoption of policies and procedures governing lobbying disclosure authorized by this subdivision. Reporting requirements adopted pursuant to this section shall be effective upon the date of adoption or on a later date specified in the resolution. Any commission that does not have a proposal pending on January 1, 2001, shall hold a public hearing to discuss the adoption of those policies and procedures within 90 days of submission of a proposal, or at any time prior to submission of a proposal.

(d) Any public hearings required by this section may be held concurrently.

(e) The written policies and procedures adopted by the commission shall include forms to be used for various submittals to the commission including at a minimum a form for any protests to be filed with the commission concerning any proposed organization change.

(f) (1) On or before January 1, 2002, the commission shall establish and maintain, or otherwise provide access to notices and other commission information for the public through an Internet website.

(2) The written policies and procedures adopted by the commission shall require that, to the extent that the commission maintains an Internet website,

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notice of all public hearings and commission meetings shall be made available in electronic format on that site.

Existing law declares the intent of the Legislature that each commission establishes policies and exercises its powers to encourage efficient urban development and consideration of preserving open-space lands. This section changes mere intention to a mandatory act through the inclusion of the term "shall" with regard to the establishment of written policies and procedures not later than January 1, 2002. It also requires the policies and procedures include lobbying disclosure and reporting requirements and forms to be used for submittals to the commission. The section requires the commission to establish and maintain, or otherwise provide access to, notices and provide other commission information for the public through an Internet website, thereby imposing a state-mandated local program.

Section 56301 was amended to read:

Among the purposes of a commission are ~~discouragement of discouraging~~ urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouragement encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities. When the formation of a new government entity is proposed, a commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.

Existing law establishes the purposes of a local agency formation commission, such as discouraging urban sprawl and encouraging orderly formation and development of local agencies. This section adds to those purposes preserving open-space and agricultural lands and efficiently providing government services. It also requires a commission, when formation of a new governmental entity is proposed, to make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. The section requires a commission to apply various factors when reviewing and approving or disapproving proposals that may convert open-space lands to other uses.

Section 56325 of the Government Code is amended to read:

There is hereby continued in existence in each county a local agency formation commission. Except as otherwise provided in this chapter, the commission shall consist of ~~five~~ members selected as follows:

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(a) ~~Two representing the county,~~ appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) ~~Two representing~~ selected by the cities in the county, each of whom shall be a ~~city officer~~ mayor or council member, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(c) Two presiding officers or members of legislative bodies of independent special districts selected by the independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate a presiding officer or member of the legislative body of an independent special district as an alternative member who shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to make selections that fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(d) One representing the general public appointed by the other ~~four~~ members of the commission. The other ~~four~~ members of the commission may also designate one alternate member who shall be appointed and serve pursuant to Section 56331. Selection of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members selected by each of the other appointing authorities.

This section expands the membership of LAFCOs by adding two additional positions including independent special district representatives, to be filled by presiding officers or legislative body members of independent special districts selected by an independent special district selection committee.

Section 56332 was amended to read:

~~The commission of any county shall be enlarged by two members if, pursuant to Chapter 5 (commencing with Section 56450), the commission of any county does both of the following:~~

~~(1) Orders representation of special districts upon the commission.~~

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~~(2) Adopts regulations affecting the functions and services of special districts.~~

(a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(1) Whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission.

(2) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(c) (1) If the executive officer determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions.

(2) As an alternative to the delivery or certified mail, the executive officer, with the prior concurrence of the district, may transmit the ballot and voting instructions by electronic mail, provided that the executive officer shall retain written evidence of the receipt of that material.

(3) The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballots to the districts.

(4) If the executive officer has transmitted the ballot and voting instructions by electronic mail, the districts may return the ballots to the executive officer by electronic mail, provided that the executive officer retains written evidence of the receipt of the ballot.

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(5) Any ballot received by the executive officer after the specified date is invalid. The executive officer shall announce the results of the election within seven days of the specified date.

(d) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed special district officers residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. The representation by a regular district member who is a special district officer shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the special district. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district of which the member is a representative.

(e) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.

The section establishes the independent special district selection committee and its procedures for meeting and choosing representatives. The section sets forth a balloting process which is conducted by the executive officer of the LAFCO.

Section 56380 was added to read:

The commission shall make its own provision for necessary quarters, equipment, and supplies as well as personnel. The commission may choose to contract with any public agency or private party for personnel and facilities.

As part of the LAFCOs' independence from the counties, each is empowered to employ personnel for services or to contract with any agency public or private. This section does not use mandatory language but adds to the framework to explain the extent to which the LAFCOs expanded.

Section 56381 was added to read:

(a) The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter. The commission shall transmit its proposed

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and final budgets to the board of supervisors; to each city; to the clerk and chair of the city selection committee, if any, established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1; to each independent special district; and to the clerk and chair of the independent special district selection committee, if any, established pursuant to Section 56332.

(b) After public hearings, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the auditor shall apportion the net operating expenses of a commission in the following manner:

(1) In counties in which there is city and independent special district representation on the commission, the county, cities, and independent special districts shall each provide a one-third share of the commission's operational costs. The cities' share shall be apportioned in proportion to each city's total revenues, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county, or by an alternative method approved by a majority of cities representing the majority of the combined cities' populations. The independent special districts' share shall be apportioned in a similar manner according to each district's revenues for general purpose transactions, as reported in the most recent edition of the "Financial Transactions Concerning Special Districts" published by the Controller, or by an alternative method approved by a majority of the agencies, representing a majority of their combined populations. For the purposes of fulfilling the requirement of this section, a multicounty independent special district shall be required to pay its apportionment in its principal county. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the district share of costs.

(2) In counties in which there is no independent special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) In counties in which there are no cities, the county and its special districts shall each provide a one-half share of the commission's operational costs. The independent special districts' share shall be apportioned in the manner described for cities' apportionment in paragraph (1). If there is no independent special district representation on the commission, the county shall pay all of the commission's operational costs.

(4) Instead of determining apportionment pursuant to paragraph (1), (2), or (3), any alternative method of apportionment of the net operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the independent special districts representing a majority of the combined total population of independent special districts in the county.

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(c) After apportioning the costs as required in subdivision (b), the auditor shall request payment from the board of supervisors and from each city and each independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county, city, or district. The auditor shall provide written notice to the county, city, or district prior to appropriating a share of the property tax or other revenue to the commission for the payment due the commission pursuant to this section. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the commission's operating expenses as specified by the commission. When the city and district payments are received by the commission, the county's portion of the commission's annual operating expenses shall be credited with funds already received from the county. If, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If, during the fiscal year, the commission is without adequate funds to operate, the board of supervisors may loan the commission funds and recover those funds in the commission's budget for the following fiscal year.

This section requires the creation and adoption of a budget by each LAFCO. It also sets forth the allocation formula for the costs of the LAFCO to be spread among its constituent members. The general formula is a one-third split of costs among the county, cities and special districts. If the county is without cities or without special districts, the costs are then split in half between the county and the remaining membership. Finally, the section provides methods by which the LAFCO can collect delinquent payments.

This allocation of costs created costs for cities and special districts that were not borne by these entities under prior law.

Section 56381 was later amended by AB 1948 to read:

(a) The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the commission finds that reduced staffing or

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program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter. The commission shall transmit its proposed and final budgets to the board of supervisors; to each city; to the clerk and chair of the city selection committee, if any, established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1; to each independent special district; and to the clerk and chair of the independent special district selection committee, if any, established pursuant to Section 56332.

...(b) After public hearings, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the auditor shall apportion the net operating expenses of a commission in the following manner:

...(1) (A) In counties in which there is city and independent special district representation on the commission, the county, cities, and independent special districts shall each provide a one-third share of the commission's operational costs.

...(B) The cities' share shall be apportioned in proportion to each city's total revenues, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county, or by an alternative method approved by a majority of cities representing a majority of the combined cities' populations.

...(C) ~~The independent special districts' share shall be apportioned in a similar manner according in proportion to each district's total revenues for general purpose transactions as a percentage of the combined total district revenues within a county.~~ Except as provided in subparagraph (D), an independent special district's total revenue shall be calculated for nonenterprise activities as total revenues for general purpose transactions less revenue category aid from other governmental agencies and for enterprise activities as total operating and nonoperating revenues less revenue category other governmental agencies, as reported in the most recent edition of the "Special Districts Annual Report" published by the Controller. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the independent special district share of costs. For the purposes of fulfilling the requirement of this section, a multicounty independent special district shall be required to pay its apportionment in its principal county.

(D) (i) For purposes of apportioning costs to a health care district formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code that operates a hospital, a health care district's share, except as provided in clauses (ii) and (iii), shall be apportioned in proportion to each district's net revenue from operations as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development, as a percentage of the combined independent special districts net operating revenues within a county.

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(ii) A health care district for which net revenue from operations is a negative number may not be apportioned any share of the commission's operational costs until the fiscal year following positive net revenue from operations, as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development.

(iii) A health care district that has filed and is operating under public entity bankruptcy pursuant to federal bankruptcy law, shall not be apportioned any share of the commission's operational costs until the fiscal year following its discharge from bankruptcy.

(E) Notwithstanding the requirements of subparagraph (C), the independent special districts' share may be apportioned by an alternative method approved by a majority of the districts, representing a majority of the combined populations. However, in no event shall the independent special districts' share exceed the amount that would be calculated pursuant to subparagraphs (C) and (D).

(F) Notwithstanding the requirements of subparagraph (C), no independent special district shall be apportioned a share of more than 50 percent of the total independent special districts' share of the commission's operational costs. In those counties in which a district's share is limited to 50 percent of the total independent special districts' share of the commission's operational costs, the share of the remaining districts shall be increased on a proportional basis so that the total amount for all districts equals the share apportioned by the auditor to independent special districts.

(2) In counties in which there is no independent special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) In counties in which there are no cities, the county and its special districts shall each provide a one-half share of the commission's operational costs. The independent special districts' share shall be apportioned in the manner described for cities' apportionment in paragraph (1). If there is no independent special district representation on the commission, the county shall pay all of the commission's operational costs.

(4) Instead of determining apportionment pursuant to paragraph (1), (2), or (3), any alternative method of apportionment of the net operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the independent special districts representing a majority of the combined total population of independent special districts in the county.

(5) In no event shall the independent special districts' share exceed the amount that would be calculated pursuant to subparagraphs (C) and (D) of paragraph (1).

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(c) After apportioning the costs as required in subdivision (b), the auditor shall request payment from the board of supervisors and from each city and each independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county, city, or district. The auditor shall provide written notice to the county, city, or district prior to appropriating a share of the property tax or other revenue to the commission for the payment due the commission pursuant to this section. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the commission's operating expenses as specified by the commission. When the city and district payments are received by the commission, the county's portion of the commission's annual operating expenses shall be credited with funds already received from the county. If, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If, during the fiscal year, the commission is without adequate funds to operate, the board of supervisors may loan the commission funds and recover those funds in the commission's budget for the following fiscal year.

The amendments to this section provide for limitations in the amount of costs that can be borne by cities and special districts. It carves out special limitations for hospital districts. And, finally, this section provides a different allocation formula may be used by special districts to more fairly allocate costs.

Section 56381.6 was added to read:

(a) Notwithstanding the provisions of Section 56381, for counties whose membership on the commission is established pursuant to Sections 56326, 56326.5, 56327, or 56328, the commission's annual operational costs shall be apportioned among the classes of public agencies that select members on the commission in proportion to the number of members selected by each class. The classes of public agencies that may be represented on the commission are the county, the cities, and independent special districts. Any alternative cost apportionment procedure may be adopted by the commission, subject to a majority affirmative vote of the commission that includes the affirmative vote of at least one of the members selected by the

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county, one of the members selected by a city, and one of the members selected by a special district, if special districts are represented on the commission.

(b) Allocation of costs among individual cities and independent special districts and remittance of payments shall be in accordance with the procedures of Section 56381. Notwithstanding Section 56381, any city that has permanent membership on the commission pursuant to Sections 56326, 56326.5, 56327, or 56328 shall be apportioned the same percentage of the commission's annual operational costs as its permanent member bears to the total membership of the commission, excluding any public members selected by all the members. The balance of the cities' portion of the commission's annual operational costs shall be apportioned to the remaining cities in the county in accordance with the procedures of Section 56381.

This section sets forth a different allocation formula for those specific named counties whose LAFCO membership is set by statute.

Section 56383 of the Government Code is amended to read:

(a) The commission may establish a schedule of fees for the costs of proceedings taken pursuant to this division, including, but not limited to, all of the following:

~~(1) Checking the sufficiency of any petition filed with the executive officer.~~

(1) Filing and processing applications filed with the commission.

(2) Proceedings undertaken by the commission and any reorganization committee.

(3) Amending a sphere of influence.

(4) Reconsidering a resolution making determinations.

(b) The schedule of fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016.

(c) The commission may require that a fee be deposited with the executive officer before any further action is taken. The deposit of the fee shall be made within the time period specified by the commission. No petition shall be deemed filed until the fee has been deposited.

(d) The commission may waive a fee if it finds that payment would be detrimental to the public interest.

(e) The signatures on a petition submitted to the commission shall be verified by the elections official of the county and the costs of verification shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same county.

(f) Waiver of fees is limited to those costs incurred by the commission in the processing of a proposal.

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(g) For incorporation proceedings that have been initiated by the filing of a sufficient number of voter signatures on petitions that have been verified by the county registrar of voters, the commission may, upon the receipt of a certification by the proponents that they are unable to raise sufficient funds to reimburse fees for the proceedings, take no action on the proposal and request a loan from the General Fund of an amount sufficient to cover those expenses subject to availability of an appropriation for those purposes and in accordance with any provisions of the appropriation. Repayment of the loan shall be made a condition of approval of the incorporation, if successful, and shall become an obligation of the newly formed city. Repayment shall be made within two years of the effective date of incorporation. If the proposal is denied by the commission or defeated at an election, the loan shall be forgiven.

Existing law authorizes a LAFCO to establish a schedule of fees for the costs of proceedings under the Cortese-Knox Local Government Reorganization Act of 1985, including a fee for checking the sufficiency of any petition filed with the executive officer of the commission. This section requires the signatures on a petition to be verified by the county elections official and provides that the costs of verification shall be handled in the same manner and by the same agencies that bear those costs for an initiative petition in the same jurisdiction. This section also authorizes a commission to waive a fee in the public interest and to request a loan from the Controller for petition proceedings for an incorporation, as specified. Such fees can provide an off-set of costs to the LAFCOs' constituent members.

Section 56384 was amended to read:

(a) The commission shall appoint an executive officer who shall conduct and perform the day-to-day business of the commission. ~~If the commission does not appoint an executive officer, the county administrator, or, if there is none, the county clerk, shall act as executive officer for the commission.~~ If the executive officer is subject to a conflict of interest on a matter before the commission, the commission shall appoint an alternate executive officer. The commission may recover its costs by charging fees pursuant to Section 56383.

(b) The commission shall appoint legal counsel to advise it. ~~If the commission does not appoint legal counsel, the county counsel, or, if there is none, the district attorney, shall act as legal counsel for the commission.~~ If the commission's counsel is subject to a conflict of interest on a matter before the commission, the commission shall appoint alternate legal counsel to advise it. The commission may recover its costs by charging fees pursuant to Section 56383.

(c) The commission may appoint staff as it deems appropriate. If staff for the commission is subject to a conflict of interest on a matter before the commission, the commission shall appoint alternate staff to assist it. The

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commission may recover its costs by charging fees pursuant to Section 56383.

(d) For purposes of this section, the term "conflict of interest" shall be defined as it is for the purpose of the Political Reform Act of 1974 and shall also include matters proscribed by Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1.

This section clarifies that county staff are no longer appropriate candidates for the executive officer or legal counsel for the LAFCOs. In addition, this section empowers the LAFCOs to establish their own staff. This expansion of staff is necessary accommodate the expansion of services provided by the LAFCOs under the Act.

Section 56425 was amended to read:

(a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county. ~~In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following: and enact policies designed to promote the logical and orderly development of areas within the sphere.~~

(b) At least 30 days prior to submitting an application to the commission for a determination of a new sphere of influence, or to update an existing sphere of influence for a city, representatives from the city shall meet with county representatives to discuss the proposed sphere, and its boundaries, and explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If no agreement is reached between the city and county within 30 days, then the parties may, by mutual agreement, extend discussions for an additional period of 30 days. If an agreement is reached between the city and county regarding the boundaries, development standards, and zoning requirements within the proposed sphere, the agreement shall be forwarded to the commission, and the commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement in the commission's final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed

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public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years.

(g) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(h) For any sphere of influence or a sphere of influence that includes a special district, the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

(3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the commission.

(i) Subdivisions (b), (c), and (d) shall become inoperative as of January 1, 2007, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends that date.

Section 56430 was added to read:

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(a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Infrastructure needs or deficiencies.
- (2) Growth and population projections for the affected area.
- (3) Financing constraints and opportunities.
- (4) Cost avoidance opportunities.
- (5) Opportunities for rate restructuring.
- (6) Opportunities for shared facilities.
- (7) Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
- (8) Evaluation of management efficiencies.
- (9) Local accountability and governance.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5 or to update a sphere of influence pursuant to Section 56425.

(d) Not later than July 1, 2001, the Office of Planning and Research, in consultation with commissions, the California Association of Local Agency Formation Commissions, and other local governments, shall prepare guidelines for the service reviews to be conducted by commissions pursuant to this section.

Existing law requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency within the county. These two sections work together to establish the new requirements. They require the review and update of the sphere of influence every five years. For that update, these sections require each LAFCO conduct a municipal service review of those services provided within the county. Each LAFCO must make certain determinations concerning functions and services provided by existing districts before approving any special district sphere of influence or any sphere of influence that includes a special district. These municipal service reviews and sphere of influence updates are new mandated activities that result in LAFCOs incurring significant costs which are then passed on to their constituent entities.

Section 56653 of the Government Code is amended to read:

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(a) Whenever a local agency or school district submits a resolution of application for a change of organization or reorganization pursuant to this part, the local agency shall submit with the resolution of application a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

(1) An enumeration and description of the services to be extended to the affected territory.

(2) The level and range of those services.

(3) An indication of when those services can feasibly be extended to the affected territory.

(4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

(5) Information with respect to how those services will be financed.

This section permits a school district to submit a resolution of application for a change of organization or reorganization.

Section 56658 was added to read:

(a) Any petitioner or legislative body desiring to initiate proceedings shall submit an application to the executive officer of the principal county.

(b) Immediately after receiving an application and before issuing a certificate of filing, the executive officer shall give mailed notice that the application has been received to each interested agency, each subject agency, the county committee on school district organization, and each school superintendent whose school district overlies the subject area. The notice shall generally describe the proposal and the affected territory. The executive officer shall not be required to give notice pursuant to this subdivision if a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(c) If a special district is, or as a result of a proposal will be, located in more than one county, the executive officer of the principal county shall immediately give the executive officer of each other affected county mailed notice that the application has been received. The notice shall generally describe the proposal and the affected territory.

(d) Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving an application whether the application is complete and acceptable for filing or whether the application is incomplete.

(e) The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the mailed notice

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required by subdivision (b). The executive officer shall not be required to comply with this subdivision in the case of an application which meets the requirements of Section 56663 or in the case of an application for which a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(f) If the appropriate fees have been paid, an application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. An executive officer shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 56652.

(g) When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal shall be heard by the commission. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this division.

(h) If an application is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

(i) Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. Notwithstanding Section 56106, the date for conducting the hearing, as determined pursuant to this subdivision, is mandatory.

This section sets forth the requirements for the filing, acceptance, notice, establishment of completeness, issuance of a certificate of filing, determination of incompleteness and transmission thereof, setting of a hearing and the notice of the hearing with regard to the application for the initiation of proceedings.

Section 56660 was added to read:

The executive officer shall give notice of any hearing by the commission by publication, as provided in Sections 56153 and 56154, and by posting, as provided in Sections 56158 and 56159.

This section sets forth notice requirements.

Section 56663 was added to read:

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(a) If a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is signed by all of the owners of land within the affected territory of the proposed change of organization or reorganization, or if a resolution of application by a legislative body of an affected district, affected county, or affected city making a proposal for an annexation or detachment, or for a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory have given their written consent to that change of organization or reorganization, the commission may approve or disapprove the change of organization or reorganization, without notice and hearing by the commission. In those cases, the commission may also approve and conduct proceedings for the change of organization or reorganization under any of the following conditions:

- (1) Without notice and hearing.
- (2) Without an election.
- (3) Without notice, hearing, or an election.

(b) The executive officer shall give any affected agency mailed notice of the filing of the petition or resolution of application initiating proceedings by the commission. The commission shall not, without the written consent of the subject agency, take any further action on the petition or resolution of application for 10 days following that mailing. Upon written demand by an affected local agency, filed with the executive officer during that 10-day period, the commission shall make determinations upon the petition or resolution of application only after notice and hearing on the petition or resolution of application. If no written demand is filed, the commission may make those determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, a subject agency may do any of the following:

- (1) Waive the requirement of mailed notice.
- (2) Consent to the commission making determinations without notice and hearing.
- (3) Waive the requirement of mailed notice and consent to the commission making determinations without notice and hearing.

(c) In the case of uninhabited territory, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if all of the following conditions apply:

- (1) All the owners of land within the affected territory have given their written consent to the change of organization or reorganization.
- (2) All affected local agencies that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of protest proceedings.
- (3) The commission has provided written notice of commission proceedings to all property owners and registered voters within the subject

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territory and no opposition is received prior to or during the commission meeting.

(d) In the case of inhabited city and district annexations or detachments, or both, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if both of the following conditions apply:

(1) The commission has provided written notice of commission proceedings to all registered voters and landowners within the affected territory and no opposition from registered voters or landowners within the affected territory is received prior to or during the commission meeting. The written notice shall disclose to the registered voters and landowners that unless opposition is expressed regarding the proposal or the commission's intention to waive protest proceedings, that there will be no subsequent protest and election proceedings.

(2) All affected local agencies that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of protest proceedings.

This section sets forth requirements for notice and hearing.

Section 56665 was added to read:

The executive officer shall review each application which is filed with the executive officer and shall prepare a report, including his or her recommendations, on the application. The report shall be completed not less than five days prior to the date specified in the notice of hearing. Upon completion, the executive officer shall furnish copies of the report to each of the following:

- (a) The officers or persons designated in the application.
- (b) Each local agency whose boundaries or sphere of influence would be changed by the proposal or recommendation.
- (c) Each affected local agency which has filed a request for a report with the executive officer.
- (d) The executive officer of another affected county when a district is or will be located in that other county.
- (e) Each affected city.

This section sets forth the requirements for the review of applications by the executive officer, the preparation of a report with recommendations on the application and the distribution of copies of the report.

Section 56666 was added to read:

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(a) The hearing shall be held by the commission upon the date and at the time and place specified. The hearing may be continued from time to time but not to exceed 70 days from the date specified in the original notice.

(b) At the hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed, and consider the report of the executive officer and the plan for providing services to the territory prepared pursuant to Section 56653.

(c) Prior to any continuance of a hearing pursuant to this section regarding a proposal that includes an incorporation, the chief petitioners shall have an opportunity to address the commission on any potential impacts or hardships on the incorporation effort that may result from a delay. The commission shall consider the potential impacts on the incorporation proponents prior to making a decision on the duration of any continuance.

This section sets forth the requirements for the LAFCO hearings on applications and the taking in of evidence.

Section 56668 was added to read:

Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

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- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- (g) Consistency with city or county general and specific plans.
- (h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- (i) The comments of any affected local agency.
- (j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- (k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.
- (l) The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.
- (m) Any information or comments from the landowner or owners.
- (n) Any information relating to existing land use designations.

Existing law requires that commission review of a reorganization proposal include, but not be limited to, specified factors. This section adds to those factors the ability of the newly formed or receiving entity to provide services, the timely availability of adequate water supplies, the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs, and information from landowners or relating to existing land use designations thus increasing the complexity of the review and the time and costs necessary to perform the review.

Section 56700.4 was added to read:

- (a) Before circulating any petition for change of organization, the proponent shall file with the executive officer a notice of intention that shall include the name and mailing address of the proponent and a written statement, not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be signed by a representative of the proponent, and shall be in substantially the following form:
 - Notice of Intent to Circulate Petition
 - Notice is hereby given of the intention to circulate a petition proposing to _____.
 - The reasons for the proposal are:
- (b) After the filing required pursuant to subdivision (a), the petition may be circulated for signatures.
- (c) Upon receiving the notice, the executive officer shall notify any affected jurisdictions.
- (d) The notice requirements of this section shall apply in addition to any other applicable notice requirements.

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This section sets forth the procedures for filing of the notice of intention and the notification of affected jurisdictions by the executive officer.

Section 56753 was added to read:

The executive officer shall give mailed notice of any hearing by the commission, as provided in Sections 56155 to 56157, inclusive, by mailing notice of the hearing to the Director of Conservation if the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1).

This section sets forth requirements for notice of a hearing.

Section 56753.5 was added to read:

Within 10 days after receiving a proposal that would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), the executive officer shall notify the Director of Conservation of the proposal. The notice shall include the contract number, the date of the contract's execution, and a copy of any protest that the city had filed pursuant to Section 51243.5.

This section sets forth requirements for notice.

Section 56754 was added to read:

If a change of organization or reorganization would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), the commission shall determine one of the following:

- (a) That the city shall succeed to the rights, duties, and powers of the county pursuant to Section 51243, or
- (b) That the city may exercise its option to not succeed to the rights, duties, and powers of the county pursuant to Section 51243.5.

This section requires the LAFCO to make certain determinations with regard to land subject to a contract under the Williamson Act.

Section 56756 was added to read:

The clerk of the legislative body adopting a resolution of application shall file a certified copy of that resolution with the executive officer.

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This section sets forth requirements for filing with the executive director.

Section 56759 was added to read:

In any order approving a proposal for an annexation or a reorganization that includes annexation of inhabited territory to a city when the assessed value of land within that territory proposed to be annexed equals one-half, or more, of that within the city, as shown by the last equalized assessment rolls, or the number of registered voters of the territory equals one-half, or more, of the number of registered voters within the city, as shown by the county register of voters, the commission shall require that an election called upon the question of confirming the annexation or reorganization shall also be called, held, and conducted within the territory of the city to which territory is proposed to be annexed.

This section requires an election for annexation or reorganization of inhabited territory under certain specific circumstances.

Section 56800 was added to read:

For any proposal which includes an incorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56665. Data used for the analysis shall be from the most recent fiscal year for which data are available, provided that the data are not more than one fiscal year old. When data from the most recent fiscal year are unavailable, the executive officer may request supplemental data. The analysis shall review and document each of the following:

- (a) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation.
- (b) The revenues of the proposed city during the three fiscal years following incorporation.
- (c) The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation.
- (d) Any other information and analysis needed to make the findings required by Section 56720.

This section requires the preparation by the executive officer of a comprehensive fiscal analysis for proposed incorporation.

Section 56810 was added to read:

- (a) (1) If the proposal includes the incorporation of a city, as defined in Section 56043, the commission shall determine the amount of property tax

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revenue to be exchanged by the affected local agency pursuant to this section and Section 56815.

(2) If the proposal includes the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the amount of property tax to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs which were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost which was funded by any revenues of that agency which are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount described in the previous sentence by

the annual tax increment according to the procedures set forth in Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the new city or district receives its initial allocation of property taxes.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.

(d) If the proposal would transfer all of an affected agency's service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985-86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, "prior fiscal year" means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available

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preceding the fiscal year in which the commission approves by resolution the city's proposal to incorporate or the district's proposal to form.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section shall be commenced within three years of the effective date of the city's incorporation or the district's formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.

(j) The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56815.

This section sets forth requirement that the LAFCO determine the property tax or request the determination be made by an auditor under certain stated circumstances. The LAFCO shall also determine the total net cost for services. This section also includes notice provisions.

Section 56811 was added to read:

If a proposal includes the formation of a district, the commission shall determine the appropriations limit of the district in accordance with Section 7902.7 and Article XIII B of the California Constitution.

Section 56812 was added to read:

(a) If a proposal includes the incorporation of a city, the commission shall determine the provisional appropriations limit of the city in accordance with Section 7902.7 and Article XIII B of the California Constitution. The commission shall determine the provisional appropriations limit of the city in the following manner:

(1) Estimate the amount of revenue anticipated to be received by the city from the proceeds of taxes for the first full fiscal year of operation.

(2) Adjust the amount determined in paragraph (1) for the estimated change in the cost of living and population in the next full fiscal year of operation and such other changes as may be required or permitted by Article XIII B of the California Constitution.

(b) The governing body of the city shall determine the proposed permanent appropriations limit of the city to be submitted to the voters in the following manner:

(1) Determine the amount of revenue actually received by the city from the proceeds of taxes for the first full fiscal year of operation.

(2) Adjust the amount determined in paragraph (1) for the estimated change in the cost of living and population in the next full fiscal year of

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operation and such other changes as may be required or permitted by Article XIII B of the California Constitution.

(c) The permanent appropriations limit of the city shall be set at the first municipal election which is held following the first full fiscal year of operation and shall not be considered to be a change in the appropriations limit of the city pursuant to Section 4 of Article XIII B of the California Constitution.

These sections require the LAFCO to determine the appropriations limit of districts and cities.

Section 56821.1 was added to read:

If the commission adopts a resolution pursuant to subdivision (a) of Section 56821, the executive officer shall immediately call a meeting of the independent special district selection committee referred to in Section 56332. The meeting shall be held not less than 15, or more than 35, days from the adoption of the resolution by the commission. The independent special district selection committee shall meet at the time and place designated by the executive officer and shall consider the resolution adopted by the commission. By majority vote of those district representatives voting on the issue, the selection committee shall either approve or disapprove the resolution adopted by the commission. If the selection committee approves the resolution adopted by the commission, it shall immediately inform the executive officer of that action, and the commission at its next meeting shall adopt a resolution of intention pursuant to Section 56822. If the selection committee disapproves the resolution adopted by the commission, it shall immediately inform the executive officer of this action and all further proceedings under this chapter shall cease.

This section sets forth the interaction between the executive officer and the independent special district selection committee.

Section 56821.3 was added to read:

If an independent special district adopts a resolution pursuant to subdivision (a) of Section 56821, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, adopted by the districts within one year from the date that the first resolution was adopted, the commission, at its next regular meeting, shall adopt a resolution of intention pursuant to Section 56822.

Section 56821.5 was added to read:

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A certified copy of any resolution which has been adopted by an independent special district pursuant to subdivision (b) of Section 56821 and a copy of the text, if any, of proposed regulations referred to in the resolution shall be filed with the executive officer. If a resolution, or substantially identical resolution, has been filed by a majority of independent special districts within the county, then, not later than 35 days after the filing, the commission shall adopt a resolution of intention in accordance with the filed resolution or resolutions.

Section 56822 was added to read:

Whenever the commission, or the independent special districts, as the case may be, have complied with the applicable provisions of Sections 56821, 56821.1, 56821.3, and 56821.5, the commission shall adopt a resolution of intention pursuant to this section. The resolution of intention shall do all of the following:

(a) State whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth.

(b) If the resolution of intention proposes only the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, it shall state that the commission proposes either of the following:

(1) To consider the proposal without reference to a special district advisory committee, in which case the resolution shall contain the text of the regulations proposed to be adopted, amended, or repealed.

(2) To refer the proposal to a special district advisory committee for study, report, and recommendation, in which case the resolution shall generally describe the nature of the regulations proposed to be amended, adopted, or repealed and, if then available, shall refer to a text on file with the executive officer for a detailed description of the regulations.

In addition, the resolution of intention adopted pursuant to this subdivision shall also fix a time, not less than 15 or more than 35 days after the adoption of the resolution of intention, and the place of hearing by the commission on the question of whether the proposal made by the resolution should be disapproved, approved, and ordered without reference to a special district advisory committee, or referred to a special district advisory committee for study, report, and recommendation to the commission.

(c) If the resolution of intention proposes representation of special districts on the commission, it shall state that the commission proposes to refer the proposal to a special district advisory committee and the commission shall immediately order the proposal referred to that committee pursuant to Section 56823.

Section 56822.3 was added to read:

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If a hearing is called pursuant to subdivision (b) of Section 56822, the executive officer shall give notice of the hearing by publication, as provided in Sections 56153 and 56154, by posting, as provided in Sections 56158 and 56159, and by mailing to the clerk of the county and each local agency within the county, as provided in Sections 56155, 56156, and 56157.

Section 56822.5 was added to read:

The hearing referred to in Section 56822.3 shall be held by the commission at the time and place specified or to which the hearing may be continued. After the conclusion of the hearing, the commission shall adopt a resolution disapproving the proposal made by the resolution of intention, approving and ordering the proposal without reference to a special district advisory committee, or ordering the proposal referred to a special district advisory committee for study, report, and recommendation.

These sections set forth the requirements regarding the receiving and adoption of independent special district resolutions and the adoption of the resolution of intention. It also includes notice and hearing provisions.

Section 56824.1 was added to read:

Not later than 35 days after the filing with the executive officer of the report and recommendation of a special district advisory committee, the commission shall take one of the following actions:

(a) If the report concerns only the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, the commission may do either of the following:

(1) Disapprove the report without further notice and hearing.

(2) Adopt a resolution of intention to hold a hearing on the report pursuant to subdivision (c).

(b) If the report concerns a request for special district representation on the commission, the commission shall adopt a resolution declaring its intention to approve the report and recommendation.

(c) A resolution of intention shall do all of the following:

(1) Refer to the report and recommendation of the special district advisory committee, generally describe the nature and contents of the report and recommendation, and refer to the report and recommendation on file with the executive officer for a detailed description report and recommendation.

(2) Declare the intention of the commission to approve the recommendation and report, as filed or as those regulations may be changed by the commission after notice and hearing.

(3) Fix a time, not less than 15 days, or more than 35 days, after the adoption of the resolution of intention, and the place of hearing by the commission, on the question of whether the report and recommendation

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filed by the special district advisory committee should be approved, either as filed or as ordered changed by the commission after notice and hearing.

This sections sets forth the actions of the LAFCO in response the reports of its executive officer and the special district advisory committee.

Section 56824.3 was added to read:

The executive officer shall give notice of the hearing by publication, as provided in Sections 56153 and 56154, by posting, as provided in Sections 56158 and 56159, and by mailing to the clerk of the county and each local agency within the county, as provided in Sections 56155, 56156, and 56157.

Section 56824.5 was added to read:

The hearing shall be held by the commission at the time and place specified or to which the hearing may be continued. During the course of the hearing, the commission may propose changes in the report and recommendations. Any proposed changes shall be referred, for review, to the special district advisory committee, or if the advisory committee has appointed an executive committee, to that executive committee. The advisory committee, or the executive committee, shall have 60 days to report back to the commission. If no report is received by the commission within 60 days, the advisory committee shall be deemed to have approved the proposed changes in the report and recommendation.

Within 30 days after the conclusion of the hearing, the commission shall adopt a resolution approving the report and recommendation, either as filed or as those regulations may be changed by the commission.

Section 56829 is added to the Government Code, to read:

The executive officer shall give notice of that hearing by publication, as provided in Sections 56153 and 56154, and by posting, as provided in Sections 56158 and 56159.

Section 56830 was added to read:

The executive officer shall also give mailed notice of any hearing, as provided in Sections 56155 to 56157, inclusive, by mailing notice of hearing to all of the following persons and entities:

- (a) Each affected city and affected district.
- (b) The chief petitioners, if any.
- (c) Each person who has filed a written request for special notice with the executive officer.

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Section 56835 was added to read:

At least 15 days before the date of the first meeting of a reorganization committee, the executive officer shall mail a copy of the resolution adopted by the commission to each subject district designated in the resolution.

These sections set forth notice and hearing provisions as well a adoption and distribution of resolutions.

Section 56853 was added to read:

(a) If a majority of the members of each of the legislative bodies of two or more local agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, the commission shall approve, or conditionally approve, the proposal. The commission shall order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b) of Section 57081.

(b) Before ordering any material change in the provisions or the terms and conditions of the consolidation or reorganization, as set forth in the proposals of the local agencies, the commission shall direct the executive officer to give each subject agency mailed notice of that change. The commission shall not, without the written consent of all subject agencies, take any further action on the consolidation or reorganization for 30 days following that mailing. Upon written demand by any subject agency, filed with the executive officer during that 30-day period, the commission shall make determinations upon the proposals only after notice and hearing proposals. If no written demand is filed, the commission may make those determinations without notice and hearing. The application of any provision of this subdivision may be waived by consent of all of the subject agencies.

(c) Where the commission has initiated a change of organization or reorganization affecting more than one special district, the commission may utilize and is encouraged to utilize a reorganization committee to review the proposal.

This section sets forth the notice, filing, hearing, and determinations regarding consolidation or reorganization.

Section 56861 was added to read:

(a) Within 10 days after receiving a proposal to form a subsidiary district, the executive officer shall notify by certified mail the district or districts which are the subject of the proposal.

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(b) Within 35 days after receiving the notice from the executive officer, the board of directors of the subject district or districts may do either of the following:

(1) Adopt a resolution consenting to the subsidiary district proposal, with or without requesting additional terms and conditions.

(2) Adopt a resolution of intention to file an alternative proposal to the subsidiary district proposal.

(c) Any resolution adopted under paragraph (1) or (2) of subdivision (b) shall immediately be filed with the executive officer.

This section sets forth notice provisions for the formation of subsidiary districts.

Section 56862 was added to read:

(a) If a district files a resolution of intention to file an alternative proposal pursuant to paragraph (2) of subdivision (b) of Section 56861, the executive officer shall take no further action on the original proposal to form a subsidiary district for a period of 70 days. During this period, the district which has filed a resolution of intention shall prepare and submit a completed application for the alternative proposal in a form similar to the original proposal, as prescribed by the commission.

(b) A district which has filed a resolution of intention to file an alternative proposal but which does not file a completed application within the prescribed time period, shall be deemed to have consented to the original proposal to form a subsidiary district.

(c) After receiving an alternative proposal, the executive officer shall analyze and report on both the original proposal and the alternative proposal concurrently and set both for hearing by the commission in order that both proposals may be considered simultaneously at a single hearing.

(d) "Alternative proposal," as used in this section, means an alternative proposal to a subsidiary district proposal as provided for in Section 56861.

This section provides for the receiving and the preparation of analysis and a report on alternative proposals.

Section 56880 was added to read:

At any time not later than 35 days after the conclusion of the hearing, the commission shall adopt a resolution making determinations approving or disapproving the proposal, with or without conditions, the plan of reorganization, or any alternative plan of reorganization as set forth in the report and recommendation of a reorganization committee. If the commission disapproves the proposal, plan of reorganization, or any alternative plan of reorganization, no further proceedings shall be taken on those proposals or plans.

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This section requires the LAFCO to adopt a resolution on reorganization proposals.

Section 56882 was added to read:

The executive officer shall mail a copy of the resolution adopted by the commission making determinations addressed to each of the following persons or entities:

(a) The proponents, if any, where the proceedings for change of organization were initiated by petition.

(b) Each affected local agency whose boundaries would be changed by the proposal.

This sections sets forth notice provisions.

Section 56895 was added to read:

(a) When a commission has adopted a resolution making determinations, any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to Section 56658, the commission shall consider that request at a public hearing.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file any action, including, but not limited to, an action pursuant to Section 21167 of the Public Resources Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the commission is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as he or she deems necessary or desirable.

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(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 70 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56854.

This section sets forth notice provisions, hearing, the taking of evidence and adoption of resolution with regard to the amendment or reconsideration of prior resolutions.

Application of Mandate Law

The mandate created by these statutes clearly meets both tests that the Supreme Court in the *County of Los Angeles v. State of California* (1987) created for determining what constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists, are the "unique to government" and the "carry out a state policy" tests. Their application to this test claim is discussed below.

The mandate is unique to local government: The statutes claimed involve new requirements for the LAFCOs and their members. The LAFCOs are statutorily-created local administrative bodies mainly comprised of and funded by local government members. Thus, this program is unique to local government.

The mandate carries out a state policy: From the legislation, it is clear that the LAFCOs were created by the Legislature for the sole purpose of presiding over and making determinations concerning the organization and reorganization for cities and districts. Thus, this program carries out a state policy.

Finally, there are seven disclaimers specified in Government Code section 17556 which could serve to bar recovery of "costs mandated by the State", as defined in that section. Test claimant asserts that none of the seven disclaimers apply to this test claim:

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1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.
2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.
3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.
4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.
5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.
6. The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure approved by the voters in a statewide or local election regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.
7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

Although the legislation clearly allows for the charging of fees, the amounts that can be gathered are far outweighed by the costs of complying with the Act (see Ballantyne declaration).

A. MANDATE SUMMARY

As explained in some detail above, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 significantly expanded the authority of the LAFCOs and separated them from the counties. The most significant and costly new activity is the five-year update of the sphere of influence which necessitates the municipal services review. The increase of authority of the LAFCOs has also increased costs for day-to-day operations. The expansion of the existing program is key. Had the costs of the program only transferred from the counties alone to a split among the counties, cities and special districts, this test claim would fall to the rule of law stated in *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, that a

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reallocation of costs between local governmental entities is not a mandate from the state. In this case, however, the program expanded. Had the expansion occurred without the distribution of costs, the counties would have a clear avenue to come to this Commission for reimbursement of costs. The cities and special districts, who are experiencing new costs, and the counties, who are experiencing increased costs, should not be barred from reimbursement.

B. MODIFIED ACTIVITIES

As explained above, the new activities include but are not limited to, updating the sphere of influence; performing the municipal services reviews; conducting hearings; adopting an annual budget; adoption of written policies and procedures; maintaining internet access to notices and other information; reviewing, approving or disapproving proposals; setting of elections; establishing an independent special district selection committee and setting the committee procedures; determining property tax and appropriations limits; and establishing quarters and hiring an executive officer, counsel and staff. The executive officers were charged with reviews of filings, compliance with notice procedures, setting of hearings, determination and transmission of incomplete filings, creation of reports and analyses including comprehensive fiscal analyses, issuance of certificates of filing, and conducting balloting for the independent special district selection committee.

In addition, the LAFCO membership increased by two members which also increased the workload and necessitated additional staff members.

All of the above stated activities resulted in costs which were passed along to the LAFCO constituent members.

C. ACTUAL COSTS

Fresno County LAFCO, which recently updated its sphere of influence, experienced almost a 25% increase in costs to do so as stated in the attached declaration of Rick Ballantyne.

These costs are all reimbursable costs as such costs are "costs mandated by the State" under Article XIII B, section 6 of the California Constitution, and Government Code §17500 *et seq.* Section 17514 of the Government Code defines "costs mandated by the state", and specifies the following three requirements:

1. There are "increased costs which a local agency is required to incur after July 1, 1980."
2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975 or any executive order implementing any statute enacted on or after January 1, 1975."
3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

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All three of the above requirements for finding costs mandated by the State are met as described previously herein.

D. COST ESTIMATES

As based on the attached declaration of Allan Burdick costs for on-going compliance with the Act is estimated to be two-thirds of each LAFCO's annual budget.

E. STATEWIDE COST ESTIMATES

As based on the attached declaration, the statewide costs are estimated to be seventy six million dollars for implementation of the Act for the six and one-half fiscal years since 2001.

F. FUNDING SOURCES

Test claimant notes that as set forth above, some off-set of costs is achieved through the power of the LAFCO to set fees. The test claimant is unaware of any other funding sources for these new activities.

G. PRIOR MANDATE DETERMINATIONS

Test claimant notes that the original LAFCO test claim, 02-TC-23, which was bifurcated out from this amendment, was recently decided by Commission.

CONCLUSION

The enactment of Chapter 761, Statutes of 2000, and its later amendments, imposed a new state mandated program and cost on LAFCOs and their member counties, cities and special districts. The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state-mandated program.

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Declaration of Rick Ballantyne In support of Amended Test Claim

I, Rick Ballantyne, state as follows:

1. I am the Executive Officer for the Fresno County Local Agency Formation Commission (LAFCO). I have personal knowledge of the facts stated herein and if called upon to testify, I could do so competently.

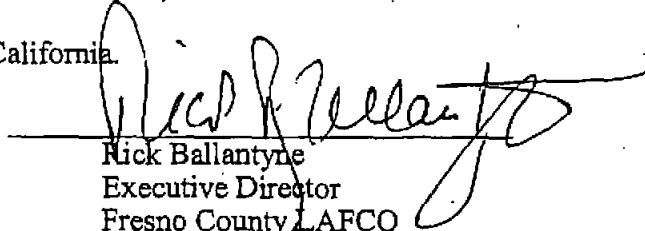
2. In 2000, Cortese-Knox-Hertzberg Local Government Reorganization Act created a major change for LAFCOs. The Act encouraged the LAFCOs to be independent agencies no longer part of county government. As a result, those working for LAFCOs were no longer County employees, LAFCOs hired independent counsel and were able to provide for services in-house or contract out.

3. Fresno County LAFCO is comprised of two representatives from the County of Fresno; two representatives of cities located within Fresno County; and one at-large representative.

4. Fresno County LAFCO has faced two challenges and increased costs due to requirements of the Act. These are: Municipal Service Review and updated the Sphere of Influence. Fresno County LAFCO has 15 cities and 122 special districts making the update a large enough project that the matter was handled by consultants at a cost of \$196,497.

5. The annual budget for Fresno County LAFCO this year is \$803,000. We are fortunate to be going through a period of growth which will bring us an estimated \$250,000 in fees. I estimate that 24.5% of our annual budget was put towards compliance with the Act through completion of the required Municipal Reviews and Spheres of Influence Updates.

I declare under penalty of perjury that the foregoing is true and correct as based upon my personal knowledge, information or belief, and that this declaration is executed this 24th day of December, 2007, at Fresno, California.


Rick Ballantyne
Executive Director
Fresno County LAFCO

Declaration of Allan P. Burdick
In support of Amended Test Claim

I, Allan P. Burdick, state as follows:

1. I am currently employed by MAXIMUS, Inc. and have worked with California's state mandate cost local program since 1978 as an employee of MAXIMUS or the California State Association of Counties. I have personal knowledge of the facts stated herein and if called upon to testify, I could do so competently.

2. In establishing the statewide cost estimate, I discussed the test claim statute with several LAFCO representatives over a period of weeks gathering general information on the requirements of the Act and the impact on LAFCOs. On December 28, 2007, I contacted Rick Ballantyne, Executive Officer of the Fresno County LAFCO, to establish some additional facts. I was advised that the costs in his declaration are for the consultants to complete the sphere of influence update and the municipal services review but that the staff worked on these as well and had done so over a period of two fiscal years. I was also advised that, in light of the Act, Fresno County LAFCO expanded its staff from two to five.

3. I consulted the State Controller's Annual Report for Counties online to obtain fiscal year 04-05 county figures. I expanded that figure, assuming counties are paying one-third of LAFCOs' costs, to create total costs for the 04-05 fiscal year. I then extrapolated those costs to projects costs both backward to fiscal year 00-01 and forward. Assuming twenty percent of 04-05 costs for FY 00-01, eighty percent for 01-02, ninety two percent for 02-03, ninety five percent for 03-04, a five percent increase for 05-06 and a twenty percent increase for 06-07 to account for the required compliance with the update of the sphere of influence and the municipal service review, I estimated the annual statewide budget for all LAFCOs. That estimate is: FY 00-01, \$4,621,908; FY 01-02, \$14,790,105; FY 02-03, \$17,008,621; FY 03-04, \$17,563,250; FY 04-05, \$18,487,632; FY 05-06, \$19,412,013; and FY 06-07, \$22,185,158.

LAFCO Amended
Sacramento Metropolitan Fire District
Section 6: Declarations

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3. In looking at the information I was able to gather, I estimated that the total impact of compliance with the Act would involve at least two-thirds of the annual LAFCOs' budgets. This would cover the new costs to cities and special districts and a small percentage increase for counties who had to bear costs prior to the Act. That amount for the six and a half fiscal years is approximately seventy six million dollars.

I declare under penalty of perjury that the foregoing is true and correct as based upon my personal knowledge, information or belief, and that this declaration is executed this ____ day of December, 2007, at Sacramento, California.



Allan P. Burdick
MAXIMUS

COMMISSION ON STATE MANDATES

Exhibit E

180 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
(916) 323-3562
(916) 445-0278
E-mail: csminfo@csm.ca.gov

February 15, 2008

Mr. Allan P. Burdick
MAXIMUS
4320 Auburn Blvd., Ste. 2000
Sacramento, CA 94841

Re: Disallowance of Test Claim Amendment

Local Agency Formation Commission (LAFCO), 07-TC-02, 02-TC-23

Government Code Sections 56326.5, 56381, et al.

“LAFCO Municipal Service Review Guidelines” and “LAFCO Municipal Service Review Guidelines Appendices” of the Governor’s Office of Planning and Research
Sacramento Metropolitan Fire District, Claimant

Dear Mr. Burdick:

Pursuant to Government Code section 17553, subdivision (c), and section 1183, subdivision (g), of the Commission’s regulations, I am disallowing this test claim amendment because a completed test claim amendment has not been timely received by the Commission. Government Code section 17553, subdivision (c), and section 1183, subdivision (g), of the Commission’s regulations provide that if a completed test claim, or an amendment thereto, is not received by the Commission within 30 days from the date that an incomplete test claim filing was originally returned to the claimant, the original test claim filing date may be disallowed. Since the law does not give the Commission jurisdiction to accept another filing in an attempt to complete the requirements of these provisions, I am returning your test claim amendment. The relevant facts of this case follow.

On September 25, 2007, the Sacramento Metropolitan Fire Department filed a test claim amendment to the *Local Agency Formation Commissions (LAFCO)* test claim (02-TC-23), pleading additional statutes for consideration by the Commission. On November 30, 2007, the Commission returned this filing as incomplete because it did not include a written narrative, a statement of statewide estimated costs, and declarations from the claimant authenticating all documentary evidence, as required under Government Code section 17553 and section 1183 of the Commission’s regulations. To correct these omissions and to preserve the original test claim filing date, a complete test claim amendment was required to be filed no later than December 30, 2007.

On December 28, 2007, Sacramento Metropolitan Fire District filed a “corrected” test claim amendment in an attempt to complete the filing. A written narrative detailing a description of the activities required under prior law, the activities required under the statutes or executive orders alleged to contain or impact a mandate, and allegations of an increased level of service and/or costs incurred was included in this filing. A statement of actual costs incurred by the Fresno County LAFCO, and a statewide estimate of LAFCO costs were also included. This filing, however, is not complete and does not comply with Government Code section 17553 and section 1183 of the Commission’s regulations for the following reasons:

- Government Code section 17553, subdivision (b)(1)(C),(D) and (E), require that the written narrative contain the actual increased costs incurred *by the claimant*, actual

estimated costs incurred by the claimant, and a statewide cost estimate of increased costs that all local agencies will incur. This test claim amendment was filed by a special district. There is no information in the narrative about any costs incurred by Sacramento Metropolitan Fire District, or any other special district, as a result of the alleged mandate.

- Government Code section 17553, subdivision (b)(1)(H), requires that the written narrative be supported with declarations signed under penalty of perjury by the claimant. The filing contains a declaration signed by Rick Ballantyne, the Executive Director of the Fresno County LAFCO, contending that the test claim statutes and alleged executive orders resulted in estimated costs of 25% of the LAFCO annual budget. There is no declaration signed by the claimant, Sacramento Metropolitan Fire District.

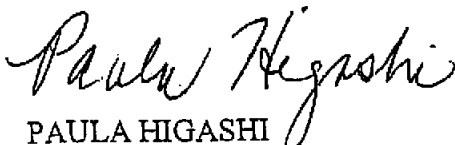
Moreover, LAFCOs are not eligible to claim reimbursement under article XIII B, section 6 of the California Constitution and, thus, cannot represent the interests of other local agencies for purposes of mandate reimbursement. Reimbursement under article XIII B, section 6 is required only when a local entity is required to comply with the tax and spend provisions of articles XIII A and XIII B of the California Constitution. Under these provisions, limits are placed on an entity's authorization to expend proceeds of taxes, or tax revenues. There is no spending limitation placed on the expenditure of revenues that do not constitute proceeds of taxes. Thus, as determined by the courts, article XIII B, section 6 does not require reimbursement when the expenses incurred by the local entity are recoverable from sources other than tax revenue; i.e., service charges, fees, or assessments. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487; *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281-282.) A local entity cannot accept the benefits of an exemption from article XIII B's spending limit while asserting an entitlement to reimbursement under article XIII B, section 6. (*City of El Monte, supra*, at p. 282.)

A LAFCO is a separate and distinct entity from its county, city, and special district members. As a separate entity, it has several powers and duties listed in Government Code section 56375. But LAFCOs do not have the power to levy tax revenues to pay for their expenses. Rather, the operating costs of a LAFCO are paid by the county, cities, and special districts served by the LAFCO. (Gov. Code, §§ 56381 and 56381.6.) In addition, LAFCOs are authorized to charge fees for the cost of specified proceedings undertaken by the LAFCO, and funding and facilities for LAFCOs have historically been provided by the county served. (Gov. Code, §§ 56381, 56383.) Thus, LAFCOs are exempt from the spending limitations of article XIII B and cannot, by law, claim reimbursement under article XIII B, section 6 of the California Constitution.

Accordingly, I am disallowing the test claim amendment because it is incomplete. Pursuant to Government Code section 17553, the Commission no longer has jurisdiction over the filing and, thus, the filing is hereby returned.

As provided in the Commission's regulations, you may appeal to the Commission for review of the actions and decisions of the executive director. (Cal. Code Regs., tit. 2, § 1181, subd. (c).)

Sincerely,



PAULA HIGASHI
Executive Director

Enclosure: Test Claim Amendment Filing



Sacramento Metropolitan Fire District

2101 Hurley Way • Sacramento, California 95825-3208 • Phone (916) 566-4000 • Fax (916) 566-4200

Exhibit F

DON METTE
Fire Chief

February 25, 2008

RECEIVED

FEB 25 2008

COMMISSION ON
STATE MANDATES

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Appeal of Executive Director's Decision to Disallow Test Claim Amendment
Local Agency Formation Commission (LAFCO) 07-TC-02, 02-TC-23
Sacramento Metropolitan Fire District, Claimant

Dear Ms. Higashi,

Pursuant to the California Code of Regulations, title 2, Section 1181, subdivision (c), we are appealing the decision of the executive director to disallow the test claim amendment to the above named test claim. In compliance with subdivision (c)(3) of the above stated regulation, we base our appeal on the fact that the executive director erred as explained below, we request review and reversal by the Commission so that the amended test claim can proceed to hearing, and the facts we rely upon are stated herein and within the materials upon which also we rely which include the administrative record for the original LAFCO test claim, its amendment and any testimony, evidence and argument we may bring at the hearing.

We believe the executive director erred in her interpretation of the applicable regulations that the December 28, 2007, Sacramento Metropolitan Fire Department's corrected test claim amendment was incomplete. The executive director based her disallowance on the following three grounds:

1. The written narrative did not contain, (1) actual increased costs incurred by the claimant, (2) estimated costs incurred by the claimant, and (3) a statewide cost estimate of increased costs that all local agencies incur. The executive director argued that the test claim was filed by a special district and there was no information about the costs incurred by the Sacramento Metropolitan Fire Director any other special district, as a result of the alleged mandate.

2. There is no supporting declaration signed by the claimant, Sacramento Metropolitan Fire District.

3. LAFCOs are not eligible to claim reimbursement under article XIII B, section 6 and thus cannot represent the interests of other local agencies for purposes of mandate reimbursement.

We will address each of these allegations in turn.

At issue is an amendment of an existing test claim. The test claim was filed on May 29, 2003, and complied with the Commission's regulations on filing as they existed at that time. Indeed, the test claim was deemed complete and was on the eve of adjudication at the time the amendment was filed on September 25, 2007, under the Commission regulations as they now exist. And therein the analysis lies.

1. The driving force behind the mandate is Government Code section 56381 as it was amended by Chapter 761, Statutes of 2000. This statute was cited as part of the original test claim,¹ and the following information was provided concerning the test claimant:

The net result of Chapter 439, Statutes of 1991 is that two representatives of special districts must sit upon the LAFCO Board. At the inception, this posed no problem because special districts did not contribute to the operations of the LAFCO. With the passage of Chapter 761, Statutes of 2000, the cost of claimant's mandatory participation in LAFCO increased to between \$20,000 and \$30,000 to underwrite the operational costs of LAFCO. With the passage of Chapter 493, Statutes of 2003, the costs of claimant's mandatory participation will increase substantially. LAFCO is presently in the process of preparing its budget, and we have been informed that claimant's mandatory contribution will be in the range of \$50,000 to \$70,000.

During this time of fiscal constraints, all other agencies, cities, counties and special districts alike, have had to live within their existing financial resources. However, LAFCO is not so constrained. It determines what funding it wants to operate for the following fiscal year, and then develops a budget upon that determination. It is the LAFCO's budget that determines the mandatory contribution required of claimant, over which claimant has no control.²

¹ See Test Claim "LAFCO", 02-TC-23 pages 4 - 10.

² *Id.* at page 10 (footnote omitted).

The above was sufficient under the Commission's regulations for the test claim to be considered at hearing. No statewide cost estimate was required.

Prior to the hearing on the test claim, the claimant's review of the filing showed a limitation heretofore unanticipated: The test claim was limited to special districts within the Sacramento County LAFCO. The intent of the filing was lost with the passage of time, but clearly the test claim should not have been so limited. An amendment was drafted which briefly set forth the necessary augmentation to the record. This amendment would have to comply with the current regulations. What the district's amendment does is to include other local agencies, namely cities and counties, and to augment the record — although the relevant legislation was properly plead, a more complete discussion of the statutes was needed. The amendment to include new potential claimants would have to include declaration that illustrate costs to these claimants and which would provide the basis for a statewide cost estimate. These were provided as part of the amendment which stated: "As based on the attached declaration, the statewide costs are estimated to be seventy six million dollars for implementation of the Act for the six and one-half fiscal years since 2001."³

After filing of the amendment, the hearing on the test claim went forward. At its September 27, 2007, hearing, the Commission decided to bifurcate the amendment from its underlying test claim. The Commission, then, partially approved the test claim which resulted in the special districts becoming eligible for reimbursement of some costs but not those for compliance with Government Code section 56381. The argument in favor of those costs failed as it was seen as a shift from counties to special districts.⁴

Therefore, (1) the actual increased costs incurred by the test claimant were already in the record in a manner that complied with the Commission's regulations at the time that they were filed; (2) estimated costs incurred by the claimant were also in the record in a manner that complied with the Commission's regulations at the time that they were filed, and (3) a statewide cost estimate of increased costs that all local agencies incur was included in the amendment documents to support costs that may be claimed by the expanded pool of potential claimants.

2. As explained above, the test claim and the amendment were filed under two different sets of rules. At the time of the filing of the test claim, the test claimant was not required to file any supporting declarations. The amendment to expand potential claimants, however, would require such a declaration. And, as acknowledged by the executive director in her disallowance such a declaration was obtained and filed from the executive officer of the Fresno LAFCO. Since the basis of the mandate is the budget of the LAFCOs which are, by law, borne by their constituent members and the division of that budget by law, such a declaration is the clearest and best statement of those costs.

³ Amended Test Claim "LAFCO", Section 5: Written Narrative at page 41.

⁴ See Final Staff Analysis "Local Area Formation Commissions" at pages 22-25.

Therefore, the test claim as filed was not required to be supported by declarations. The requirement was controlling on the filing of the amendment which was accompanied by declarations necessary to support the claim of costs by cities and counties.

3. The amendment seeks to clarify the original filing should have been interpreted to include claimants beyond special districts in Sacramento County. It does not create a filing of behalf of LAFCOs. Although it may be an interesting argument to make before a court of law, that was neither the intent nor the function of the LAFCO amendment which states:

In 2000, Assembly Bill 2838 (Chapter 761, Statutes of 2000) was passed significantly expanding the scope and responsibilities of the LAFCOs and their member counties, cities and special districts. The Act was renamed the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and revised the prior Act to change the policies, powers, and procedures that control the LAFCOs. As a result, the LAFCOs experienced a significant increase in the costs of providing services. Moreover, due to the nature of the new funding provisions, these costs were passed on to and apportioned among each LAFCO's member counties, cities and special districts.⁵

And further:

The statutes claimed involve new requirements for the LAFCOs and their members. The LAFCOs are statutorily-created local administrative bodies mainly comprised of and funded by local government members. Thus, this program is unique to local government.⁶

Even if there were some confusion as to whether LAFCOs were to be included as potential claimants, the amendment clearly and repeatedly addressed the costs to cities and counties who are eligible claimants.

Therefore, in reliance on the fact that cities and counties were stated as having incurred costs, the amendment should be allowed to proceed to a hearing on the merits where the status of LAFCOs can be more refined.

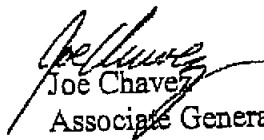
In conclusion, The executive director relies on current regulations that were adopted in 2005 to implement the statutory provisions of Chapter 890, Statutes of 2004, a non-urgency law that took effect on January 1, 2005. As Commission staff has explained on numerous occasions and under several circumstances, the Commission cannot act retroactively unless provided that power by the Legislature. The attempt to redefine a

⁵ Amended Test Claim "LAFCO", Section 5: Written Narrative at page 1.

⁶ *Id.* at page 38.

complete test claim filing under the new regulatory provisions is a retroactive application of the law and cannot stand.

Yours truly,


Joe Chavez
Associate General Counsel
Sacramento Metropolitan Fire District

State of California

COMMISSION ON STATE MANDATES

900 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

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| COMMISSION ON STATE MANDATES |
| Claim No. 02-TC-23 |

TEST CLAIM FORM

Local Agency or School District Submitting Claim

Sacramento Metropolitan Fire District

Contact Person

Allan P. Burdick/Pamela A. Stone (MAXIMUS, INC.)

Telephone No.

(916) 485-8102

Fax (916) 485-0111

Address

4320 Auburn Blvd., Suite 2000

Sacramento, CA 95841

Representative Organization to be Notified

California Association of Special Districts

This test claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code section(s) within the chaptered bill, if applicable.

Chapter 439, Statutes of 1991, Chapter 761, Statutes of 2000, Chapter 493, Statutes of 2002, LAFCO Municipal Services Review Guidelines, LAFCO Municipal Services Review Guidelines Appendices

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING A TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

George B. Appel, Deputy Chief

Telephone No.

(916) 566-4302

Signature of Authorized Representative

Date:

May 9, 2003

**BEFORE THE
COMMISSION ON STATE MANDATES**

Test Claim of:
Sacramento Metropolitan Fire District

LAFCO

Chapter 439, Statutes of 1991
Chapter 761, Statutes of 2000
Chapter 493, Statutes of 2002
LAFCO Municipal Services Review Guidelines
LAFCO Municipal Services Review Guidelines Appendices

STATEMENT OF THE CLAIM

A. MANDATE SUMMARY

1. Membership of LAFCO and Operational Costs

Local Agency Formation Commissions were originally established by the state to encourage orderly growth and development. Originally, the representatives upon the LAFCO Commission was established by Government Code, Section 56325, which originally called for representatives selected by the board of supervisors from their own membership, from cities from their own council or the mayor, and a public member. The Commission would perform many functions, some of which include establishing a sphere of influence for each city, change of organization or reorganization, and issues pertaining to annexation.

Originally, the costs for the operation of a LAFCO were paid for by the county, together with fees for various services performed.

Chapter 439, Statutes of 1991, applied solely to the County of Sacramento, and proscribed the composition of the LAFCO Commission. As originally enacted, said section read as follows:

56326.5. Sacramento county; number of commissioners; composition

In Sacramento County, the commission shall consist of seven members, selected as follows:

(a) Two representing the county, appointed by the board of supervisors form their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One representing the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. The mayor shall also appoint, subject to confirmation by the council, an alternate member who is a member of the city council. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One representing the cities in the county, who is a city officer appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335.

(d) Two representing special districts selected by an independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56332.

(e) One representing the general public, appointed by the other six members of the commission. The commission may also appoint an alternate public member who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

The member initially selected to serve pursuant to subdivision (b) shall commence serving on or after January 1, 1992, on a date determined by the Mayor of the City of Sacramento, and shall serve for the remainder of the term of, and in place of, a member to be designated by the mayor, appointed pursuant to subdivision (b) of Section 56325.

The net effect of the passage of Government Code, Section 56326.5 was to require that there be, at all times, a representative of the City of Sacramento on the LAFCO Commission. Additionally, there was now a requirement for the establishment, within the County of Sacramento, of an independent special district selection committee. The sole purpose of this committee is to meet and elect representatives from the various independent special districts to serve on the LAFCO Commission as mandated by the statute.

The requirement thus imposed upon the Sacramento Metropolitan Fire District is to have the presiding officer of its legislative body sit on the independent special district selection committee¹ and, should a representative of the Sacramento Metropolitan Fire District be elected to the LAFCO Commission or designated as an alternate, to perform the functions and duties of a LAFCO Commissioner.

Other than the time and expense necessitated when having to attend to the duties of the independent special district selection committee and serving as a member or alternate member of the LAFCO Commission, this process and procedure did not necessitate a financial contribution to the ongoing expenses of the LAFCO itself, until the passage of Chapter 761, Statutes of 2000.

Chapter 761, Statutes of 2000 is known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and was enacted with the passage of AB 2838. This legislation also dramatically changed the funding mechanism for the LAFCO Commission.

¹ See Government Code, Section 563332.

Prior to the passage of Chapter 761, Statutes of 2000, the funding of the LAFCO was set forth in Government Code, Section 56381, which stated as follows:

56381. Estimate of operating expenses; allowance or rejection of claims

On or before the 10th day of June, the commission shall prepare and transmit to the board of supervisors an estimate of the amount of money needed for the purposes prescribed in Section 56380 during the following fiscal year. The board of supervisors shall provide for the use of the commission during that fiscal year not less than the amount of money equal to any one of the following:

(a) The amount fixed by the commission.

(b) The amount appropriated in the prior fiscal year increased by the same percentage as the appropriations limit of the county for that fiscal year will be increased from the prior fiscal year.

(c) The amount determined in subdivision (b) plus any additional amount the board of supervisors deems necessary.

The county auditor shall audit and allow or reject all claims for expenditures for county charges incurred pursuant to this chapter in lieu of, and with the same effect as, allowance or rejection of claims by the board of supervisors.²

The financial provisions of Government Code, section 56381 were substantially altered with the passage of Chapter 761, Statutes of 2000. Now, there is required financial participation in the operation of the LAFCO by all cities within the LAFCO's jurisdiction and, where independent special districts sit on the LAFCO Commission, by all independent special districts. Also, since independent special districts in Sacramento County are required to sit on the LAFCO Commission, there is a further financial provision in Government Code, section 56381.6.

56381.

(a) The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget

² This section was added by Chapter 541, Statutes of 1985.

adopted for the previous fiscal year unless the commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter. The commission shall transmit its proposed and final budgets to the board of supervisors; to each city; to the clerk of the city selection committee, if any, established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1; to each independent special district; and to the clerk and chair of the independent special district selection committee, if any, established pursuant to Section 56332.

(b) After public hearings, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the auditor shall apportion the net operating expenses of a commission in the following manner:

(1) In counties in which there is a city and independent special district representation on the commission, the county, cities, and independent special district representation on the commission, the county, cities, and independent special districts shall each provide a one-third share of the commission's operational costs. The cities' share shall be apportioned in proportion to each city's total revenues, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county, or by an alternative method approved by a majority of the cities representing the majority of the combined cities' populations. The independent special districts' share shall be apportioned in a similar manner according to each district's revenues for general purpose transactions, as reported in the most recent edition of the "Financial Transactions Concerning Special Districts" published by the Controller, or by an alternative method approved by a majority of the agencies, representing a majority of their combined populations. For the purposes of fulfilling the requirement of this section, a multi-county independent special district shall be required to pay its apportionment in its principal county. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the district share of costs.

(2) In counties in which there is no independent special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) In counties in which there are no cities, the county and its special districts shall each provide a one-half share of the commission's operational costs. The independent special districts' share shall be apportioned in the manner described for cities' apportionment in paragraph (1). If there is no independent special district representation on the commission, the county shall pay all of the commission's operational costs.

(4) Instead of determining apportionment pursuant to paragraph (1), (2), or (3), any alternative method of apportionment of the net operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the independent districts representing a majority of the combined total population of independent special districts in the county.

(c) After apportioning the costs as required in subdivision (b), the auditor shall request payment from the board of supervisors and from each city and each independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county, city, or district. The auditor shall provide written notice to the county, city, or district prior to appropriating a share of the property tax or other revenue to the commission for the payment due the commission pursuant to this section. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor

receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the commission's operating expenses as specified by the commission. When the city and district payments are received by the commissions, the county's portion of the commission's annual operating expenses shall be credited with funds already received from the county. If, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If, during the fiscal year, the commission is without adequate funds to operate, the board of supervisors may loan the commission funds and recover those funds in the commission's budget for the following fiscal year.

56381.6

(a) Notwithstanding the provisions of section 56381, for counties whose membership on the commission is established pursuant to sections 56326, 56326.5, 56327, or 56328, the commission's annual operational costs shall be apportioned among the classes of public agencies that select members on the commission in proportion to the number of members selected by each class. The classes of public agencies that may be represented on the commission are the county, the cities, and independent special districts. Any alternative cost apportionment procedure may be adopted by the commission, subject to a majority affirmative vote of the commission that includes the affirmative vote of at least one of the members selected by the county, one of the members selected by a city, and one of the members selected by a special district, if special districts are represented on the commission.

(b) Allocation of costs among individual cities and independent special districts and remittance of payments shall be in accordance with the procedures of section 56381. Notwithstanding section 56381, any city which has permanent membership on the commission pursuant to sections 56326, 56326.5, 56327, or 56328 shall be apportioned the same percentage of the commission's annual operational costs as its permanent member bears to the total membership of the commission, excluding any public members selected by all the members. The balance of the cities' portion of the commission's

annual operational costs shall be apportioned to the remaining cities in the county in accordance with the procedures of section 56381.

As a result of this initial legislative change, the Sacramento Municipal Fire District had, for the first time, to contribute financially to the conduct of LAFCO.

Apparently, the foregoing new methodology for apportioning the costs of LAFCO did not work once instituted. As a result, Government Code, Section 56381 was amended by the enactment of Chapter 493, Statutes of 2002, which placed a limit on the amount that any one independent special district could be required to pay for a LAFCO's operations, and the amount required to be contributed by a health care district was restricted even further:

56381.

(a) The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and a final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter. The commission shall transmit its proposed and final budgets to the board of supervisors; to each city; to the clerk and chair of the city selection committee, if any, established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1; to each independent special district; and to the clerk and chair of the independent special district selection committee, if any, established pursuant to Section 56332.

(b) After public hearings, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the auditor shall apportion the net operating expenses of a commission in the following manner:

(1)(A) In counties in which there is city and independent special district representation on the commission, the county, cities, and independent special districts shall each provide a one-third share of the commission's operational costs.

(B) The cities' share shall be apportioned in proportion to each city's total revenues, as reported in the

most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county; or by an alternative method approved by a majority of cities representing a majority of the combined cities' populations.

(C) The independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. Except as provided in subparagraph (D), an independent special district's total revenue shall be calculated for nonenterprise activities as total revenues for general purpose transactions less revenue category aid from other governmental agencies and for enterprise activities as total operating and nonoperating revenues less revenue category other governmental agencies, as reported in the most recent edition of the "Special Districts Annual Report" published by the Controller. It is the intent of the Legislature that no single district or class or type of district shall be a disproportionate amount of the independent special district share of costs. For the purposes of fulfilling the requirements of this section, a multicounty independent special district shall be required to pay its apportionment in its principal county.

(D)(i) For purposes of apportioning costs to a health care district formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code that operates a hospital, a health care district's share, except as provided in clauses (ii) and (iii), shall be apportioned in proportion to each district's net revenue from operations as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development, as a percentage of the combined independent special districts net operating revenues within a county.

(ii) A health care district for which net revenue from operations is a negative number may not be apportioned any share of the commission's operational costs until the fiscal year following positive net revenue from operations, as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development.

(iii) A health care district that has filed and is operating under public entity bankruptcy pursuant to federal bankruptcy law, shall not be apportioned any share of the commission's operational costs until the fiscal year following its discharge from bankruptcy.

(E) Notwithstanding the requirements of subparagraph (C), the independent special districts' share may be apportioned by an alternative method approved by a majority of the districts, representing a majority of the combined populations. However, in no event shall the independent special districts' share exceed the amount that would be calculated pursuant to subparagraphs (C) and (D).

(F) Notwithstanding the requirements of subparagraph (C), no independent special district shall be apportioned a share of more than 50 percent of the total independent districts' share of the commission's operational costs, the share of the remaining

The net result of Chapter 439, Statutes of 1991 is that two representatives of special districts must sit upon the LAFCO Board. At the inception, this posed no problem because special districts did not contribute to the operations of the LAFCO. With the passage of Chapter 761, Statutes of 2000, the cost of claimant's mandatory participation in LAFCO increased to between \$20,000 and \$30,000 to underwrite the operational costs of LAFCO. With the passage of Chapter 493, Statutes of 2003, the costs of claimant's mandatory participation will increase substantially. LAFCO is presently in the process of preparing its budget, and we have been informed that claimant's mandatory contribution will be in the range of \$50,000 to \$70,000.

During this time of fiscal constraints, all other agencies, cities, counties and special districts alike, have had to live within their existing financial resources. However, LAFCO is not so constrained. It determines what funding it wants to operate for the following fiscal year, and then develops a budget upon that determination.³ It is the LAFCO's budget that determines the mandatory contribution required of claimant, over which claimant has no control.

2. Municipal Services Review

The second major change wrought by the passage of Chapter 761, Statutes of 2000, is the preparation and completion of a municipal services review.

³ See Government Code, Sections 56380 ff.

The purpose of Chapter 761, Statutes of 2000, known as the Cortese-Knoz-Herzberg Local Government Reorganization Act of 2000, is best encapsulated in the amended statement of legislative purpose found in Government Code, Section 56001:

The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing such development with sometimes competing state interests of discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services. The Legislature also recognizes that providing housing for persons and families of all incomes is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be affected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible.

The Legislature recognizes that urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The Legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities are required to be established regarding the type and levels of services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that those community service priorities are required to reflect local circumstances, conditions, and limited financial resources. The Legislature finds and declares that a single multi-purpose government agency, is accountable for community service needs and financial resources and, therefore, may be the best mechanism for establishing community service priorities, especially in urban areas. Notwithstanding, the Legislature recognizes the critical role of many limited

purpose agencies, especially in rural communities. The Legislature also finds that, whether governmental services are proposed to be provided by a single purpose agency, several agencies, or a multi-purpose agency, responsibility should be given to the agency or agencies that can best provide government services.

The concept of how there is to be orderly development and the consideration of municipal services is found in the creation and designation of municipal spheres of influence, as required by section 56425.⁴ The requirement to determine a new sphere of influence will come from a city or a developer⁵, which necessitates meetings in order to determine the new boundaries, development standards and zoning requirements. If the city cannot agree with the county on these requirements, it is submitted to LAFCO for its final determination. Although these sphere of influence reviews are either initiated or reviewed on a five year basis, these reviews are not initiated by special districts, yet are substantially impacted by same.

If the sphere of influence includes the area of a special district, the new legislation amended the requirements of section 56425, and the district is now required to do the following:

1. File written statements with LAFCO specifying the functions or classes of service provided by those districts;
2. Establish the nature, location and extent of any functions or classes of service provided by existing districts; and
3. No new or different function or class of service shall be provided by an existing district except as approved by LAFCO.⁶

In order to conduct the sphere of influence reviews every five years as is now required by section 56425, section 56430 was enacted, which requires a municipal services review:

(a) In order to prepare and to update spheres of influence in accordance with section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the sub-region, or such other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

⁴ Hereinafter, all references are to the Government Code, unless expressly stated to the contrary.

⁵ Any person or local agency can request an amendment to a sphere of influence. Section 56428. These requests are generally initiated by a municipality or developer.

⁶ Section 54625(g).

- (1) infrastructure needs or deficiencies;
- (2) growth and population projects for the affected area;
- (3) financing constraints and opportunities;
- (4) cost avoidance opportunities;
- (5) opportunities for rate restructuring;
- (6) opportunities for shared facilities;
- (7) government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
- (8) evaluation of management efficiencies; and
- (9) local accountability and governance.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with section 56425 or section 56426.5 or to update a sphere of influence pursuant to section 56425.

(d) Not later than July 1, 2001, the Office of Planning and Research, in consultation with commissions, the California Association of Local Agency Formation Commissions, and other local governments, shall prepare guidelines for the service reviews to be conducted by commissions pursuant to this section.

Although at first blush it might appear that it is the responsibility of the LAFCO to perform the municipal services review, which would be a relatively simple concept, the enactment of the Office of Planning and Research's LAFCO Municipal Service Review Guidelines, Final Draft 2002, issued on October 3, 2002, puts that concept to rest.⁷

The requirements for a municipal services review and the roles of the various entities is well documented throughout the guidelines. The participation of the special districts in providing the information needed to the LAFCO is mandated for its preparation of the municipal services review.⁸

⁷ See LAFCO Municipal Service Review Guidelines, Final Draft 2002, issued October 3, 2002, attached hereto as Exhibit 4 and incorporated herein by reference.

⁸ Guidelines, page 7.

This factor is further emphasized by the information to be provided by the special districts⁹ in the collection of the data and information, as well as completing the municipal service review report.¹⁰ To that end, the guidelines establish the type of information that is to be gathered by the cities and special districts, depending upon what information is applicable to the service provided:

1. A list of relevant statutory and regulatory obligations.
2. A copy of the most recent master services plan.
3. A metes and bounds legal description of the agency's boundary.
4. Service Area Maps (to the extent already prepared) including (1) A service boundary map; (2) A map indicating parcel boundaries (GIS maps may be available from the land use jurisdiction); (3) A vicinity or regional map with provider's boundary, major landmarks, freeways or highways, and adjacent or overlapping service provider boundaries (note: more than one map may need to be prepared to show all data); and (4) Maps indicating existing land uses within city or district boundaries and on adjacent properties.
5. Applicable excerpts from regional transportation, water, air quality, fair share housing allocation, airport land use, open space or agricultural plans or policies, or other environmental policies or programs.
6. Copies of regulatory and operating permits.
7. Number of acres or square miles included within the service area.
8. Type of sphere or sphere boundaries.
9. Assessed valuation.
10. Estimate of population within district boundaries.
11. As appropriate, the number of people, households, parcels or units currently receiving service, or the number of service connections.
12. Projected growth in service demand or planned new service demand/capacity.
13. Special communities of interest or neighborhoods affected by service.
14. Capital improvement plans.
15. Current service capacity.
16. Call volume.
17. Response time.
18. Annual operating budget.¹¹

From the foregoing list, it is apparent that the information to be provided to the LAFCO by cities and special districts is extensive. This is not just a request for simple information from a city or special district, but will require substantial effort to provide the data and information required.

Because of the mandated requirement, LAFCO's will have to undertake a workplan to make sure that all of the requirements of its municipal services review are completed. The elements of such a work plan include:

⁹ Note that special districts and cities are referred to as "service providers" in the guidelines.

¹⁰ Guidelines, page 11.

¹¹ See Guidelines, page 12.

1. List of services to be reviewed.
2. Service providers that will be affected/involved.
3. Study Area Boundaries for the municipal service review.
4. Data Collection process.
5. Public Participation process.
6. Public hearing process.¹²

Because of the comprehensiveness of the LAFCO's municipal service review and its subsequent effect on land use decisions, it is a project under CEQA, and thus the entire process must comply with the California Environmental Quality Act, Public Resources Code, Section 21000. If future land use determinations are to be based on the municipal services review, the LAFCO must prepare an EIR on same.¹³

The nature and extent of a municipal services review is extremely comprehensive. The Office of Planning and Research prepared a list of comprehensive factors for each of the following items:

1. Infrastructure needs and deficiencies
2. Growth and population projections for the affected area
3. Financing constraints and opportunities
4. Cost avoidance opportunities
5. Opportunities for rate restructuring
6. Opportunities for share facilities
7. Government structure options
8. Evaluation of management efficiencies¹⁴
9. Local accountability and governance¹⁵

It is the section concerning the evaluation of management efficiencies which requires the cities and special districts providing municipal services to provide substantial input. For the LAFCO to consider these factors as they impact claimant requires the claimant to provide substantial information and data which is not presently in a format ready for dissemination:

1. Evaluation of agency's capacity to assist with and/or assume services provided by other agencies.
2. Evaluation of agency's spending on mandatory programs.
3. Comparison of agency's mission statement and published customer service goals and objectives.
4. Availability of master service plan(s).
5. Contingency plans for accommodating existing and planned growth.
6. Publicized activities.

¹² Guidelines, page 17.

¹³ Guidelines, Chapter 7, commencing on page 24.

¹⁴ This section is most like a management review of the municipal services provided by a city or special district.

¹⁵ Guidelines, pages 29-36.

7. Implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement.
8. Personnel policies.
9. Availability of resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service.
10. Available technology to conduct an efficient business.
11. Collection and maintenance of pertinent data necessary to comply with state laws and provide adequate services.
12. Opportunities for joint powers agreements, Joint Powers Authorities, and/or regional planning opportunities.
13. Evaluation of agency's system of performance measures.
14. Capital improvement projects as they pertain to §65401 and §651039c.
15. Accounting practices.
16. Maintenance of contingency reserves.
17. Written policies regarding the accumulation and use of reserves and investment practices.
18. Impact of agency's policies and practices on environmental objectives and affordable housing.
19. Environment and safety compliance.
20. Current litigation and/or grand jury inquiry involving the service under LAFCO review.¹⁶

It is obvious that the LAFCO may not have the information requisite in order to complete the management review called upon by the municipal services review. However, the LAFCO has the preexisting authority to require the requisite information be provided by the cities and special districts by virtue of section 56820.5, which enables the LAFCO to require requisite information be provided to it by regulation.

The LAFCO Municipal Service Review Guidelines, Final Draft Appendices 2002, issued October 3, 2002¹⁷ go into even more comprehensive detail as to how the requisite information and funding may be obtained by the LAFCO to complete the review. The Appendices stress that the LAFCO may by regulation require the submittal of information.¹⁸ Additionally, various funding mechanisms have been suggested.¹⁹

As a result of the foregoing, the Sacramento LAFCO has commenced its municipal services review, and has informed the service providers, including claimant, of the information which is to be provided. This information is lengthy and comprehensive. In order to provide the information necessary, claimant estimates it will cost a minimum of \$20,000. In fact, claimant has contracted with a consultant for the provision of that information, with a contract amount of \$15,000. This contract does not include staff time

¹⁶ Guidelines, page 35.

¹⁷ Attached hereto as Exhibit 5 and referred to herein as Appendices.

¹⁸ Appendices, page 14.

¹⁹ Appendices, pages 26-27.

necessary to gather the data so that it can be formulated in a manner acceptable to the LAFCO.

As far as preparing the municipal services review itself, the Sacramento LAFCO has notified claimant that it will be charged at least \$5,000 for LAFCO to review just its services in the municipal services review.

At a time of extensive budget constraints, compliance with the municipal services review is an onerous requirement. If this were a time of budget surpluses, the effect on claimant would not be so dire. However, LAFCO's are uniquely poised to be immune from the fiscal woes besetting the state. They may charge whatever fees are necessary to cover their expenses, and establish a budget that those providing services within its jurisdiction must pay.

B. LEGISLATIVE HISTORY PRIOR TO 1975

Prior to 1975, there was no requirement that there be contributions by special districts to the costs or operations of a LAFCO, as recited above. Furthermore, the requirement for a municipal services review was enacted with the passage of Chapter 761, Statutes of 2000. Although parts of the requirements of a LAFCO were enacted prior to January 1, 1975, the portions referred to in the within test claim all arose after January 1, 1975.

C. SPECIFIC STATUTORY SECTIONS THAT CONTAIN THE MANDATED ACTIVITIES

The mandated activities are contained in Government Code, sections 56326.5, 56381, 56381.6, 56001, 56425, 56430, 56426.5, the LAFCO Municipal Service Review Guidelines, Final Draft 2002, issued October 3, 2002, and the LAFCO Municipal Service Review Guidelines, Final Draft Appendices 2002, issued October 3, 2002.

D. COST ESTIMATES

The Sacramento Metropolitan Fire District does not have the total estimate of costs for discharging this program. However, the claimant is informed and believes that with the enactment of Chapter 761, Statutes of 2000, it cost between \$20,000 to \$30,000 to defray its portion of the LAFCO's annual budget, and it is estimated that because of the changes wrought by Chapter 493, Statutes of 2002, it will cost between \$50,000 and \$80,000 per year to so fund. Regarding the municipal services review, the LAFCO has indicated it will charge the claimant upwards of \$5,000 to review its component, and it will cost the claimant in excess of \$20,000 to provide the information required to the LAFCO.

E. REIMBURSABLE COSTS MANDATED BY THE STATE

The costs incurred by the claimant as a result of the statutes on which this test claim is based are all reimbursable costs as such costs are "costs mandated by the State" under Article XIII B (6) of the California Constitution, and Government Code § 17500 *et al.* of the Government Code. Section 17514 defines "costs mandated by the state", and specifies the following three requirements:

1. There are "increased costs which a local agency is required to incur after July 1, 1980."
2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975.:"
3. The costs are as a result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

All three of the above requirements for finding costs mandated by the State are met as described previously herein.

F. MANDATE MEETS BOTH SUPREME COURT TESTS

The mandate created by this statute clearly meets both tests that the Supreme Court in the *County of Los Angeles v. State of California* (1987) created for determining what constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists are the "unique to government" and the "carry out a state policy" tests. Their application to this test claim is discussed below:

Mandate is Unique to Local Government

Only local government provides the municipal services and types of review required by the new legislation.

Mandate Carries Out a State Policy

As seen from the statement of legislative intent, the purpose of the activities created by the test claim legislation is to assure that there is appropriate growth and that adequate services are provided to existing residents as well as for anticipated population growth.

In summary, the statutes and guidelines mandate that the claimant bear the burden of funding LAFCO and providing detailed information and pay for the cost of the municipal services review.

STATE FUNDING DISCLAIMERS ARE NOT APPLICABLE

There are seven disclaimers specified in Government Code § 17556 which could serve to bar recovery of "costs mandated by the State", as defined in Government Code § 17556. None of the seven disclaimers apply to this test claim:

1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the Program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.
2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.
3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.
4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.
5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the State mandate in an amount sufficient to fund the cost of the State mandate.
6. The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a Statewide election.
7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

CONCLUSION

The enactment of Chapter 439, Statutes of 1991, Chapter 761, Statutes of 2000, Chapter 493, Statutes of 2002, LAFCO Municipal Services Review Guidelines, and LAFCO Municipal Services Review Guidelines Appendices imposed a new state mandated program and cost on claimant. First of all, it shifted funding of the LAFCO onto the shoulders of independent districts, of which claimant is one. Although in some counties districts have the option of whether or not to have a position on the LAFCO board, same is not true of Sacramento County. Additionally, there is now required the municipal services review, which is a comprehensive document which results in a management audit of the municipal services provided within a LAFCO's jurisdiction. The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state mandated program. None of the so-called disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement have any application to this claim.

G. CLAIM REQUIREMENTS

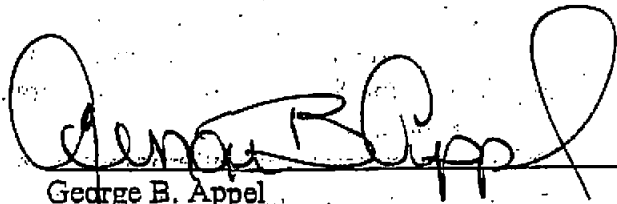
The following elements of this test claim are provided pursuant to Section 1183, Title 2 of the California Code of Regulations:

- Exhibit 1: Chapter 439, Statutes of 1991
- Exhibit 2: Chapter 761, Statutes of 2000
- Exhibit 3: Chapter 493, Statutes of 2002
- Exhibit 4: LAFCO Municipal Services Review Guidelines
- Exhibit 5: LAFCO Municipal Services Review Guidelines Appendices

CLAIM CERTIFICATION

The foregoing facts are known to me personally and if so required, I could and would testify to the statements made herein. I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and complete to the best of my personal knowledge except as to those matters stated upon information and belief, and as to those matters I believe them to be true.

Executed this 9th day of May, 2003 at Sacramento, California, by:



George B. Appel
Deputy Chief

DECLARATION OF GEORGE B. APPEL

I, George B. Appel, make the following declaration under oath:

I am a Deputy Chief for the Sacramento Metropolitan Fire District. As part of my duties, I am responsible for the complete and timely recovery of costs mandated by the State.

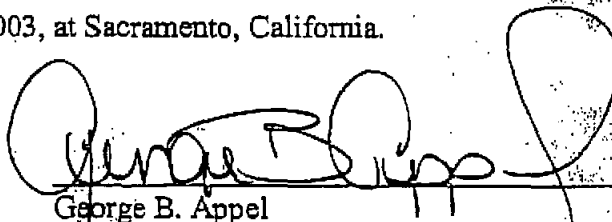
I declare that I have examined the Sacramento Metropolitan Fire District's State mandated duties and resulting costs in implementing the subject law and guidelines, and find that such costs are, in my opinion, "costs mandated by the State", as defined in Government Code, Section 17514:

"Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts, and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are stated upon information or belief, and as to those matters, I believe them to be true.

Executed this 9th day of May, 2003, at Sacramento, California.



George B. Appel
Deputy Chief
Sacramento Metropolitan Fire District

poison issued pursuant to Section 6260 of Title 3 of the California Code of Regulations for the purpose of testing the economic poison, and the produce on which the economic poison was tested is required to be destroyed, any actual costs incurred by the commissioner to investigate and confirm the destruction of the produce shall be paid for by the person who has the research authorization. The costs charged by the commissioner shall not exceed one hundred twenty-five dollars (\$125) per testsite. The board of supervisors of each county may adopt a fee schedule to cover the commissioner's costs under this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 439

An act to add Section 56326.5 to the Government Code, relating to local agency formation commissions.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 56326.5 is added to the Government Code, to read:

56326.5. In Sacramento County, the commission shall consist of seven members, selected as follows:

(a) Two representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One representing the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. The mayor shall also appoint, subject to confirmation by the

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council, an alternate member who is a member of the city council. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One representing the cities in the county, who is a city officer appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335.

(d) Two representing special districts selected by an independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56332.

(e) One representing the general public, appointed by the other six members of the commission. The commission may also appoint an alternate public member who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the regular public member until the appointment and qualification of a regular public member to fill the vacancy.

The member initially selected to serve pursuant to subdivision (b) shall commence serving on or after January 1, 1992, on a date determined by the Mayor of the City of Sacramento, and shall serve for the remainder of the term of, and in place of, a member to be designated by the mayor, appointed pursuant to subdivision (b) of Section 56325.

SEC. 2. The City of Sacramento has the largest population of any city in the County of Sacramento, creating a unique set of circumstances which affects its role in the growth and development of urban areas. Due to these unique facts and circumstances applicable only to the County of Sacramento, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Special legislation is, therefore, necessary to be applicable only to the County of Sacramento.

CHAPTER 761

An act to amend Section 35721 of, and to add Sections 35700.5 and 35721.5 to, the Education Code, to amend Sections 34880, 56000, 56001, 56029, 56036, 56038, 56046, 56048, 56064, 56067, 56068, 56069, 56074, 56100, 56101, 56106, 56107, 56122, 56123, 56124, 56129, 56132, 56133, 56150, 56154, 56156, 56157, 56159, 56300, 56301, 56325, 56326, 56326.5, 56327, 56328, 56329, 56332, 56334, 56375, 56375.5, 56377, 56383, 56384, 56386, 56425, 56429, 56653, 56705, 56706, 56708, 56710, 57000, 57001, 57002, 57003, 57007, 57008, 57025, 57026, 57050, 57051, 57052, 57075, 57075.5, 57076, 57077, 57078, 57080, 57081, 57090, 57125, 57126, 57127, 57129, 57130, 57131, 57133, 57138, 57144, 57145, 57146, 57148, 57149, 57150, 57176, 57176.1, 57177, 57177.5, 57178, 57179, 57200, 57201, 57302, 57303, 57379, 57384, 57402, and 57404 of, to amend the heading of Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of, to amend and renumber Sections 57053, 57079.5, 57082, 57082.5, 57083, 57083.5, 57084, 57085, 57086, 57087, 57087.5, 57087.7, 57088, 57089, 57091, 57092, 57093, 57100, 57101, 57102, 57103, 57103.1, and 57104 of, to amend, renumber, and add Section 56800 of, to add Sections 56020.5, 56020.7, 56037.5, 56038.5, 56100.1, 56325.1, 56327.3, 56332.5, 56375.3, 56381.6, 56425.5, 56430, 56655, 56657, 56658, 56660, 56661, 56662, 56663, 56664, 56665, 56666, 56667, 56668, 56668.5, 56700.1, 56700.4, 56803, 56815.2, 56848, and 57078.5 to, to add a heading as Article 1 (commencing with Section 56800) to, and to add Article 2 (commencing with Section 56810) and Article 3 (commencing with Section 56815) to, Chapter 4 of Part 3 of Division 3 of Title 5 of, to add Article 1 (commencing with Section 56820) to, to add a heading as Article 2 (commencing with Section 56825) to, to add Article 3 (commencing with Section 56859) to, to add Article 4 (commencing with Section 56864) to, and to add Article 5 (commencing with Section 56875) to, Chapter 5 of Part 3 of Division 3 of Title 5 of, to add a heading as Chapter 5 (commencing with Section 56820) to, to add Chapter 3 (commencing with Section 56720) and Chapter 6 (commencing with Section 56880) to, Part 3 of Division 3 of Title 5 of, to add and repeal Section 56434 of, to repeal Sections 56022, 56108, 56109, 56110, 56111, 56111.1, 56111.5, 56111.6, 56111.7, 56111.9, 56111.10, 56111.11, 56111.12, 56111.13, 56111.14, 56112, 56113, 56114, 56330, 56375.1, 56375.4, 56375.45, 56426, 56656, 56700.3, 56700.5, 56701, 56702, 56800.3, 56827.5, 56828.5, 56833.1, 56833.3, 56833.5, 56839.1, 56840.5, 56842.2, 56842.5, 56842.6, 56842.7, 56844.1, 56844.2, 56848.3, 56848.5, 56850, 56851, 56852, 56852.3, 56852.5, 56858, 56859, 57004, 57005, 57006, 57079, and 57175 of, to repeal the heading of Chapter 5 (commencing with Section 56825) of Part 3 of Division 3 of Title 5 of, to repeal Chapter 5 (commencing with Section 56450) of, and

Chapter 6 (commencing with Section 56475) of, Part 2 of Division 3 of Title 5 of, to repeal Chapter 3 (commencing with Section 56750) of Part 3 of Division 3 of Title 5 of, and to repeal and add Sections 56380, 56381, 56801, 56802, 56826, 56827, 56828, 56829, 56830, 56831, 56832, 56833, 56834, 56835, 56836, 56837, 56838, 56839, 56840, 56841, 56842, 56843, 56844, 56845, 56846, 56847, 56849, 56853, 56854, 56855, 56856, and 56857 of, the Government Code, and to amend Section 99 of the Revenue and Taxation Code, relating to local agencies:

[Approved by Governor September 26, 2000. Filed with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2838, Hertzberg. Local agency formation commissions.

(1) Under existing law, the Cortese-Knox Local Government Reorganization Act of 1985, the local agency formation commission in each county is required to review and approve or disapprove proposals for changes of organization or reorganization of cities and districts within the county. If a proposal is approved, further proceedings, including a hearing and an election if required, are conducted by the county or other public agency designated as the conducting authority.

This bill would rename the act as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, delete references in the act to the conducting authority, and transfer its duties and powers to the commission.

(1.5) Under existing law, an action to reorganize school districts may be initiated by a petition filed with the county superintendent of schools signed by 25% of the registered voters in the territory to be reorganized. Following the receipt of a petition signed by at least 10% of the qualified electors of a school district for unification or other organization, the county committee on school district organization is required to hold a public hearing.

This bill would require the county committee to provide written notice to the commission before initiating proceedings to consider any reorganization plan under either provision. The bill would also require the county committee to hold a public hearing on receipt of a resolution of a local agency, as specified, for consideration of unification or other reorganization.

(2) Under the act, noncontiguous territory may not be annexed to a city. However, statutory exceptions permit particular cities to annex noncontiguous territory that constitutes a state correctional facility or a state correctional training facility.

This bill would delete these exceptions and authorize any city to annex that noncontiguous territory upon approval of the local agency formation commission.

(3) Existing law authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries if it receives written approval from the commission but provides that this approval requirement does not apply to contracts or agreements solely involving 2 or more public agencies.

This bill would permit this exception where the public service to be provided is an alternative to or substitute for public services already being provided, as specified. This bill would also require the executive officer, within 30 days of receipt of a request for approval by a city or district to extend services outside its jurisdictional boundary, to determine whether the request is complete and acceptable for filing and, if not, to transmit that determination to the requester, specifying the parts that are incomplete. When the request is deemed complete, the executive officer would be required to place the request on the agenda of the next commission meeting.

(4) Existing law specifies how required notice shall be published, posted, or mailed with respect to the proceedings of a local agency formation commission.

This bill would provide that required notice shall also be given in electronic format on a website provided by the commission to the extent that the commission maintains a website. The bill would require the commission to establish and maintain, or otherwise provide access to, notices and provide other commission information for the public through an Internet website, thereby imposing a state-mandated local program.

This bill would require the commission to provide written notice of a proposed reorganization that may affect school attendance for a district to the countywide school district and each school superintendent whose district would be affected.

This bill would additionally require the commission to provide mailed notice to all registered voters and owners of property within 300 feet of the exterior boundary of the property that is the subject of a commission hearing.

(5) Existing law defines "landowner" or "owner of land" for purposes of the act as any person shown as the owner of land on the last equalized assessment roll except where that person is no longer the owner.

This bill would change that definition to any person shown as the owner of land on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application except where that person is no longer the owner, and would make related changes.

(6) Existing provisions of the act require that notices of hearings of a local agency formation commission be published at least 15 days prior to the date of the hearing.

This bill would change that period to at least 20 days prior to the date of the hearing.

(7) Existing law declares the intent of the Legislature that each commission establish policies and exercise its powers to encourage efficient urban development and consideration of preserving open-space lands.

This bill would declare the intent of the Legislature that each commission establish written policies and procedures not later than January 1, 2002. The bill would require the policies and procedures to include lobbying disclosure and reporting requirements and forms to be used for submittals to the commission.

(8) The act establishes the purposes of a local agency formation commission, such as discouraging urban sprawl and encouraging orderly formation and development of local agencies.

This bill would add to those purposes preserving open-space and agricultural lands and efficiently providing government services. The bill would also require a commission, when formation of a new governmental entity is proposed, to make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. The bill would require a commission to apply various factors when reviewing and approving or disapproving proposals that may convert open-space lands to other uses.

(9) The act establishes procedures for the selection of the 5 members of a local agency formation commission.

This bill would increase the number of members to 7 and would revise the selection procedures.

Existing law provides that the commission for Los Angeles County consists of 7 members.

This bill would increase that membership to 9 members.

(10) Existing law sets forth the various powers and duties of a local agency formation commission in reviewing and approving or disapproving proposals for changes of organization or reorganization. Among other things, a commission may require as a condition to annexation that a city prezone the territory to be annexed.

This bill would provide that a commission shall require that pre zoning, and would require that approval of the annexation be consistent with the planned and probable use of the property based upon the review of the general plan and pre zoning designations.

This bill would also authorize a commission to enter into an agreement with the commission of an adjoining county to determine procedures for considering proposals that may affect the adjoining county. The bill would also authorize a commission to review the consistency of a proposal within a city's general plan when a proposed action would require the extension of critical services.

This bill would authorize a commission to require the disclosure of contributions, expenditures, and independent expenditures made in support of or opposition to a proposal and to require lobbying

disclosure and reporting requirements for persons who attempt to influence pending decisions by commission members, staff, or consultants, would prescribe how disclosure is to be made, and would require a commission to hold public hearings to discuss the adoption of policies and procedures governing disclosure, thereby imposing a state-mandated local program.

(11) Existing law requires the county board of supervisors to provide for necessary quarters, facilities, supplies, and the usual and necessary operating expenses of a local agency formation commission. The commission is required to submit an estimate of operating expenses to the board.

This bill would repeal that requirement and provide that the commission expenses shall be provided by the county, the cities, and the special districts. The bill would require that the estimate, be submitted to the cities and the counties and would require the commission to adopt a budget following a noticed public hearing, thereby imposing a state-mandated local program.

(12) Existing law authorizes a local agency formation commission to establish a schedule of fees for the costs of proceedings under the Cortese-Knox Local Government Reorganization Act of 1985, including a fee for checking the sufficiency of any petition filed with the executive officer of the commission.

This bill would require the signatures on a petition to be verified by the county elections official. The bill would provide that the costs of verification shall be provided for in the same manner and by the same agencies that bear those costs for an initiative petition in the same jurisdiction.

The bill would also authorize a commission to waive a fee in the public interest and to request a loan from the Controller for petition proceedings for an incorporation, as specified.

(13) Existing law authorizes a local agency formation commission to appoint an executive officer and legal counsel.

This bill would require a commission to appoint an executive officer and legal counsel, would authorize the commission to appoint staff, and would provide for alternatives if there is a conflict of interest on a matter before the commission.

(14) Existing law requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency within the county and periodically review and update the adopted sphere of influence.

This bill would require the review and update not less than once every 5 years. For that update and review the bill would require a commission to conduct a service review of municipal services provided in the county. The bill would require a commission to make certain determinations concerning functions and services provided by existing districts before approving any special district sphere of influence or any sphere of influence that includes a special district.

(15) Existing law requires a local agency formation commission to develop, determine, and adopt a sphere of influence for each local governmental agency that provides facilities or services related to development no later than January 1, 1985.

This bill instead would require the commission to develop and determine the sphere of influence of each local governmental agency and update that sphere of influence not less than once every 5 years and would provide a procedure until January 1, 2007, for city and county representatives to reach agreement on the scope of the proposed or revised sphere of influence. The bill would authorize the commission to review and approve a proposal that extends services into unserved, unincorporated areas and to review the creation of new service providers, as specified.

(15.5) Existing law authorizes certain local agencies to establish sewer and water supply facilities on designated lands related to the development of certain territory within the Norton Air Force Base Redevelopment Project Area, as specified.

This bill would provide that a determination of a city's sphere of influence that includes any of that redevelopment project area shall not preclude any other local agency from providing facilities or services related to development, as specified.

(16) Under the act, a local agency formation commission may adopt regulations affecting the functions and services of special districts. As long as those regulations are in effect, the special districts must be represented on the commission.

This bill would repeal this representation requirement and would provide that if the commission has special district representation prior to January 1, 2001, a majority of the independent special districts may require the commission to repeal previously adopted regulations that limit the exercise of powers of special districts.

(17) Existing law creates the Special Commission on Los Angeles Boundaries with specified duties and implements that commission only to the extent that funds are appropriated in the annual Budget Act.

This bill would repeal these provisions.

(18) Existing law defines a special reorganization as a reorganization that includes the detachment of territory from a city, or city and county and the incorporation of that entire detached territory as a city.

This bill would specify that proceedings for a special reorganization shall be conducted in accordance with the procedures otherwise prescribed for incorporation of a city.

The bill would also require that expenditures and contributions for political purposes related to a change of organization or reorganization proposal be disclosed and reported in the manner provided for local initiative measures.

(19) Existing law specifies the percentages of registered voters or landowners who must sign petitions for various changes or organization.

This bill would revise these percentages for city consolidations, city annexations, city detachments, district detachments or annexations, district dissolutions, district mergers, or the establishment of a district as a subsidiary district of a city.

(20) Existing law requires that commission review of a reorganization proposal include, but not be limited to, specified factors.

This bill would add to those factors the ability of the newly formed or receiving entity to provide services, the timely availability of adequate water supplies, the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs, and information from landowners or relating to existing land use designations.

This bill would also require a commission, in considering a proposal including the formation of a new government, to make a determination of the efficiency of existing agencies in providing the needed service or services. The bill would authorize the commission to consider regional growth goals and policies established by local elected officials.

(21) Existing law provides that in any order approving a change of organization or reorganization, the commission may make approval conditional on any of specified factors.

This bill would authorize a condition prohibiting an agency being dissolved from taking certain actions unless an emergency situation exists.

(22) This bill would require the Office of Planning and Research, in consultation with the Controller, to convene a task force of representatives from local agencies and commissions to create statewide guidelines for the incorporation process.

(23) Existing law authorizes any person or affected agency to file a written request to amend or reconsider a commission resolution making determinations.

This bill would require the request to state new or different facts or applicable new law to warrant reconsideration of the resolution.

(24) Existing law requires the conducting authority to consider certain factors if a proposed change of organization is a district annexation.

This bill would require a commission to consider these factors for a city detachment or a district annexation, other than a special reorganization, would add as a factor any resolution objecting to the action that may be filed by an affected agency, and would require the commission to give great weight to such a resolution.

(25) Existing law requires, in the event of a jurisdictional change that would affect the service area or responsibility of one or more

special districts, that the board of supervisors negotiate any exchange of property taxes on behalf of the district or districts.

This bill would require the board, prior to entering into negotiation, to consult with the affected districts, with notice to the district board members and executive officer, and adequate opportunity for comment.

(26) This bill would incorporate additional changes in specified sections of the Government Code proposed by AB 1495 and AB 2779, that would become operative if either or both of those bills and this bill are enacted and become effective on or before January 1, 2001, and this bill is enacted last.

(27) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 35700.5 is added to the Education Code, to read:

35700.5. Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

SEC. 1.5. Section 35721 of the Education Code is amended to read:

35721. (a) On receipt of a petition signed by at least 10 percent of the qualified electors residing in any district for a consideration of unification or other reorganization of any area, the county committee shall hold a public hearing on the petition at a regular or special meeting.

(b) On receipt of a petition signed by at least 5 percent of the qualified electors residing in a school district with over 200,000 pupils in average daily attendance in which the petition is to reorganize the district into two or more districts, the county committee shall hold a public hearing on the petition at a regular or special meeting.

(c) On receipt of a resolution approved by a majority of the members of a city council, county board of supervisors, governing body of a special district, or local agency formation commission that has jurisdiction over all or a portion of the school district for

consideration of unification or other reorganization of any area, the county committee shall hold a public hearing on the proposal at a regular or special meeting.

(d) Following the hearing conducted pursuant to subdivision (a), (b), or (c), the county committee shall grant or deny the petition. If the county committee grants the petition, it shall adopt a tentative recommendation following which action it shall hold one or more public hearings in the area proposed for reorganization. The provisions of Sections 35705 and 35705.5 shall apply to any such public hearing.

SEC. 2. Section 35721.5 is added to the Education Code, to read:

35721.5. Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

SEC. 3. Section 34880 of the Government Code is amended to read:

34880. (a) If the petition or proposal developed by the commission for submission to the electorate for incorporation or special reorganization of a city provides for the election of members of the legislative body by (or from) districts and includes substantially the provisions required to be included in an ordinance providing for that election, including Section 34871, the members of the legislative body shall be elected in the manner provided in the petition or proposal.

(b) The members of the legislative body shall hold office until the next general municipal election. At the next general municipal election the members elected by or from the even-numbered districts shall hold office for four years and the members elected by or from the odd-numbered districts shall hold office for two years. Thereafter the term of office is four years.

SEC. 3.5. Section 56000 of the Government Code is amended to read:

56000. This division shall be known and may be cited as the Contese-Knox-Hertzberg Local Government Reorganization Act of 2000.

SEC. 4. Section 56001 of the Government Code is amended to read:

56001. The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services. The Legislature also

recognizes that providing housing for persons and families of all incomes is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible.

The Legislature recognizes that urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The Legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities are required to be established regarding the type and levels of services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that those community service priorities are required to reflect local circumstances, conditions, and limited financial resources. The Legislature finds and declares that a single multipurpose governmental agency is accountable for community service needs and financial resources and, therefore, may be the best mechanism for establishing community service priorities especially in urban areas. Nonetheless, the Legislature recognizes the critical role of many limited purpose agencies, especially in rural communities. The Legislature also finds that, whether governmental services are proposed to be provided by a single-purpose agency, several agencies, or a multipurpose agency, responsibility should be given to the agency or agencies that can best provide government services.

SEC. 5. Section 56020.5 is added to the Government Code, to read:

56020.5. "Certificate of completion" means the document prepared by the executive officer and recorded with the county recorder that confirms the final successful resolution of a change of organization or reorganization.

SEC. 6. Section 56020.7 is added to the Government Code, to read:

56020.7. "Certificate of termination of proceedings" means the document prepared by the executive officer and retained by the commission that indicates that a proposal for a change of organization or reorganization was terminated because of a majority written protest or rejection by voters in an election.

SEC. 7. Section 56022 of the Government Code is repealed.

SEC. 8. Section 56029 of the Government Code is amended to read:

56029. "Conducting authority" means the commission of the principal county of the entity proposing a change of organization or reorganization, unless another conducting authority is specified by law.

SEC. 9. Section 56036 of the Government Code is amended to read:

56036. (a) "District" or "special district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" or "special district" includes a county service area, but excludes all of the following:

- (1) The state.
- (2) A county.
- (3) A city.
- (4) A school district or a community college district.
- (5) A special assessment district.
- (6) An improvement district.
- (7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5.
- (8) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.
- (9) An air pollution control district or an air quality maintenance district.
- (10) A service zone of a fire protection district.

(b) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or a "special district" for the purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or a "special district":

- (A) A unified or union high school library district.
 - (B) A bridge and highway district.
 - (C) A joint highway district.
 - (D) A transit or rapid transit district.
 - (E) A metropolitan water district.
 - (F) A separation of grade district.
- (2) Any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving an entity described in paragraph (1) shall be conducted pursuant to the principal act authorizing the establishment of that entity.

(c) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or "special district" for purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or "special district" if the commission of the principal county determines, in accordance with Sections 56127 and 56128, that the entity is not a "district" or "special district."

- (A) A flood control district.
- (B) A flood control and floodwater conservation district.
- (C) A flood control and water conservation district.
- (D) A conservation district.
- (E) A water conservation district.
- (F) A water replenishment district.
- (G) The Orange County Water District.
- (H) A California water storage district.
- (I) A water agency.
- (J) A county water authority or a water authority.

(2) If the commission determines that an entity described in paragraph (1) is not a "district" or "special district," any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving the entity shall be conducted pursuant to the principal act authorizing the establishment of that entity.

SEC. 10. Section 56037.5 is added to the Government Code, to read:

56037.5. "Elections official" shall have the same meaning as in Section 320 of the Elections Code.

SEC. 11. Section 56038 of the Government Code is amended to read:

56038. "Executive officer" means the executive officer appointed by a commission.

SEC. 12. Section 56038.5 is added to the Government Code, to read:

56038.5. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological factors.

SEC. 13. Section 56046 of the Government Code is amended to read:

56046. "Inhabited territory" means territory within which there reside 12 or more registered voters. The date on which the number of registered voters is determined is the date of the adoption of a resolution of application by the legislative body pursuant to Section 56654, if the legislative body has complied with subdivision (b) of that section, or the date a petition or other resolution of application is accepted for filing and a certificate of filing is issued by the executive officer. All other territory shall be deemed "uninhabited."

SEC. 14. Section 56048 of the Government Code is amended to read:

56048. (a) Except as otherwise provided in subdivision (b) or (c), "landowner" or "owner of land" means all of the following:

(1) Any person shown as the owner of land on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application except where that person is no longer the owner. Where that person is no longer the owner, the landowner or owner of land is any person entitled to be shown as owner of land on the next assessment roll.

(2) Where land is subject to a recorded written agreement of sale, any person shown in the agreement as purchaser.

(3) Any public agency owning land.

(b) "Landowner" or "owner of land" does not include a public agency which owns highways, rights-of-way, easements, waterways, or canals.

(c) For the purpose of mailed notice provided pursuant to Section 56157, "landowner" or "owner of land" means each person to whom land is assessed, as shown upon the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application, at the address shown upon that assessment roll.

SEC. 15. Section 56064 of the Government Code is amended to read:

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.

(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four

hundred dollars (\$400) per acre for three of the previous five calendar years.

SEC. 16. Section 56067 of the Government Code is amended to read:

56067. "Proceeding," "proceeding for a change of organization," or "proceeding for a reorganization" means proceedings taken by the commission for a proposed change of organization or reorganization pursuant to Part 4 (commencing with Section 57000).

SEC. 17. Section 56068 of the Government Code is amended to read:

56068. "Proponent" means the person or persons who file a notice of intention to circulate a petition with the executive officer.

SEC. 18. Section 56069 of the Government Code is amended to read:

56069. "Proposal" means a request or statement of intention made by petition or by resolution of application of a legislative body or of a school district proposing proceedings for the change of organization or reorganization described in the request or statement of intention.

SEC. 19. Section 56074 of the Government Code is amended to read:

56074. "Service" means a class established within, and as a part of, a single function, as provided by regulations adopted by the commission pursuant to Chapter 5 (commencing with Section 56820) of Part 3.

SEC. 21. Section 56100 of the Government Code is amended to read:

56100. Except as otherwise provided in paragraph (2) of subdivision (b) of Section 56036, paragraph (2) of subdivision (c) of Section 56036, and Section 56101, this division provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. All changes of organization and reorganizations shall be initiated, conducted, and completed in accordance with, and as provided in, this division.

Notwithstanding any other provision of law, proceedings for the formation of a district shall be conducted as authorized by the principal act of the district proposed to be formed, except that the commission shall serve as the conducting authority and the procedural requirements of this division shall apply and shall prevail in the event of conflict with the procedural requirements of the principal act of the district. In the event of such a conflict, the commission shall specify the procedural requirements that apply, consistent with the requirements of this section.

SEC. 21.5. Section 56100.1 is added to the Government Code, to read:

56100.1. A commission may require, through the adoption of written policies and procedures, the disclosure of contributions, as defined in Section 82015, expenditures, as defined in Section 82025, and independent expenditures, as defined in Section 82031, made in support of or opposition to a proposal. Disclosure shall be made either to the commission's executive officer, in which case it shall be posted on the commission's website, if applicable, or to the board of supervisors of the county in which the commission is located, which may designate a county officer to receive the disclosure. Disclosure pursuant to a requirement under the authority provided in this section shall be in addition to any disclosure required by Title 9 (commencing with Section 81000) or by local ordinance.

SEC. 22. Section 56101 of the Government Code is amended to read:

56101. This division does not apply to any proceeding for a change of organization or reorganization for which the application shall have been accepted for filing by the executive officer pursuant to Section 56658 prior to January 1, 2001. These pending proceedings may be continued and completed under, and in accordance with, the provisions of law under which the proceedings were commenced. The repeals, amendments, and additions made by the act enacting this division shall not apply to any of those pending proceedings, and, the laws existing prior to January 1, 2001, shall continue in full force and effect, as applied to those pending proceedings.

SEC. 23. Section 56106 of the Government Code is amended to read:

56106. Any provisions in this division governing the time within which an official or the commission is to act shall in all instances, except for notice requirements and the requirements of subdivision (i) of Section 56658, be deemed directory, rather than mandatory.

SEC. 24. Section 56107 of the Government Code is amended to read:

56107. (a) This division shall be liberally construed to effectuate its purposes. No change of organization or reorganization ordered under this division and no resolution adopted by the commission making determinations upon a proposal shall be invalidated because of any defect, error, irregularity, or omission in any act, determination, or procedure which does not adversely and substantially affect the rights of any person, city, county, district, the state, or any agency or subdivision of the state.

(b) All determinations made by a commission under, and pursuant to, this division shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion.

(c) In any action or proceeding to attack, review, set aside, void, or annul a determination by a commission on grounds of noncompliance with this division, any inquiry shall extend only to whether there was fraud or a prejudicial abuse of discretion.

Prejudicial abuse of discretion is established if the court finds that the determination or decision is not supported by substantial evidence in light of the whole record.

- SEC. 25. Section 56108 of the Government Code is repealed.
- SEC. 26. Section 56109 of the Government Code is repealed.
- SEC. 27. Section 56110 of the Government Code is repealed.
- SEC. 28. Section 56111 of the Government Code is repealed.
- SEC. 29. Section 56111.1 of the Government Code is repealed.
- SEC. 30. Section 56111.5 of the Government Code is repealed.
- SEC. 31. Section 56111.6 of the Government Code is repealed.
- SEC. 32. Section 56111.7 of the Government Code is repealed.
- SEC. 33. Section 56111.9 of the Government Code is repealed.
- SEC. 34. Section 56111.10 of the Government Code is repealed.
- SEC. 35. Section 56111.11 of the Government Code is repealed.
- SEC. 36. Section 56111.12 of the Government Code is repealed.
- SEC. 37. Section 56111.13 of the Government Code is repealed.
- SEC. 38. Section 56111.14 of the Government Code is repealed.
- SEC. 39. Section 56112 of the Government Code is repealed.
- SEC. 40. Section 56113 of the Government Code is repealed.
- SEC. 41. Section 56114 of the Government Code is repealed.
- SEC. 42. Section 56122 of the Government Code is amended to read:

56122. Section 56886 and any term and condition provided by, or made pursuant to, that section shall be enforceable by, between, among, and against any public agency or agencies designated in the term and condition, but shall not constitute, or be given effect as, a limitation upon the power of any bondholder or other creditor to enforce his or her rights, particularly any rights provided for by Part 5 (commencing with Section 57300), as if Section 56886 had not been enacted or the term and condition had not been made or provided pursuant to that section.

SEC. 43. Section 56123 of the Government Code is amended to read:

56123. Except as otherwise provided in Section 56124, if a proposed change of organization or a reorganization applies to two or more affected counties, for the purpose of this division, exclusive jurisdiction shall be vested in the commission of the principal county. Any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other county official, shall be given, taken, or made by the persons holding those offices in the principal county. The commission of the principal county shall provide notice to the chair, each board member, and the executive officer of all affected agencies of any proceedings, actions, or reports on the proposed change of organization or reorganization. Any officer of a county other than the principal county shall cooperate with the commission of the principal county and shall furnish the

commission of the principal county with any certificates, records, or certified copies of records as may be necessary to enable the commission of the principal county to comply with this division.

SEC. 44. Section 56124 of the Government Code is amended to read:

56124. If a proposed change of organization or a reorganization applies to two or more affected counties, for purposes of this division, exclusive jurisdiction may be vested in the commission of an affected county other than the commission of the principal county if all of the following occur:

(a) The commission of the principal county approves of having exclusive jurisdiction vested in another affected county.

(b) The commission of the principal county designates the affected county which shall assume exclusive jurisdiction.

(c) The commission of the affected county so designated agrees to assume exclusive jurisdiction.

If exclusive jurisdiction is vested in the commission of an affected county other than the principal county pursuant to this section, any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other officer of a county, shall be given, taken, or made by the persons holding those offices in the affected county. Any officer of a county other than the affected county shall cooperate with the commission of the affected county and shall furnish the commission of the affected county with any certificates, records, or certified copies of records as may be necessary to enable the commission of the affected county to comply with this division.

SEC. 45. Section 56129 of the Government Code is amended to read:

56129. (a) If a public utility has been granted a certificate of public convenience and necessity authorizing and requiring it to furnish gas or electric service within a certain service area and, as a result of a change of organization or a reorganization, territory consisting of all, or any part, of that service area becomes a part of, or is formed into, a district authorized by its principal act to furnish gas or electric service, the district shall not furnish that service within the territory except upon approval by both of the following:

(1) The commission after receipt and consideration of the report of the Public Utilities Commission made as provided in Section 56131.

(2) The voters within the territory, given at an election as provided in Section 56130.

(b) If both of those approvals are given, upon assumption of service by the district the public utility may at any time thereafter withdraw service within the territory, unless otherwise ordered by the Public Utilities Commission.

(c) "Gas or electric service," as used in this section and in Sections 56130, 56131, and 56875, means the distribution and sale for any

purpose, other than for the purpose of resale, of gas or electricity for light, heat, or power.

SEC. 46. Section 56132 of the Government Code is amended to read:

56132. (a) This section shall only apply to any change of organization or reorganization that includes detachment of territory from the Broadmoor Police Protection District in the County of San Mateo and which includes or accommodates, or is intended to facilitate, an annexation of territory to another local agency that has initiated the change of organization or reorganization. This section does not, however, apply to any territory comprising real property owned by the San Francisco Bay Area Rapid Transit District.

If the commission adopts a resolution approving such a change of organization or reorganization, the board of commissioners of the district may, within 15 days thereafter, adopt a resolution finding either that the proposed detachment may or will not adversely affect the district's ability to efficiently provide its law enforcement services in the remainder of the district. The district shall, if it adopts a resolution, file a certified copy of its resolution with the local agency to which the affected territory is proposed to be annexed and the commission. If that resolution finds that the proposed detachment may have an adverse financial effect, then the reorganization shall not become effective unless a majority of the voters voting at a special election of the district called for that purpose approve the detachment. The Broadmoor Police Protection District shall pay the costs of the election. For purposes of this section, it shall be conclusively presumed that any affected local agency which adopts a resolution under Section 56654 requesting a detachment of contiguous territory from the Broadmoor Police Protection District and which could have concurrently requested annexation of the affected territory, intends to do so.

(b) The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the following special circumstances:

The Broadmoor Police Protection District consists primarily of suburban residential properties which have long enjoyed an urban level of police services. The threat of continued piecemeal detachments of territory from the district threatens its ability to continue providing that level of service on an economically efficient basis.

(c) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute that is enacted prior to January 1, 2002, deletes or extends that date.

SEC. 47. Section 56133 of the Government Code is amended to read:

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

(1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and

facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on January 1, 1994. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

SEC. 48. Section 56150 of the Government Code is amended to read:

56150. Unless the provision or context otherwise requires, whenever this division requires notice to be published, posted, or mailed, the notice shall be published, posted, or mailed as provided in this chapter. Unless the provision or context otherwise requires, whenever this division requires notice to be given that notice shall also be given in electronic format on a website provided by the commission, to the extent that the commission maintains a website.

SEC. 50. Section 56154 of the Government Code is amended to read:

56154. If the published notice is a notice of a hearing, publication of the notice shall be commenced at least 21 days prior to the date specified in the notice for the hearing.

SEC. 51. Section 56156 of the Government Code is amended to read:

56156. If the mailed notice is notice of a hearing, the notice shall be mailed at least 21 days prior to the date specified in the notice for hearing.

SEC. 52. Section 56157 of the Government Code is amended to read:

56157. When mailed notice is required to be given to:

(a) A county, city, or district, it shall be addressed to the clerk of the county, city, or district.

(b) A commission, it shall be addressed to the executive officer.

(c) Proponents, it shall be addressed to the persons so designated in the petition at the address specified in the petition.

(d) Landowners, it shall be addressed to each person to whom land is assessed, as shown upon the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application, at the address shown upon the assessment roll.

(e) Persons requesting special notice, it shall be addressed to each person who has filed a written request for special notice with the

executive officer or clerk at the mailing address specified in the request.

(f) To all registered voters and owners of property, to the address as shown on the most recent assessment roll being prepared by the county at the time a resolution of application is adopted to initiate proceedings within 300 feet of the exterior boundary of the property that is the subject of the hearing at least 21 days prior to the hearing. This requirement may be waived if proof satisfactory to the commission is presented that shows that individual notices to registered voters and landowners have already been provided by the initiating agency. Notice shall also either be posted or published in one newspaper 21 days prior to the hearing. If this section would require more than 1,000 notices to be mailed, then notice may instead be provided pursuant to paragraph (1) of subdivision (b) of Section 65954.6.

SEC. 53. Section 56159 of the Government Code is amended to read:

56159. Posted notice shall remain posted for not less than five days. If the posted notice is notice of a hearing, posting shall be commenced at least 21 days prior to the date specified in the notice for hearing and shall continue to the time of the hearing.

SEC. 54. Section 56300 of the Government Code is amended to read:

56300. (a) It is the intent of the Legislature that each commission, not later than January 1, 2002, shall establish written policies and procedures and exercise its powers pursuant to this part in a manner consistent with those policies and procedures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns.

(b) Each commission with a proposal pending on January 1, 2001, shall, by March 31, 2001, hold a public hearing to discuss the adoption of policies and procedures to require the disclosure of contributions, expenditures, and independent expenditures authorized by Section 56100.1. Reporting requirements adopted pursuant to this section shall be effective upon the date of adoption or a later date specified in the resolution. Any commission that does not have a proposal pending on January 1, 2001, shall hold a public hearing to discuss the adoption of those policies and procedures within 90 days of submission of a proposal or at any time prior to submission of a proposal. Once a hearing has taken place under this subdivision, no subsequent hearing shall be required except by petition of 100 or more registered voters residing in the county in which the commission is located.

(c) A commission may require, through the adoption of written policies and procedures, lobbying disclosure and reporting requirements for persons who attempt to influence pending

decisions by commission members, staff, or consultants. Disclosure shall be made either to the commission's executive officer, in which case it shall be posted on the commission website, if applicable, or to the recorder, registrar of voters, or clerk of the board of supervisors of the county in which the commission is located. Each commission that on January 1, 2001, has a pending proposal, as defined in Section 56069 shall, by March 31, 2001, hold a public hearing to discuss the adoption of policies and procedures governing lobbying disclosure authorized by this subdivision. Reporting requirements adopted pursuant to this section shall be effective upon the date of adoption or on a later date specified in the resolution. Any commission that does not have a proposal pending on January 1, 2001, shall hold a public hearing to discuss the adoption of those policies and procedures within 90 days of submission of a proposal, or at any time prior to submission of a proposal.

(d) Any public hearings required by this section may be held concurrently.

(e) The written policies and procedures adopted by the commission shall include forms to be used for various submittals to the commission including at a minimum a form for any protests to be filed with the commission concerning any proposed organization change.

(f) (1) On or before January 1, 2002, the commission shall establish and maintain, or otherwise provide access to notices and other commission information for the public through an Internet website.

(2) The written policies and procedures adopted by the commission shall require that, to the extent that the commission maintains an Internet website, notice of all public hearings and commission meetings shall be made available in electronic format on that site.

SEC. 55. Section 56301 of the Government Code is amended to read:

56301. Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities. When the formation of a new government entity is proposed, a commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the

commission shall consider reorganization with other single-purpose agencies that provide related services.

SEC. 56. Section 56325 of the Government Code is amended to read:

56325. There is hereby continued in existence in each county a local agency formation commission. Except as otherwise provided in this chapter, the commission shall consist of members selected as follows:

(a) Two appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two selected by the cities in the county, each of whom shall be a mayor or council member, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(c) Two presiding officers or members of legislative bodies of independent special districts selected by the independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate a presiding officer or member of the legislative body of an independent special district as an alternative member who shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to make selections that fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(d) One representing the general public appointed by the other members of the commission. The other members of the commission may also designate one alternate member who shall be appointed and serve pursuant to Section 56331. Selection of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members selected by each of the other appointing authorities.

SEC. 57. Section 56325.1 is added to the Government Code, to read:

56325.1. While serving on the commission, all commission members shall exercise their independent judgment on behalf of the

interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person.

SEC. 58. Section 56326 of the Government Code is amended to read:

56326. In Los Angeles County, the commission shall consist of nine members, selected as follows:

(a) Two appointed by the board of supervisors from its own membership. The board of supervisors shall also appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One appointed by the board of supervisors, who shall not be a member of the board of supervisors but who shall be a resident of the San Fernando Valley Statistical Area, as defined in subdivision (c) of Section 11093. The board of supervisors shall also appoint an alternate member who shall not be a member of the board of supervisors but who is a resident of the San Fernando Valley Statistical Area. The alternate member may serve and vote in place of the member appointed pursuant to this subdivision if that member is absent or disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular member becomes vacant, the alternate member may serve and vote in place of the former regular member until the appointment and qualification of a regular member to fill the vacancy.

(c) Two selected by the cities in the county, each of whom shall be a mayor or council member, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(d) One selected by a city in the county having a population in excess of 30 percent of the total population of the county who is a member of the legislative body of the city, appointed by the presiding officer of the legislative body. The presiding officer of the legislative body shall also designate an alternate member who is a member of

the legislative body. The alternate member may serve and vote in place of the member appointed pursuant to this subdivision if the member is absent or disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular member becomes vacant, the alternate member may serve and vote in place of the former regular member until the appointment and qualification of a regular member to fill the vacancy.

(e) Two presiding officers or members of legislative bodies of independent special districts selected by an independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate one alternate member who shall be a presiding officer or member of the legislative body of an independent special district and shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to select members to fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(f) One representing the general public appointed by the other members of the commission.

SEC. 59. Section 56326.5 of the Government Code is amended to read:

56326.5. In Sacramento County, the commission shall consist of seven members, selected as follows:

(a) Two appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One selected by the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. The mayor shall also appoint, subject to confirmation by the council, an alternate member who is a member of the city council. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One selected by the cities in the county, who is a mayor or council member appointed by the city selection committee. The city

selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(d) Two presiding officers or members of legislative bodies of independent special districts selected by an independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate one alternate member who shall be a presiding officer or member of the legislative body of an independent special district and shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to select members to fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(e) One representing the general public, appointed by the other six members of the commission. The commission may also appoint an alternate public member who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

SEC. 60. Section 56327 of the Government Code is amended to read:

56327. In Santa Clara County, the commission shall consist of five members, selected as follows:

(a) Two appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One selected by the city in the county having the largest population, who is a member of the legislative body of the city, appointed by the city council. The city council shall also appoint an alternate member who is a member of the legislative body of the city. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may

serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One selected by the cities in the county, who is a mayor or council member appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(d) One representing the general public, appointed by the other four members of the commission. This member shall not be a resident of a city which is already represented on the commission. The commission may also appoint an alternate public member, who shall not be a resident of a city represented on the commission, and who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

SEC. 60.5. Section 56327.3 is added to the Government Code, to read:

56327.3. In Santa Clara County, the commission shall be enlarged by two members if, pursuant to the provisions of Chapter 5 (commencing with Section 56820), the commission orders representation of special districts upon the commission.

SEC. 61. Section 56328 of the Government Code is amended to read:

56328. (a) In San Diego County, the commission, which consists of seven members, augmented pursuant to Section 56332, shall be additionally augmented by the appointment of an eighth member and that member shall, notwithstanding subdivision (b) of Section 56325, be a member of the legislative body of the city in the county having the largest population, appointed by the legislative body of that city.

(b) The legislative body of the city shall appoint an alternate member at the same time and in the same manner as it appoints the regular member appointed pursuant to subdivision (a). If the regular city member is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of the regular city member for that meeting. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the

former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

SEC. 62. Section 56329 of the Government Code is amended to read:

56329. If there is no city in the county, the commission shall consist of five members, selected as follows which may be further augmented pursuant to Sections 56332 and 56332.5:

(a) Three appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a fourth supervisor who is an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two representing the general public appointed by the other three members of the commission. Selection of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members selected by each of the other appointing authorities.

SEC. 63. Section 56330 of the Government Code is repealed.

SEC. 64. Section 56332 of the Government Code is amended to read:

56332. (a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(1) Whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission.

(2) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(c) (1) If the executive officer determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions.

(2) As an alternative to the delivery or certified mail, the executive officer, with the prior concurrence of the district, may transmit the ballot and voting instructions by electronic mail, provided that the executive officer shall retain written evidence of the receipt of that material.

(3) The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballots to the districts.

(4) If the executive officer has transmitted the ballot and voting instructions by electronic mail, the districts may return the ballots to the executive officer by electronic mail, provided that the executive officer retains written evidence of the receipt of the ballot.

(5) Any ballot received by the executive officer after the specified date is invalid. The executive officer shall announce the results of the election within seven days of the specified date.

(d) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed special district officers residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. The representation by a regular district member who is a special district officer shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the special district. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district of which the member is a representative.

(e) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular

district member until the appointment and qualification of a regular district member to fill the vacancy.

SEC. 65. Section 56332.5 is added to the Government Code, to read:

56332.5. If the commission does not have representation from independent special districts on January 1, 2001, the commission shall initiate proceedings for representation of independent special districts upon the commission if requested by independent special districts pursuant to this section. If an independent special district adopts a resolution proposing representation of independent special districts upon the commission, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, adopted by the districts within one year from the date that the first resolution was adopted, the commission, at its next regular meeting, shall adopt a resolution of intention. The resolution of intention shall state whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth. The commission shall order the executive officer to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution in order to select independent special district representation on the commission pursuant to Section 56332.

SEC. 66. Section 56334 of the Government Code is amended to read:

56334. The term of office of each member shall be four years and until the appointment and qualification of his or her successor. Upon enlargement of the commission by two members, as provided in Section 56332, the new members first appointed to represent independent special districts shall classify themselves by lot so that the expiration date of the term of office of one new member coincides with the existing member who holds the office represented by the original two-year term on the commission and of the other new member coincides with the existing member who holds the office represented by the original four-year term on the commission. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which the term of the member expires, unless procedures adopted by the commission specify an alternate date to apply uniformly to all members. However, the length of a term of office shall not be extended more than once. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by

the body which originally appointed the member whose office has become vacant.

The chairperson of the commission shall be selected by the members of the commission.

Commission members and alternates shall be reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office. The board of supervisors may authorize payment of a per diem to commission members and alternates for each day while they are in attendance at meetings of the commission.

SEC. 67. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission. The commission may initiate proposals for (1) consolidation of districts, as defined in Section 56036, (2) dissolution, (3) merger, or (4) establishment of a subsidiary district, or a reorganization that includes any of these changes of organization. A commission shall have the authority to initiate only a (1) consolidation of districts, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, or (5) a reorganization that includes any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378 or 56425. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(1) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(2) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(3) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is

proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed. However, the commission shall not specify how, or in what manner, the territory shall be zoned. The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and zoning of the city.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated, successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and zoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the zoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the zoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation.

(g) To adopt written procedures for the evaluation of proposals. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(l) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 25210.90 or Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

SEC. 68. Section 56375.1 of the Government Code is repealed.

SEC. 68.5. Section 56375.3 is added to the Government Code, to read:

56375.3. (a) In addition to those powers enumerated in Section 56375, a commission may approve the annexation to a city after notice and hearing, and order annexation of the territory without an election, or waive the protest hearing proceedings pursuant to Part 4, commencing with Section 57000, if the annexation meets the requirements of this subdivision and is proposed by resolution adopted by the affected city, if the commission finds that the territory contained in an annexation proposal meets all of the following requirements:

(1) It does not exceed 75 acres in area, that area constitutes the entire island, and that island does not constitute a part of an unincorporated area that is more than 100 acres in area.

(2) The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.

(3) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(C) This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

(D) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Section 99 of the Revenue and Taxation Code regarding an annexation subject to this subdivision without affecting any existing master tax sharing agreement between the city and county.

(4) It is substantially developed or developing. The finding required by this subparagraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(A) The availability of public utility services.

(B) The presence of public improvements.

(C) The presence of physical improvements upon the parcel or parcels within the area.

(5) It is not prime agricultural land, as defined by Section 56064.

(6) It will benefit from the annexation or is receiving benefits from the annexing city.

(b) Notwithstanding any other provision of this subdivision, this subdivision shall not apply to all or any part of that portion of the development project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code that as of January 1, 2000, meets all of the following requirements:

- (1) Is unincorporated territory.
- (2) Contains at least 100 acres.
- (3) Is surrounded or substantially surrounded by incorporated territory.
- (4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

SEC. 69. Section 56375.4 of the Government Code is repealed.

SEC. 69.5. Section 56375.5 of the Government Code is amended to read:

56375.5. Every determination made by a commission regarding the matters provided for by subdivisions (a), (m), and (n) of Section 56375 shall be consistent with the spheres of influence of the local agencies affected by those determinations.

SEC. 70. Section 56375.45 of the Government Code is repealed.

SEC. 71. Section 56377 of the Government Code is amended to read:

56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

SEC. 72. Section 56380 of the Government Code is repealed.

SEC. 73. Section 56380 is added to the Government Code, to read:

56380. The commission shall make its own provision for necessary quarters, equipment, and supplies as well as personnel. The commission may choose to contract with any public agency or private party for personnel and facilities.

SEC. 74. Section 56381 of the Government Code is repealed.

SEC. 75. Section 56381 is added to the Government Code, to read:

56381. (a) The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the

commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter. The commission shall transmit its proposed and final budgets to the board of supervisors; to each city; to the clerk and chair of the city selection committee, if any, established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1; to each independent special district; and to the clerk and chair of the independent special district selection committee, if any, established pursuant to Section 56332.

(b) After public hearings, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the auditor shall apportion the net operating expenses of a commission in the following manner:

(1) In counties in which there is city and independent special district representation on the commission, the county, cities, and independent special districts shall each provide a one-third share of the commission's operational costs. The cities' share shall be apportioned in proportion to each city's total revenues, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county, or by an alternative method approved by a majority of cities representing the majority of the combined cities' populations. The independent special districts' share shall be apportioned in a similar manner according to each district's revenues for general purpose transactions, as reported in the most recent edition of the "Financial Transactions Concerning Special Districts" published by the Controller, or by an alternative method approved by a majority of the agencies, representing a majority of their combined populations. For the purposes of fulfilling the requirement of this section, a multicounty independent special district shall be required to pay its apportionment in its principal county. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the district share of costs.

(2) In counties in which there is no independent special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) In counties in which there are no cities, the county and its special districts shall each provide a one-half share of the commission's operational costs. The independent special districts' share shall be apportioned in the manner described for cities' apportionment in paragraph (1). If there is no independent special district representation on the commission, the county shall pay all of the commission's operational costs.

(4) Instead of determining apportionment pursuant to paragraph (1), (2), or (3), any alternative method of apportionment of the net

operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the independent special districts representing a majority of the combined total population of independent special districts in the county.

(c) After apportioning the costs as required in subdivision (b), the auditor shall request payment from the board of supervisors and from each city and each independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county, city, or district. The auditor shall provide written notice to the county, city, or district prior to appropriating a share of the property tax or other revenue to the commission for the payment due the commission pursuant to this section. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the commission's operating expenses as specified by the commission. When the city and district payments are received by the commission, the county's portion of the commission's annual operating expenses shall be credited with funds already received from the county. If, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If, during the fiscal year, the commission is without adequate funds to operate, the board of supervisors may loan the commission funds and recover those funds in the commission's budget for the following fiscal year.

SEC. 75.5. Section 56381.6 is added to the Government Code, to read:

56381.6. (a) Notwithstanding the provisions of Section 56381, for counties whose membership on the commission is established pursuant to Sections 56326, 56326.5, 56327, or 56328, the commission's annual operational costs shall be apportioned among the classes of public agencies that select members on the commission in proportion to the number of members selected by each class. The classes of public agencies that may be represented on the commission are the county, the cities, and independent special districts. Any alternative

cost apportionment procedure may be adopted by the commission, subject to a majority affirmative vote of the commission that includes the affirmative vote of at least one of the members selected by the county, one of the members selected by a city, and one of the members selected by a special district, if special districts are represented on the commission.

(b) Allocation of costs among individual cities and independent special districts and remittance of payments shall be in accordance with the procedures of Section 56381. Notwithstanding Section 56381, any city that has permanent membership on the commission pursuant to Sections 56326, 56326.5, 56327, or 56328 shall be apportioned the same percentage of the commission's annual operational costs as its permanent member bears to the total membership of the commission, excluding any public members selected by all the members. The balance of the cities' portion of the commission's annual operational costs shall be apportioned to the remaining cities in the county in accordance with the procedures of Section 56381.

SEC. 76. Section 56383 of the Government Code is amended to read:

56383. (a) The commission may establish a schedule of fees for the costs of proceedings taken pursuant to this division, including, but not limited to, all of the following:

(1) Filing and processing applications filed with the commission.
 (2) Proceedings undertaken by the commission and any reorganization committee.

(3) Amending a sphere of influence.

(4) Reconsidering a resolution making determinations.

(b) The schedule of fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016.

(c) The commission may require that a fee be deposited with the executive officer before any further action is taken. The deposit of the fee shall be made within the time period specified by the commission. No petition shall be deemed filed until the fee has been deposited.

(d) The commission may waive a fee if it finds that payment would be detrimental to the public interest.

(e) The signatures on a petition submitted to the commission shall be verified by the elections official of the county and the costs of verification shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same county.

(f) Waiver of fees is limited to those costs incurred by the commission in the processing of a proposal.

(g) For incorporation proceedings that have been initiated by the filing of a sufficient number of voter signatures on petitions that have been verified by the county registrar of voters, the commission may,

upon the receipt of a certification by the proponents that they are unable to raise sufficient funds to reimburse fees for the proceedings, take no action on the proposal and request a loan from the General Fund of an amount sufficient to cover those expenses subject to availability of an appropriation for those purposes and in accordance with any provisions of the appropriation. Repayment of the loan shall be made a condition of approval of the incorporation, if successful, and shall become an obligation of the newly formed city. Repayment shall be made within two years of the effective date of incorporation. If the proposal is denied by the commission or defeated at an election, the loan shall be forgiven.

SEC. 77. Section 56384 of the Government Code is amended to read:

56384. (a) The commission shall appoint an executive officer who shall conduct and perform the day-to-day business of the commission. If the executive officer is subject to a conflict of interest on a matter before the commission, the commission shall appoint an alternate executive officer. The commission may recover its costs by charging fees pursuant to Section 56383.

(b) The commission shall appoint legal counsel to advise it. If the commission's counsel is subject to a conflict of interest on a matter before the commission, the commission shall appoint alternate legal counsel to advise it. The commission may recover its costs by charging fees pursuant to Section 56383.

(c) The commission may appoint staff as it deems appropriate. If staff for the commission is subject to a conflict of interest on a matter before the commission, the commission shall appoint alternate staff to assist it. The commission may recover its costs by charging fees pursuant to Section 56383.

(d) For purposes of this section, the term "conflict of interest" shall be defined as it is for the purpose of the Political Reform Act of 1974 and shall also include matters proscribed by Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1.

SEC. 78. Section 56386 of the Government Code is amended to read:

56386. (a) The officers and employees of a city, county, or special district, including any local agency, school district, community college district, and any regional agency, or state agency or department, as may be necessary, or any other public agency shall furnish the executive officer with any records or information in their possession which may be necessary to assist the commission and the executive officer in their duties, including, but not limited to, the preparation of reports pursuant to Sections 56665 and 56800.

(b) Upon request by the commission or the executive officer, the county surveyor, or any other county officer, county official, or employee as the board of supervisors may designate, shall examine

and report to the commission or the executive officer upon any application or other document involving any of the matters specified in subdivision (j) of Section 56375.

SEC. 79. Section 56425 of the Government Code is amended to read:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

(b) At least 30 days prior to submitting an application to the commission for a determination of a new sphere of influence, or to update an existing sphere of influence for a city, representatives from the city shall meet with county representatives to discuss the proposed sphere, and its boundaries, and explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If no agreement is reached between the city and county within 30 days, then the parties may, by mutual agreement, extend discussions for an additional period of 30 days. If an agreement is reached between the city and county regarding the boundaries, development standards, and zoning requirements within the proposed sphere, the agreement shall be forwarded to the commission, and the commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement in the commission's final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years.

(g) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(h) For any sphere of influence or a sphere of influence that includes a special district, the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

(3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the commission.

(i) Subdivisions (b), (c), and (d) shall become inoperative as of January 1, 2007, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends that date.

SEC. 79.5. Section 56425.5 is added to the Government Code, to read:

56425.5. (a) A determination of a city's sphere of influence, in any case where that sphere of influence includes any portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, shall not preclude any other local agency, as defined in Section 54951, including the redevelopment agency referenced in Section 33492.41 of the Health and Safety Code, in addition to that city, from providing facilities or services related to development, as defined in subdivision (e) of Section 56426, to or in that portion of the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

- (1) Is unincorporated territory.
- (2) Contains at least 100 acres.
- (3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Facilities or services related to development may be provided by other local agencies to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Subdivision (a) shall apply regardless of whether the determination of the sphere of influence is made before or after January 1, 2000.

SEC. 80. Section 56426 of the Government Code is repealed.

SEC. 80.5. Section 56429 of the Government Code is amended to read:

56429. (a) Notwithstanding Sections 56425, 56427, and 56428, a petition for removal of territory from a sphere of influence determination may be brought pursuant to this section by landowners within the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, if, at the time the petition is submitted, the area for which the petition is being requested meets all of the following requirements:

- (1) Is unincorporated territory.
- (2) Contains at least 100 acres.
- (3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) On receipt of a petition signed by landowners owning at least 25 percent of the assessed value of the land within the affected territory, the commission shall hear and consider oral or written testimony.

(c) The petition shall be placed on the agenda of the commission in accordance with subdivision (b) of Section 56428.

(d) The executive officer shall give notice of the hearing in accordance with Section 56427.

(e) From the date of filing of the petition to the conclusion of the hearing, the commission shall accept written positions from any owner of land in the unincorporated territory that is seeking removal from a city's sphere of influence.

(f) The petition to remove territory from a city's sphere of influence shall be granted and given immediate effect if the commission finds that written positions filed in favor of the petition and not withdrawn prior to the conclusion of the hearing represent landowners owning 50 percent or more of the assessed value of the land within the affected territory.

(g) No removal of territory from a city's sphere of influence that is proposed by petition and adopted pursuant to this section shall be repealed or amended except by the petition and adoption procedure provided in subdivisions (a) to (f), inclusive. In all other respects, a removal of territory from a city's sphere of influence proposed by petition and adopted pursuant to this section shall have the same force and effect as any amendment to or removal of territory from a city's sphere of influence approved by the commission. No territory removed from a city's sphere of influence pursuant to this section shall be annexed to that city, unless the territory is subsequently added to the sphere of influence of the city pursuant to the petition and adoption procedure provided in this section.

(h) Pursuant to Section 56383, the commission may establish a schedule of fees for the costs of carrying out this section.

(i) All proper expenses incurred in connection with removal of territory from a city's sphere of influence pursuant to this section shall be paid by the proponents.

SEC. 81. Section 56430 is added to the Government Code, to read:

56430. (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Infrastructure needs or deficiencies.
- (2) Growth and population projections for the affected area.
- (3) Financing constraints and opportunities.
- (4) Cost avoidance opportunities.
- (5) Opportunities for rate restructuring.
- (6) Opportunities for shared facilities.
- (7) Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
- (8) Evaluation of management efficiencies.
- (9) Local accountability and governance.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5 or to update a sphere of influence pursuant to Section 56425.

(d) Not later than July 1, 2001, the Office of Planning and Research, in consultation with commissions, the California

Association of Local Agency Formation Commissions, and other local governments, shall prepare guidelines for the service reviews to be conducted by commissions pursuant to this section.

SEC. 82. Section 56434 is added to the Government Code, to read:

56434. (a) The commission may review and approve a proposal that extends services into previously unserved territory within unincorporated areas and may review the creation of new service providers to extend urban type development into previously unserved territory within unincorporated areas to ensure that the proposed extension is consistent with the policies of Sections 56001, 56300, 56301, and the adopted policies of the commission implementing these sections, including promoting orderly development, discouraging urban sprawl, preserving open space and prime agricultural lands, providing housing for persons and families of all incomes, and the efficient extension of governmental services.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 83. Chapter 5 (commencing with Section 56450) of Part 2 of Division 3 of Title 5 of the Government Code is repealed.

SEC. 84. Chapter 6 (commencing with Section 56475) of Part 2 of Division 3 of Title 5 of the Government Code is repealed.

SEC. 86. Section 56653 of the Government Code is amended to read:

56653. (a) Whenever a local agency or school district submits a resolution of application for a change of organization or reorganization pursuant to this part, the local agency shall submit with the resolution of application a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

(1) An enumeration and description of the services to be extended to the affected territory.

(2) The level and range of those services.

(3) An indication of when those services can feasibly be extended to the affected territory.

(4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

(5) Information with respect to how those services will be financed.

SEC. 87. Section 56655 is added to the Government Code, to read:

56655. If two or more proposals pending before the commission conflict or in any way are inconsistent with each other, as determined by the commission, the commission may determine the relative

priority for conducting any further proceedings based on any of those proposals. That determination shall be included in the terms and conditions imposed by the commission. In the absence of that determination, priority is given to that proceeding which shall be based upon the proposal first filed with the executive officer.

SEC. 88. Section 56656 of the Government Code is repealed.

SEC. 89. Section 56657 is added to the Government Code, to read:

56657. Notwithstanding Section 56655, the commission shall not approve a proposal for incorporation, consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization until it has considered any other change of organization which conflicts with the subject proposal and which was submitted to the commission within 60 days of the submission of the subject proposal.

SEC. 90. Section 56658 is added to the Government Code, to read:

56658. (a) Any petitioner or legislative body desiring to initiate proceedings shall submit an application to the executive officer of the principal county.

(b) Immediately after receiving an application and before issuing a certificate of filing, the executive officer shall give mailed notice that the application has been received to each interested agency, each subject agency, the county committee on school district organization, and each school superintendent whose school district overlies the subject area. The notice shall generally describe the proposal and the affected territory. The executive officer shall not be required to give notice pursuant to this subdivision if a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(c) If a special district is, or as a result of a proposal will be, located in more than one county, the executive officer of the principal county shall immediately give the executive officer of each other affected county mailed notice that the application has been received. The notice shall generally describe the proposal and the affected territory.

(d) Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving an application whether the application is complete and acceptable for filing or whether the application is incomplete.

(e) The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the mailed notice required by subdivision (b). The executive officer shall not be required to comply with this subdivision in the case of an application which meets the requirements of Section 56663 or in the case of an application for which a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(f) If the appropriate fees have been paid, an application shall be deemed accepted for filing if no determination has been made by the

executive officer within the 30-day period. An executive officer shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 56652.

(g) When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal shall be heard by the commission. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this division.

(h) If an application is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

(i) Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. Notwithstanding Section 56106, the date for conducting the hearing, as determined pursuant to this subdivision, is mandatory.

SEC. 90.5. Section 56658 is added to the Government Code, to read:

56658. (a) Any petitioner or legislative body desiring to initiate proceedings shall submit an application to the executive officer of the principal county.

(b) (1) Immediately after receiving an application and before issuing a certificate of filing, the executive officer shall give mailed notice that the application has been received to each interested agency, each subject agency, the county committee on school district organization, and each school superintendent whose school district overlies the subject area. The notice shall generally describe the proposal and the affected territory. The executive officer shall not be required to give notice pursuant to this subdivision if a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(2) It is the intent of the Legislature that an incorporation proposal shall be processed in a timely manner. With regard to an application that includes an incorporation, the executive officer shall immediately notify all affected local agencies and any applicable state agencies by mail and request the affected agencies to submit the required data to the commission within a reasonable timeframe established by the executive officer. Each affected agency shall respond to the executive officer within 15 days acknowledging receipt of the request. Each affected local agency and the officers and

departments thereof shall submit the required data to the executive officer within the timelines established by the executive officer. Each affected state agency and the officers and departments thereof shall submit the required data to the executive officer within the timelines agreed upon by the executive officer and the affected state departments.

(c) If a special district is, or as a result of a proposal will be, located in more than one county, the executive officer of the principal county shall immediately give the executive officer of each other affected county mailed notice that the application has been received. The notice shall generally describe the proposal and the affected territory.

(d) Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving an application whether the application is complete and acceptable for filing or whether the application is incomplete.

(e) The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the mailed notice required by subdivision (b). The executive officer shall not be required to comply with this subdivision in the case of an application which meets the requirements of Section 56663 or in the case of an application for which a local agency has already given notice pursuant to subdivision (b) of Section 56654.

(f) If the appropriate fees have been paid, an application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. An executive officer shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 56652.

(g) When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal shall be heard by the commission. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this division.

(h) If an application is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

(i) Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted.

whichever is earlier. Notwithstanding Section 56106, the date for conducting the hearing, as determined pursuant to this subdivision, is mandatory.

SEC. 91. Section 56660 is added to the Government Code, to read:

56660. The executive officer shall give notice of any hearing by the commission by publication, as provided in Sections 56153 and 56154, and by posting, as provided in Sections 56158 and 56159.

SEC. 92. Section 56661 is added to the Government Code, to read:

56661. To the extent that the commission maintains an Internet website, notice of all public hearings shall be made available in electronic format on that site. The executive officer shall also give mailed notice of any hearing by the commission, as provided in Sections 56155 to 56157, inclusive, by mailing notice of the hearing or transmitting by electronic mail, if available to the recipient, to all of the following persons and entities:

(a) To each affected local agency by giving notice to each elected local official, each member of the governing body, and the executive officer of the agency.

(b) To the proponents, if any.

(c) To each person who has filed a written request for special notice with the executive officer.

(d) If the proposal is for any annexation or detachment, or for a reorganization providing for the formation of a new district, to each city within three miles of the exterior boundaries of the territory proposed to be annexed, detached, or formed into a new district.

(e) If the proposal is to incorporate a new city or for the formation of a district, to the affected county.

(f) If the proposal includes the formation of, or annexation of territory to, a fire protection district formed pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code, and all or part of the affected territory has been classified as a state responsibility area, to the Director of Forestry and Fire Protection.

(g) If the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), to the Director of Conservation.

(h) To all registered voters and owners of property, as shown on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application, within 300 feet of the exterior boundary of the property that is the subject of the hearing at least 20 days prior to the hearing. In lieu of the assessment roll, the agency may use the records of the county assessor or tax collector or any other more current record. Notice shall also either be posted or published in one newspaper 20 days prior to the hearing. If this section would require more than 1,000 notices to be mailed,

then notice may instead be provided pursuant to paragraph (1) of subdivision (b) of Section 65954.6.

SEC. 93. Section 56662 is added to the Government Code, to read:

56662. (a) The commission may make either of the following determinations without notice and hearing:

(1) Subject to the limitations of Section 56663, approval or disapproval of a proposal for an annexation, detachment, or reorganization which consists solely of annexations or detachments, or both.

(2) Subject to the limitations of Section 56663, approval or disapproval of the formation of a county service area.

(b) Except for the determinations authorized to be made by subdivision (a), the commission shall not make any determinations upon any proposal, plan of reorganization, or report and recommendation of a reorganization committee until after public hearing by the commission on that proposal, plan of reorganization, or report and recommendation of a reorganization committee.

SEC. 94. Section 56663 is added to the Government Code, to read:

56663. (a) If a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is signed by all of the owners of land within the affected territory of the proposed change of organization or reorganization, or if a resolution of application by a legislative body of an affected district, affected county, or affected city making a proposal for an annexation or detachment, or for a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory have given their written consent to that change of organization or reorganization, the commission may approve or disapprove the change of organization or reorganization, without notice and hearing by the commission. In those cases, the commission may also approve and conduct proceedings for the change of organization or reorganization under any of the following conditions:

(1) Without notice and hearing.

(2) Without an election.

(3) Without notice, hearing, or an election.

(b) The executive officer shall give any affected agency mailed notice of the filing of the petition or resolution of application initiating proceedings by the commission. The commission shall not, without the written consent of the subject agency, take any further action on the petition or resolution of application for 10 days following that mailing. Upon written demand by an affected local agency, filed with the executive officer during that 10-day period, the commission shall make determinations upon the petition or resolution of application only after notice and hearing on the petition

or resolution of application. If no written demand is filed, the commission may make those determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, a subject agency may do any of the following:

(1) Waive the requirement of mailed notice.

(2) Consent to the commission making determinations without notice and hearing.

(3) Waive the requirement of mailed notice and consent to the commission making determinations without notice and hearing.

(c) In the case of uninhabited territory, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if all of the following conditions apply:

(1) All the owners of land within the affected territory have given their written consent to the change of organization or reorganization.

(2) All affected local agencies that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of protest proceedings.

(3) The commission has provided written notice of commission proceedings to all property owners and registered voters within the subject territory and no opposition is received prior to or during the commission meeting.

(d) In the case of inhabited city and district annexations or detachments, or both, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if both of the following conditions apply:

(1) The commission has provided written notice of commission proceedings to all registered voters and landowners within the affected territory and no opposition from registered voters or landowners within the affected territory is received prior to or during the commission meeting. The written notice shall disclose to the registered voters and landowners that unless opposition is expressed regarding the proposal or the commission's intention to waive protest proceedings, that there will be no subsequent protest and election proceedings.

(2) All affected local agencies that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of protest proceedings.

SEC. 95. Section 56664 is added to the Government Code, to read:

56664. Where the commission desires to provide for notice and hearing prior to making a determination on a matter which the commission is authorized, but not required, to determine without notice and hearing, the commission shall order a public hearing on that matter and set a date, time, and place for the hearing. The date of hearing shall not be more than 90 days after the date of the order.

SEC. 96. Section 56665 is added to the Government Code, to read:

56665. The executive officer shall review each application which is filed with the executive officer and shall prepare a report, including

his or her recommendations, on the application. The report shall be completed not less than five days prior to the date specified in the notice of hearing. Upon completion, the executive officer shall furnish copies of the report to each of the following:

- (a) The officers or persons designated in the application.
- (b) Each local agency whose boundaries or sphere of influence would be changed by the proposal or recommendation.
- (c) Each affected local agency which has filed a request for a report with the executive officer.
- (d) The executive officer of another affected county when a district is or will be located in that other county.
- (e) Each affected city.

SEC. 97. Section 56666 is added to the Government Code, to read:

56666. (a) The hearing shall be held by the commission upon the date and at the time and place specified. The hearing may be continued from time to time but not to exceed 70 days from the date specified in the original notice.

(b) At the hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed, and consider the report of the executive officer and the plan for providing services to the territory prepared pursuant to Section 56653.

SEC. 97.5. Section 56666 is added to the Government Code, to read:

56666. (a) The hearing shall be held by the commission upon the date and at the time and place specified. The hearing may be continued from time to time but not to exceed 70 days from the date specified in the original notice.

(b) At the hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed, and consider the report of the executive officer and the plan for providing services to the territory prepared pursuant to Section 56653.

(c) Prior to any continuance of a hearing pursuant to this section regarding a proposal that includes an incorporation, the chief petitioners shall have an opportunity to address the commission on any potential impacts or hardships on the incorporation effort that may result from a delay. The commission shall consider the potential impacts on the incorporation proponents prior to making a decision on the duration of any continuance.

SEC. 98. Section 56667 is added to the Government Code, to read:

56667. If the report filed pursuant to Section 56665 indicates that more than 50 percent of the land proposed for incorporation is owned by or dedicated to the use of a city or county and that the proposed incorporation would result in a revenue loss to that city or county, and at the hearing held pursuant to Section 56666 the board of supervisors of the county or city council of the city presents a

resolution objecting to the incorporation, no further proceedings shall be conducted by the commission and no new proposal involving incorporation of substantially the same territory shall be initiated for one year.

In the absence of a resolution of objection from a city or county, the commission may approve the proposal only if it imposes as a condition thereto that the newly incorporated city may not adopt any regulation or policy which would have a negative fiscal impact on any contract existing at the time of the incorporation which is related to the publicly owned land.

This section shall not preclude the completion of proceedings to incorporate territory which is the subject of incorporation proceedings filed with the executive officer of the commission prior to February 15, 1986.

SEC. 99. Section 56668 is added to the Government Code, to read:

56668. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions; on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency.

(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

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

(l) The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.

(m) Any information or comments from the landowner or owners.

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

SEC. 99.5. Section 56668.5 is added to the Government Code, to read:

56668.5. The commission may, but is not required to, consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis. This section does not grant any new powers or authority to the commission or any other body to establish regional growth goals and policies independent of the powers granted by other laws.

SEC. 100. Section 56700.1 is added to the Government Code, to read:

56700.1. Expenditures for political purposes related to a change of organization or reorganization proposal that has been submitted to a commission, and contributions in support of or in opposition to those measures, shall be disclosed and reported to the same extent and subject to the same requirements as provided for local initiative measures to be presented to the electorate.

SEC. 101. Section 56700.3 of the Government Code is repealed.

SEC. 102. Section 56700.4 is added to the Government Code, to read:

56700.4. (a) Before circulating any petition for change of organization, the proponent shall file with the executive officer a notice of intention that shall include the name and mailing address of the proponent and a written statement, not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be signed by a representative of the proponent, and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition proposing to _____

The reasons for the proposal are:

(b) After the filing required pursuant to subdivision (a), the petition may be circulated for signatures.

(c) Upon receiving the notice, the executive officer shall notify any affected jurisdictions.

(d) The notice requirements of this section shall apply in addition to any other applicable notice requirements.

SEC. 103. Section 56700.5 of the Government Code is repealed.

SEC. 104. Section 56701 of the Government Code is repealed.

SEC. 105. Section 56702 of the Government Code is repealed.

SEC. 106. Section 56705 of the Government Code is amended to read:

56705. (a) Except as otherwise provided in subdivision (b), no petition shall be accepted for filing unless the signatures on the petition are secured within six months of the date on which the first signature on the petition was affixed and the petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file the petition in accordance with Section 56709.

(b) (1) Notwithstanding subdivision (a), in cities with a population of more than 100,000 residents that are located in a county with a population of over 4,000,000, no petition shall be accepted for filing unless the signatures thereon have been secured within 90 days of the publication of the notice required pursuant to Section 56760 and the petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file the petition in accordance with Section 56709.

(2) This subdivision shall not apply to a petition for a special reorganization, as defined in Section 56075.5. Subdivision (a) shall apply to a special reorganization, as defined in Section 56075.5, regardless of the number of residents in the city or county in which signatures have been secured on the petition. This paragraph is declaratory of existing law.

SEC. 107. Section 56706 of the Government Code is amended to read:

56706. (a) Within 30 days after the date of receiving a petition, the executive officer shall cause the petition to be examined by the

county elections official, in accordance with Sections 9113 to 9115, inclusive, of the Elections Code and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.

(b) (1) Except as provided in paragraph (2), if the certificate of the executive officer shows the petition to be insufficient, the executive officer shall immediately give notice by certified mail of the insufficiency to the proponents, if any. That mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, a supplemental petition bearing additional signatures may be filed with the executive officer.

(2) Notwithstanding paragraph (1), the proponents of the petition may, at their option, collect signatures for an additional 15 days immediately following the statutory period allowed for collecting signatures without waiting for notice of insufficiency. Any proponent choosing to exercise this option may not file a supplemental petition as provided in paragraph (1).

(c) Within 10 days after the date of filing a supplemental petition, the executive officer shall examine the supplemental petition and certify in writing the results of his or her examination.

(d) A certificate of sufficiency shall be signed by the executive officer and dated. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the executive officer's examination. The executive officer shall mail a copy of the certificate of sufficiency to the proponents, if any.

SEC. 108. Section 56708 of the Government Code is amended to read:

56708. If a petition is signed by owners of land, the executive officer shall cause the names of the signers on the petition to be compared with the names of the persons shown as owners of land on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application and ascertain, to the extent possible, both of the following:

(a) The total number of landowners within the territory and the total assessed valuation of all land within the affected territory.

(b) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers.

SEC. 109. Section 56710 of the Government Code is amended to read:

56710. For purposes of evaluating the sufficiency of any petition signed by owners of land:

(a) The assessed value to be given land exempt from taxation or owned by a public agency shall be determined by the county assessor, at the request of the executive officer, in the same amount as the county assessor would assess that land, if the land were not exempt from taxation or owned by a public agency.

(b) The value given land held in joint tenancy or tenancy in common shall be determined in proportion to the proportionate interest of the petitioner in that land.

(c) The executive officer shall disregard the signature of any person not shown as owner on the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application unless prior to certification the executive officer is furnished with written evidence, satisfactory to the executive officer, that the signer meets any of the following requirements:

- (1) Is a legal representative of the owner.
- (2) Is entitled to be shown as owner of land on the next assessment roll.
- (3) Is a purchaser of land under a recorded written agreement of sale.
- (4) Is authorized to sign for, and on behalf of, any public agency owning land.

SEC. 110. Chapter 3 (commencing with Section 56720) is added to Part 3 of Division 3 of Title 5 of the Government Code, to read:

CHAPTER 3. PROCEEDINGS FOR CITIES

Article 1. Incorporation

56720. The commission shall not approve or conditionally approve any proposal that includes an incorporation, unless the commission finds, based on the entire record, that:

(a) The proposed incorporation is consistent with the intent of this division, including, but not limited to, the policies of Sections 56001, 56300, 56301, and 56377.

(b) It has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence.

(c) It has reviewed the comprehensive fiscal analysis prepared pursuant to Section 56800 and the Controller's report prepared pursuant to Section 56801.

(d) It has reviewed the executive officer's report and recommendation prepared pursuant to Section 56665, and the testimony presented at its public hearing.

(e) The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation.

56722. If a petition is for incorporation of a new city, or consolidation of cities, the petition may propose a name for the new or consolidated city.

The proposed name for the new or consolidated city may contain the word "town."

56723. If the petition is for incorporation, it may also include provisions for appointment of a city manager and appointment of elective city officials, except city council members.

56724. (a) If the commission approves a proposal that includes the incorporation of a city, the resolution making determinations shall, upon the incorporation applicant's request, specify that the first election of city officers is to be held after voter approval of the proposal.

(b) If the applicant has submitted an application to the commission prior to the effective date of this section, the applicant may request that the election of city officers be held after the vote on the incorporation proposal.

(c) If the election of city officers is to be conducted after the vote on the incorporation proposal, the commission shall not set the effective date to be sooner than the election date of the city officers.

Article 2. Special Reorganization

56730. Proceedings for a special reorganization shall be conducted in accordance with the procedures otherwise proscribed for incorporation of a city, including, but not limited to, the provisions specified in Sections 56720, 56800, 56810, and 56815. Notwithstanding any other provision of this division, an election, if required, shall be conducted in accordance with Sections 57119 and 57132.5.

Article 3. Annexation and Other Changes of Organization

56737. When a change of organization or a reorganization includes the annexation of inhabited territory to a city and the assessed value of land within the territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within the territory equals one-half or more of the number of registered voters residing within the city, the commission may determine as a condition of the proposal that the change of organization or reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.

56738. If the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), then the petition shall state whether the city shall succeed to the contract pursuant to Section 51243 or whether the city intends to exercise its option to not succeed to the contract pursuant to Section 51243.5.

56740. (a) No tidelands or submerged lands, as defined in subdivision (g), which are owned by the state or by its grantees in

trust shall be incorporated into, or annexed to, a city, except lands which may be approved by the State Lands Commission.

(b) If those tidelands or submerged lands are included within the boundaries of any territory proposed to be incorporated into, or annexed to, a city, a description of the boundaries, together with a map showing the boundaries, shall be filed with the State Lands Commission by the proponents of the incorporation or annexation. The filing with the State Lands Commission shall be made prior to the executive officer issuing a certificate of filing for the proposal.

(c) The State Lands Commission shall approve or disapprove all portions of the boundaries located upon the tidelands or submerged lands. In making that determination, it shall, where feasible and appropriate, require any extensions of land boundaries of the city or proposed city to be at right angles to the general direction of the shoreline at each point of intersection of the shoreline with the land boundaries of the city or proposed city. However, in the interest of ensuring an orderly and equitable pattern of offshore boundaries, the State Lands Commission may establish angles and other courses for each offshore boundary it deems necessary considering any irregularity of the shoreline, other geographical features, the effect of incorporation or annexation of the offshore or submerged lands on the uplands of the city, or proposed city, and adjoining territory, and the existing and potential boundaries of other cities and of unincorporated communities.

(d) Within 45 days after the filing of the boundary description and map with the State Lands Commission, the State Lands Commission shall make a determination of the proper offshore or submerged lands boundaries. That determination shall be final and conclusive. If the State Lands Commission does not make the determination within that time, the proposed offshore or submerged lands boundaries shall be deemed approved.

(e) The State Lands Commission shall report its determination to the executive officer and to each affected city, affected county, affected district, or person, if any, that has filed the boundary description and map. Thereafter, filings and action may be taken pursuant to this part.

(f) The local agency formation commission may review and make determinations as to all portions of the boundaries, other than those offshore or submerged lands boundaries.

(g) "Submerged lands," as used in this section, includes, but is not limited to, lands underlying navigable waters which are in sovereign ownership of the state whether or not those waters are subject to tidal influences.

56741. Territory may not be annexed to a city unless it is located in the same county. Unless otherwise provided in this division, territory may not be annexed to a city unless it is contiguous to the city at the time the proposal is initiated pursuant to this part.

Territory incorporated as a city shall be located within one county and, except as otherwise provided in Section 56742, shall be contiguous with all other territory being incorporated as a city.

56742. Notwithstanding Section 56741, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time commission proceedings are initiated. If, after the completion of the annexation, the city sells that territory or any part of that territory, all of the territory which is no longer owned by the city shall cease to be a part of the city. Territory which is used by a city for reclamation, disposal, and storage of treated wastewater may be annexed to the city pursuant to this section without limitation as to the size of the area encompassed within the territory so annexed.

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by the city and not contiguous to the city, although the territory is contiguous to the territory annexed pursuant to this section.

Notwithstanding any other provision of this section, a city which annexes territory pursuant to this section may annex additional territory in the same county as that in which the city is situated which is owned by the United States government or the State of California and which is contiguous to the first-annexed territory if the total acreage of the first-annexed and the subsequently annexed territory together does not exceed 300 acres in area. If after the completion of the subsequent annexation, the city sells all or any part of the first-annexed territory, the subsequently annexed territory shall cease to be part of the city if the subsequently annexed territory is no longer contiguous to territory owned by the city.

When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing required by Chapter 8 (commencing with Section 57200) of Part 4.

If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

56742.5. (a) Notwithstanding Section 56741, upon approval of the commission any city may annex noncontiguous territory which constitutes a state correctional facility or a state correctional training facility. If, after the completion of the annexation, the State of California sells that territory or any part thereof, all of the territory which is no longer owned by the state shall cease to be a part of the city which annexed the territory.

(b) If territory is annexed pursuant to this section, the city may not annex any territory not owned by the State of California and not contiguous to the city although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of the city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4 of Division 3.

(d) If territory annexed pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) A city may enter into an agreement with any other city under which the city apportion any increase in state subventions resulting from the annexation of territory pursuant to this section.

56743. (a) Notwithstanding Section 56741, upon approval of the commission a city may annex noncontiguous territory not exceeding 3,100 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal water purposes at the time preliminary proceedings are initiated pursuant to this part. If, after the completion of the annexation, the city sells that territory or any part thereof, all of that territory which is no longer owned by the city shall cease to be a part of the city.

(b) If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4.

(d) If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) If territory is annexed pursuant to this section, it shall be used only for municipal water purposes. The city may, however, enter into agreements to lease the land for timber production or grazing by animals. If the territory is used by the city for any other purpose at any time, it shall cease to be a part of the city.

(f) This section applies only to the City of Willits.

56744. Unless otherwise determined by the commission pursuant to subdivision (f) of Section 56375, territory shall not be incorporated into, or annexed to, a city pursuant to this division if, as a result of that incorporation or annexation, unincorporated territory is completely surrounded by that city or by territory of that city on one or more sides and the Pacific Ocean on the remaining sides.

56745. If authorized pursuant to Section 56375.3, the commission may order annexation of the territory without an election.

56746. (a) The authority to initiate, conduct, and complete any proceeding pursuant to Section 56745 does not apply to any territory which, after January 1, 2000, became surrounded or substantially surrounded by the city to which annexation is proposed. The authority to initiate, conduct, and complete any proceeding pursuant to Section 56745 shall expire January 1, 2007. The period of time between January 1, 2000, and January 1, 2007, shall not include any period of time during which, in an action pending in any court, a local agency is enjoined from conducting proceedings pursuant to Section 56745. Upon final disposition of that case, the previously enjoined local agency may initiate, conduct, and complete proceedings pursuant to Section 56745 for the same period of time as was remaining under that seven-year limit at the time the injunction commenced. However, if the remaining time is less than six months, that authority shall continue for six months following final disposition of the action.

(b) Between January 1, 2000, and January 1, 2007, no new proposal involving the same or substantially the same territory as a proposal initiated pursuant to Section 56745 after January 1, 2000, shall be initiated for two years after the date of adoption by the commission of a resolution terminating proceedings.

56747. (a) Notwithstanding Section 56031, unincorporated territory consisting of property abutting on a street, highway, or road, and the street, highway, or road, to the extent that it abuts that property, together with the road strip may be annexed to a city pursuant to this division under the following conditions:

(1) The annexation may be made only if the property to be annexed is within the sphere of influence of the annexing city, as adopted by the commission, and lies within an unincorporated area wholly surrounded by the annexing city or the annexing city and the county line or the annexing city and the Pacific Ocean or the annexing city and a boundary of another city.

(2) The property to be annexed shall not be annexed if the distance between the boundary of the annexing city and the point closest to the annexing city at which the road strip connects with the abutting property, as measured by the road strip, is more than one-half mile.

(b) Subsequent annexations to the road strip and abutting territory shall not be made unless both of the following conditions are met:

(1) The distance between the point at which the original road strip abuts the boundary of the annexing city and the point closest to the city at which the road strip connects with the abutting property to be annexed, as measured by the road strip, is one-half mile or less.

(2) The annexation is contiguous to the road strip.

(c) As used in this section:

(1) "Property to be annexed" means the property abutting on a street, highway, or road, and the street, highway, or road, to the extent it abuts the property.

(2) "Road strip" means the street, highway, or road which connects the territory of the property to be annexed to the annexing city.

(d) This section applies only to the City of Cupertino.

56749. (a) The commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a city of territory that is within a farmland security zone created pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Division 1. However, this subdivision shall not apply under any of the following circumstances:

(1) If the farmland security zone is located within a designated, delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services.

(2) If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement, as defined in Section 51290.5, except as provided in subdivision (f) or (g) of Section 51296.

(3) If the landowner consents to the annexation.

(b) This section shall not apply during the three-year period preceding the termination of a farmland security zone contract under Article 7 (commencing with Section 51296) of Chapter 7 of Division 1.

56750. Notwithstanding Sections 56300 and 56301, the commission shall not disapprove a change of organization or reorganization where the reason for disapproval is that the farmland security zone is excluded from the affected territory.

56751. (a) Upon receipt by the commission of a proposed change of organization or reorganization, except a special reorganization, that includes the detachment of territory from any city, the commission shall place the proposal on the agenda for the next commission meeting for information purposes only and shall transmit a copy of the proposal to any city from which the detachment of territory is requested.

(b) No later than 60 days after the date that the proposal is on the commission's meeting agenda in accordance with subsection (a), an

affected city may adopt and transmit to the commission a resolution requesting termination of the proceedings.

(c) If an affected city has adopted and transmitted to the commission a resolution requesting termination of proceedings within the time period prescribed by this section, then the commission shall terminate the proceedings upon receipt of the resolution from the city.

56752. If the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), then the resolution shall state whether the city shall succeed to the contract pursuant to Section 51243 or whether the city intends to exercise its option to not succeed to the contract pursuant to Section 51243.5.

56753. The executive officer shall give mailed notice of any hearing by the commission, as provided in Sections 56155 to 56157, inclusive, by mailing notice of the hearing to the Director of Conservation if the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1).

56753.5. Within 10 days after receiving a proposal that would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), the executive officer shall notify the Director of Conservation of the proposal. The notice shall include the contract number, the date of the contract's execution, and a copy of any protest that the city had filed pursuant to Section 51243.5.

56754. If a change of organization or reorganization would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), the commission shall determine one of the following:

(a) That the city shall succeed to the rights, duties, and powers of the county pursuant to Section 51243, or

(b) That the city may exercise its option to not succeed to the rights, duties, and powers of the county pursuant to Section 51243.5.

56755. Prior to submitting a resolution of application for the annexation of territory described in Section 56375.3 to the commission, the legislative body adopting the resolution shall conduct a public hearing on the resolution. Notice of the hearing shall be published pursuant to Sections 56153 and 56154. At the hearing, any landowner shall be given an opportunity to present his or her views on the resolution.

56756. The clerk of the legislative body adopting a resolution of application shall file a certified copy of that resolution with the executive officer.

56757. (a) The commission shall not review a reorganization that includes an annexation to any city in Santa Clara County of unincorporated territory that is within the urban service area of the city if the reorganization is initiated by resolution of the legislative body of the city.

(b) The city council shall be the conducting authority for the reorganization and the proceedings for the reorganization shall be initiated and conducted as nearly as may be practicable in accordance with Part 4 (commencing with Section 57000).

(c) The city council, in adopting the resolution approving the reorganization, shall make all of the following findings:

(1) That the unincorporated territory is within the urban service area of the city as adopted by the commission.

(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the road annexation policies of the commission. The city shall reimburse the county for the actual costs incurred by the county surveyor in making this determination.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

(5) That the proposal is consistent with the adopted general plan of the city.

(6) That the territory is contiguous to existing city limits.

(7) That the city has complied with all conditions imposed by the commission for inclusion of the territory in the urban service area of the city.

(d) All reorganizations which involve territory for which the land use designation in the general plan of the city has changed from the time that the urban service area of the city was last adopted by the commission, and which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county.

(e) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the reorganization proposal should also be annexed or detached from that special district.

(f) Any petition submitted under subdivision (d) or resolution submitted under subdivision (e) shall be submitted to the executive officer within 15 days of the adoption by the city council of the resolution approving the annexation. The executive officer shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

56758. If the proposal includes the annexation of inhabited territory to a city with over 100,000 residents which is located in a county with a population of over 4,000,000, no proceedings shall be initiated either by petition or by application of a legislative body unless the proposal is consistent with the sphere of influence of any affected city or affected district.

56759. In any order approving a proposal for an annexation or a reorganization that includes annexation of inhabited territory to a city when the assessed value of land within that territory proposed to be annexed equals one-half, or more, of that within the city, as shown by the last equalized assessment rolls, or the number of registered voters of the territory equals one-half, or more, of the number of registered voters within the city, as shown by the county register of voters, the commission shall require that an election called upon the question of confirming the annexation or reorganization shall also be called, held, and conducted within the territory of the city to which territory is proposed to be annexed.

Article 4. Initiation by Petition

56760. (a) Before circulating any petition for change of organization for a city with a population of more than 100,000 which is located in a county with a population of over 4,000,000, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be published pursuant to Section 56153. The notice shall be signed by at least one, but not more than three, chief petitioners and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition proposing to _____ territory to the City of _____.

The reasons for the proposal are:

(b) Within five days after the date of publication, the chief petitioners shall file with the clerk of the city and the executive officer a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication.

(c) After the filing required pursuant to subdivision (b), the petition may be circulated for signatures.

56764. A petition for the incorporation of a city shall be signed by either of the following:

(a) Not less than 25 percent of the registered voters residing in the area to be incorporated, as determined by the commission pursuant to subdivision (f) of Section 56375.

(b) Not less than 25 percent of the number of owners of land within the territory proposed to be incorporated who also own not less than 25 percent of the assessed value of land within the territory proposed to be incorporated, as shown on the last equalized assessment roll of the county.

56765. A petition for the disincorporation of a city shall be signed by not less than 25 percent of the registered voters residing in the city proposed to be disincorporated as shown on the county register of voters.

56766. A petition for the consolidation of two or more cities shall be signed by not less than 5 percent of the registered voters of each affected city as shown on the county register of voters.

56767. (a) Except as otherwise provided in subdivision (b), a petition for annexation of territory to a city shall be signed by either of the following:

(1) Not less than 5 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters.

(2) Not less than 5 percent of the number of owners of land within the territory proposed to be annexed who also own 5 percent of the assessed value of land within the territory as shown on the last equalized assessment roll.

(b) Notwithstanding subdivision (a), a petition for the annexation of territory to a city with more than 100,000 residents which is located in a county with a population of over 4,000,000, shall be signed by either of the following:

(1) Not less than 5 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters.

(2) Not less than 5 percent of the number of owners of land within the territory proposed to be annexed who also own 5 percent of the assessed value of land within the territory as shown on the last equalized assessment roll.

56768. A petition for detachment of territory from a city shall be signed by either of the following:

(a) Not less than 25 percent of the registered voters residing within the territory proposed to be detached, as shown on the county register of voters.

(b) Not less than 25 percent of the number of owners of land within the territory proposed to be detached who also own 25 percent of the assessed value of land within the territory, as shown on the last equalized assessment roll.

SEC. 111. Chapter 3 (commencing with Section 56750) of Part 3 of Division 3 of Title 5 of the Government Code is repealed.

SEC. 112. The heading of Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of the Government Code is amended to read:

CHAPTER 4. FISCAL PROVISIONS

SEC. 113. A heading is added as Article 1 (commencing with Section 56800) to Chapter 4 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 1. Comprehensive Fiscal Analysis

SEC. 114. Section 56800 of the Government Code is amended and renumbered to read:

56654. (a) A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency.

(b) At least 20 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

(c) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

SEC. 115. Section 56800 is added to the Government Code, to read:

56800. For any proposal which includes an incorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56665. Data used for the analysis shall be from the most recent fiscal year for which data are available, provided that the data are not more than one fiscal year old. When data from the most recent fiscal year are unavailable, the executive officer may request supplemental data. The analysis shall review and document each of the following:

(a) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation.

(b) The revenues of the proposed city during the three fiscal years following incorporation.

(c) The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation.

(d) Any other information and analysis needed to make the findings required by Section 56720.

SEC. 115.5. Section 56800 is added to the Government Code, to read:

56800. For any proposal which includes an incorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56665. Data used for the analysis shall be from the most recent fiscal year for which data are available preceding the issuance of the certificate of filing. When data from the most recent fiscal year are unavailable, the analysis shall document the source and methodology of the data used. The analysis shall review and document each of the following:

(a) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation with the following criteria:

(1) When determining costs, the executive officer shall include all direct and indirect costs associated with the current provision of existing services in the affected territory. These costs should reflect the actual or estimated costs at which the existing level of service could be contracted by the proposed city following an incorporation, if the city elects to do so, and shall include any general fund expenditures used to support or subsidize a fee-supported service where the full costs of providing the service are not fully recovered through fees. The executive officer shall also identify which of these costs shall be transferred to the new city that result in an administrative cost reduction to other agencies. In the analysis, the executive officer shall also review how the costs of any existing services compare to the costs of services provided in cities with similar populations and similar geographic size that provide a similar level and range of services and shall make a reasonable determination of the costs expected to be borne by the newly incorporated city.

(2) When determining costs, the executive officer shall also include all direct and indirect costs, of any public services that are proposed to be assumed by the new city and that are provided by state agencies in the area proposed to be incorporated.

(b) The revenues of the proposed city during the three fiscal years following incorporation.

(c) The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation.

(d) Any other information and analysis needed to make the findings required by Section 56720.

SEC. 116. Section 56800.3 of the Government Code is repealed.

SEC. 117. Section 56801 of the Government Code is repealed.

SEC. 118. Section 56801 is added to the Government Code, to read:

56801. (a) For any proposal that includes an incorporation, the executive officer shall, at the request of an interested party, which request is submitted pursuant to subdivision (b), and prior to issuing his or her report and recommendation pursuant to Section 56665,

request the Controller to review the comprehensive fiscal analysis prepared pursuant to Section 56800. The request by an interested party shall specify in writing any element of the comprehensive fiscal analysis that the Controller is requested to review and the reasons the Controller is requested to review each element.

(b) The commission may adopt written procedures for the acceptance, referral, and payment for a request for the Controller's review, which shall include setting a time period during which an interested party is permitted to submit a request pursuant to subdivision (a). The time period for accepting a request shall not be less than 30 days following notice given in the same manner as specified in Section 56153.

(c) Within 45 days of receiving the analysis, the Controller shall issue a report to the executive officer regarding the accuracy and reliability of the information, methodologies, and documentation used in the analysis. The times within which the executive officer or commission is required to act pursuant to this chapter shall be tolled for the time required by the Controller for completion of the report. The executive officer shall include the results of the Controller's report into his or her own report and recommendation issued pursuant to Section 56665.

(d) Notwithstanding Sections 56378 and 56386, the Controller may charge the commission for the actual costs incurred pursuant to this section. The commission may recover these costs by charging the person who requested the Controller's review.

SEC. 119. Section 56802 of the Government Code is repealed.

SEC. 120. Section 56802 is added to the Government Code, to read:

56802. (a) For any proposal for incorporation of the territory within the Mountain House Community Services District, San Joaquin County shall provide the required funds to those petitioners filing the incorporation application for all costs involved in filing the application for incorporation pursuant to this division, including the preparation of the comprehensive fiscal analysis pursuant to Section 56800.

(b) The funds provided by the county pursuant to this section shall not be construed to be a gift of public funds and may only be granted to a quasi-public or nonprofit organization formed for the purpose of pursuing incorporation of the Mountain House area.

(c) San Joaquin County shall provide the funds required in subdivision (a) only one time, upon the first filing of application for incorporation.

SEC. 121. Section 56803 is added to the Government Code, to read:

56803. If the commission approves a proposal which includes the incorporation of a city, the resolution making determinations shall accept or reject each of the findings and recommendations made in

the executive officer's report prepared pursuant to Section 56665, and the fiscal analysis prepared pursuant to Section 56800. If the commission rejects a finding or recommendation, the resolution making determinations shall include findings by the commission which present the basis for any rejection.

SEC. 122. Article 2 (commencing with Section 56810) is added to Chapter 4 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 2. Property Tax Exchange

56810. (a) (1) If the proposal includes the incorporation of a city, as defined in Section 56043, the commission shall determine the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section and Section 56815.

(2) If the proposal includes the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the amount of property tax to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of

providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs which were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost which was funded by any revenues of that agency which are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount described in the previous sentence by the annual tax increment according to the procedures set forth in Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the new city or district receives its initial allocation of property taxes.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.

(d) If the proposal would transfer all of an affected agency's service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985-86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, "prior fiscal year" means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available preceding the fiscal year in which the commission approves by resolution the city's proposal to incorporate or the district's proposal to form.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section shall be commenced within three years of the effective date of the city's incorporation or the district's formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.

(j) The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56815.

56811. If a proposal includes the formation of a district, the commission shall determine the appropriations limit of the district in accordance with Section 7902.7 and Article XIII B of the California Constitution.

56812. (a) If a proposal includes the incorporation of a city, the commission shall determine the provisional appropriations limit of the city in accordance with Section 7902.7 and Article XIII B of the California Constitution. The commission shall determine the provisional appropriations limit of the city in the following manner:

(1) Estimate the amount of revenue anticipated to be received by the city from the proceeds of taxes for the first full fiscal year of operation.

(2) Adjust the amount determined in paragraph (1) for the estimated change in the cost of living and population in the next full fiscal year of operation and such other changes as may be required or permitted by Article XIII B of the California Constitution.

(b) The governing body of the city shall determine the proposed permanent appropriations limit of the city to be submitted to the voters in the following manner:

(1) Determine the amount of revenue actually received by the city from the proceeds of taxes for the first full fiscal year of operation.

(2) Adjust the amount determined in paragraph (1) for the estimated change in the cost of living and population in the next full fiscal year of operation and such other changes as may be required or permitted by Article XIII B of the California Constitution.

(c) The permanent appropriations limit of the city shall be set at the first municipal election which is held following the first full fiscal year of operation and shall not be considered to be a change in the appropriations limit of the city pursuant to Section 4 of Article XIII B of the California Constitution.

SEC. 123. Article 3 (commencing with Section 56815) is added to Chapter 4 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 3. Revenue Neutrality

56815. (a) It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.

(b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:

(1) Revenues currently received by the local agency transferring the affected territory which, but for the operation of this section, would accrue to the local agency receiving the affected territory.

(2) Expenditures currently made by the local agency transferring the affected territory for those services which will be assumed by the local agency receiving the affected territory.

(c) Notwithstanding subdivision (b), the commission may approve a proposal that includes an incorporation if it finds either of the following:

(1) The county and all of the subject agencies agree to the proposed transfer.

(2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.

(d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless

otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).

(e) Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains an incorporation shall be included in the commission resolution making determinations adopted pursuant to Section 56880 and the terms and conditions specified in the questions pursuant to Section 57134.

SEC. 123.5. Section 56815 is added to the Government Code, to read:

56815. (a) It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.

(b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:

(1) Revenues currently received by the local agency transferring the affected territory that, but for the operation of this section, would accrue to the local agency receiving the affected territory.

(2) Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.

(c) Notwithstanding subdivision (b), the commission may approve a proposal that includes an incorporation if it finds either of the following:

(1) The county and all of the subject agencies agree to the proposed transfer.

(2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.

(d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).

(e) Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains an incorporation shall be included in the commission resolution making determinations adopted pursuant to Section 56880 and the terms and conditions specified in the questions pursuant to Section 57134.

SEC. 123.7. Section 56815 is added to the Government Code, to read:

56815. (a) It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both

revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.

(b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:

(1) Revenues currently received by the local agency transferring the affected territory that, but for the operation of this section, would accrue to the local agency receiving the affected territory.

(2) Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.

(c) Notwithstanding subdivision (b), the commission may approve a proposal that includes an incorporation if it finds either of the following:

(1) The county and all of the subject agencies agree to the proposed transfer.

(2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.

(d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).

(e) Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains an incorporation shall be included in the commission resolution making determinations adopted pursuant to Section 56880 and the terms and conditions specified in the questions pursuant to Section 57134.

(f) For any incorporation approved by the voters on or after January 1, 2001, voter approval of terms and conditions, including, but not limited to, fiscal mitigation measures, which terms and conditions were found by the commission to constitute an agreement by the proponents of incorporation and the affected agency, shall constitute a binding contractual obligation of the affected new city and each party to the agreement to comply with those terms and conditions.

SEC. 124. Section 56815.2 is added to the Government Code, to read:

56815.2. By July 1, 2001, the Governor's Office of Planning and Research, in consultation with the Controller, shall convene a task force composed of representatives of cities, counties, special districts, and local agency formation commissions, as nominated by their statewide organizations and associations, with expertise in local

government fiscal issues for the purpose of creating statewide guidelines for the incorporation process. The guidelines shall be completed by January 1, 2002, by the Office of Planning and Research and shall serve as minimum statewide guidelines for the incorporation process. The guidelines shall include, but not be limited to, information to assist incorporation proponents to understand the incorporation process, its timelines, and likely costs. They shall also provide direction to affected agencies regarding the type of information that should be included in the comprehensive fiscal analysis of an incorporation, as well as suggestions for alternative ways to achieve fiscally neutral incorporations. The guidelines shall be advisory to the commissions in the review of incorporation proposals.

SEC. 125. A heading is added as Chapter 5 (commencing with Section 56820) to Part 3 of Division 3 of Title 5 of the Government Code, to read:

CHAPTER 5. PROCEEDINGS FOR SPECIAL DISTRICTS

SEC. 126. Article 1 (commencing with Section 56820) is added to Chapter 5 of Part 3 of Division 3 of the Government Code, to read:

Article 1. Representation and Functions

56820. The commission may take proceedings pursuant to this chapter for the adoption, amendment, or repeal of regulations affecting the functions and services of special districts within the county. Those proceedings may be initiated either by the commission or by independent special districts within the county. If the commission has representation from special districts prior to January 1, 2001, and if the commission has previously adopted regulations limiting the exercise of powers by its special districts as a condition of that representation, those regulations shall be repealed upon the request of a majority of independent special districts within the county.

56820.5. The commission may adopt, amend, or repeal regulations affecting the functions and services of special districts within the county. The regulations shall designate the special districts, by type and by principal act, to which they apply and the regulations shall not apply to, or affect the functions and services of, any special districts not so designated. The regulations may do any of the following:

(a) Classify the various types of service which customarily are, or can be, provided within a single function of a special district. A class may be based upon the type of service, the purpose or use of the service, the facilities used to provide the service, the type of consumers or users of the service, the extent of territory provided

with the service, and any other factors which, in the opinion of the commission, are necessary or convenient to group persons, properties, or activities into a class having common characteristics distinct from those of other classes.

(b) Require existing districts to file written statements with the commission specifying the functions or classes of service provided by those districts.

(c) Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

(d) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district.

The regulations shall not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service which the commission, pursuant to this section, has established is currently being provided by that special district.

56820.7. In any county where regulations have been adopted, an application for the formation of a special district shall set forth the functions and services proposed to be provided by the district. If, in the opinion of the commission, approval of the application will necessitate adoption of any new regulations or the amendment or repeal of any existing regulations, the commission may condition approval of the application upon the adoption, amendment, or repeal of the regulations and shall initiate and conduct proceedings pursuant to this chapter for the adoption, amendment, or repeal of those regulations.

56821. Either the commission or the legislative body of any independent special district within a county may adopt a resolution initiating proceedings as follows:

(a) It may propose representation of special districts upon the commission.

(b) It may propose the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, in which case it shall request that the commission do either of the following:

(1) Consider the proposal without reference to a special district advisory committee, in which case the resolution shall contain the text of the regulations proposed to be adopted, amended, or repealed.

(2) Refer the proposal to a special district advisory committee for study, report, and recommendation, in which case the resolution shall generally describe the nature of the regulations proposed to be amended, adopted, or repealed and, if then available, shall refer to a text on file with the clerk of the district for a detailed description of the regulations.

56821.1. If the commission adopts a resolution pursuant to subdivision (a) of Section 56821, the executive officer shall

immediately call a meeting of the independent special district selection committee referred to in Section 56332. The meeting shall be held not less than 15, or more than 35, days from the adoption of the resolution by the commission. The independent special district selection committee shall meet at the time and place designated by the executive officer and shall consider the resolution adopted by the commission. By majority vote of those district representatives voting on the issue, the selection committee shall either approve or disapprove the resolution adopted by the commission. If the selection committee approves the resolution adopted by the commission, it shall immediately inform the executive officer of that action, and the commission at its next meeting shall adopt a resolution of intention pursuant to Section 56822. If the selection committee disapproves the resolution adopted by the commission, it shall immediately inform the executive officer of this action and all further proceedings under this chapter shall cease.

56821.3. If an independent special district adopts a resolution pursuant to subdivision (a) of Section 56821, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, adopted by the districts within one year from the date that the first resolution was adopted, the commission, at its next regular meeting, shall adopt a resolution of intention pursuant to Section 56822.

56821.5. A certified copy of any resolution which has been adopted by an independent special district pursuant to subdivision (b) of Section 56821 and a copy of the text, if any, of proposed regulations referred to in the resolution shall be filed with the executive officer. If a resolution, or substantially identical resolution, has been filed by a majority of independent special districts within the county, then, not later than 35 days after the filing, the commission shall adopt a resolution of intention in accordance with the filed resolution or resolutions.

56821.7. Minor changes in any existing regulation affecting special districts may be ordered by the commission, without adoption of a resolution of intention, notice, and hearing, or reference to a special district advisory committee, if the commission makes a determination that those changes will not substantially affect the functions and services of any special district subject to those regulations and that determination is concurred in by both of the commission members appointed to represent the special districts.

56822. Whenever the commission, or the independent special districts, as the case may be, have complied with the applicable provisions of Sections 56821, 56821.1, 56821.3, and 56821.5, the commission shall adopt a resolution of intention pursuant to this section. The resolution of intention shall do all of the following:

(a) State whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth.

(b) If the resolution of intention proposes only the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, it shall state that the commission proposes either of the following:

(1) To consider the proposal without reference to a special district advisory committee, in which case the resolution shall contain the text of the regulations proposed to be adopted, amended, or repealed.

(2) To refer the proposal to a special district advisory committee for study, report, and recommendation, in which case the resolution shall generally describe the nature of the regulations proposed to be amended, adopted, or repealed and, if then available, shall refer to a text on file with the executive officer for a detailed description of the regulations.

In addition, the resolution of intention adopted pursuant to this subdivision shall also fix a time, not less than 15 or more than 35 days after the adoption of the resolution of intention, and the place of hearing by the commission on the question of whether the proposal made by the resolution should be disapproved, approved, and ordered without reference to a special district advisory committee, or referred to a special district advisory committee for study, report, and recommendation to the commission.

(c) If the resolution of intention proposes representation of special districts on the commission, it shall state that the commission proposes to refer the proposal to a special district advisory committee and the commission shall immediately order the proposal referred to that committee pursuant to Section 56823.

56822.3. If a hearing is called pursuant to subdivision (b) of Section 56822, the executive officer shall give notice of the hearing by publication, as provided in Sections 56153 and 56154, by posting, as provided in Sections 56158 and 56159, and by mailing to the clerk of the county and each local agency within the county, as provided in Sections 56155, 56156, and 56157.

56822.5. The hearing referred to in Section 56822.3 shall be held by the commission at the time and place specified or to which the hearing may be continued. After the conclusion of the hearing, the commission shall adopt a resolution disapproving the proposal made by the resolution of intention, approving and ordering the proposal without reference to a special district advisory committee, or ordering the proposal referred to a special district advisory committee for study, report, and recommendation.

56823. If the commission orders a proposal referred to a special district advisory committee for study, report, and recommendation, the appointment of, and proceedings by, the advisory committee

shall be made and taken substantially in accordance with the provisions of Chapter 6 (commencing with Section 56826), pertaining to reorganization committees, except that the advisory committee shall not be terminated until after the commission acts upon the report and recommendation of the advisory committee. When applied to proceedings taken pursuant to this chapter:

(a) "Plan of reorganization" means a plan containing the text of regulations affecting the functions and services of special districts.

(b) "Proposal of reorganization," "reorganization," or "change of organization" means a proposal made pursuant to this chapter.

(c) "Reorganization committee" means the special district advisory committee.

(d) "Subject district" means an independent special district affected by a proposal made pursuant to this chapter.

If the commission is of the opinion that special districts, other than independent special districts, may be affected by the proposal, then, in addition to the appointment of voting members to the advisory committee to represent independent special districts, the commission may authorize the legislative bodies of special districts, other than independent special districts, to appoint nonvoting members to the advisory committee. Any nonvoting member shall have all of the rights of a voting member except the right to vote.

56824. Where a special district advisory committee consists of voting members representing more than five independent special districts, the advisory committee may appoint an executive committee to undertake all or part of the study and may authorize the executive committee to prepare a tentative report and recommendation for submission to and approval by the full advisory committee. The executive committee shall consist of the number of voting members as the advisory committee may determine. If the commission authorizes the appointment of nonvoting members to the advisory committee, those nonvoting members may appoint members to the executive committee in numbers not exceeding those appointed by the voting members and any nonvoting member appointed to the executive committee shall have all of the rights of a voting member on the committee, except the right to vote.

Upon completion of the studies of the executive committee, the executive committee shall report to the full advisory committee and submit any tentative report and recommendation prepared by the executive committee. Thereafter, the advisory committee may reject any tentative report and recommendation submitted, may adopt any tentative report and recommendation submitted, either as submitted by the executive committee or as changed by the full advisory committee, or the advisory committee may prepare its own report and recommendation.

56824.1. Not later than 35 days after the filing with the executive officer of the report and recommendation of a special district

advisory committee, the commission shall take one of the following actions:

(a) If the report concerns only the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, the commission may do either of the following:

(1) Disapprove the report without further notice and hearing.

(2) Adopt a resolution of intention to hold a hearing on the report pursuant to subdivision (c).

(b) If the report concerns a request for special district representation on the commission, the commission shall adopt a resolution declaring its intention to approve the report and recommendation.

(c) A resolution of intention shall do all of the following:

(1) Refer to the report and recommendation of the special district advisory committee, generally describe the nature and contents of the report and recommendation, and refer to the report and recommendation on file with the executive officer for a detailed description report and recommendation.

(2) Declare the intention of the commission to approve the recommendation and report, as filed or as those regulations may be changed by the commission after notice and hearing.

(3) Fix a time, not less than 15 days, or more than 35 days, after the adoption of the resolution of intention, and the place of hearing by the commission, on the question of whether the report and recommendation filed by the special district advisory committee should be approved, either as filed or as ordered changed by the commission after notice and hearing.

56824.3. The executive officer shall give notice of the hearing by publication, as provided in Sections 56153 and 56154, by posting, as provided in Sections 56158 and 56159, and by mailing to the clerk of the county and each local agency within the county, as provided in Sections 56155, 56156, and 56157.

56824.5. The hearing shall be held by the commission at the time and place specified or to which the hearing may be continued. During the course of the hearing, the commission may propose changes in the report and recommendations. Any proposed changes shall be referred, for review, to the special district advisory committee, or if the advisory committee has appointed an executive committee, to that executive committee. The advisory committee, or the executive committee, shall have 60 days to report back to the commission. If no report is received by the commission within 60 days, the advisory committee shall be deemed to have approved the proposed changes in the report and recommendation.

Within 30 days after the conclusion of the hearing, the commission shall adopt a resolution approving the report and recommendation, either as filed or as those regulations may be changed by the commission.

56824.7. Any resolution approving the report and recommendation of a special district advisory committee, either as filed or as changed by the commission, shall order both of the following:

(a) The adoption, amendment, or repeal of regulations, in accordance with the recommendations of the approved report.

(b) The chairperson of the commission to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution if special district representatives on the commission are to be selected pursuant to Section 56332.

SEC. 127. The heading of Chapter 5 (commencing with Section 56825) of Part 3 of Division 3 of Title 5 of the Government Code is repealed.

SEC. 128. A heading is added as Article 2 (commencing with Section 56825) to Chapter 5 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 2. Reorganization

SEC. 129. Section 56826 of the Government Code is repealed.

SEC. 130. Section 56826 is added to the Government Code, to read:

56826. A reorganization or a plan of reorganization shall provide for one or more changes of organization of any type for each of the subject districts and may provide for the formation of one or more new districts pursuant to the principal act or acts designated in the reorganization or plan of reorganization and Section 56100.

SEC. 131. Section 56827 of the Government Code is repealed.

SEC. 132. Section 56827 is added to the Government Code, to read:

56827. (a) Except as provided in subdivision (b), upon the presentation of any petition or applications making a proposal for a reorganization, the commission may take proceedings pursuant to Part 3 (commencing with Section 56650) without referring the proposal to a reorganization committee, as provided in this part.

(b) The commission may refer to a reorganization committee any incorporation proposal that includes, or may be modified to include, any of the following changes of organization affecting an independent special district: consolidation, dissolution, formation, merger, or establishment of a subsidiary district.

SEC. 133. Section 56827.5 of the Government Code is repealed.

SEC. 134. Section 56828 of the Government Code is repealed.

SEC. 135. Section 56828 is added to the Government Code, to read:

56828. Before any proposal for reorganization is referred to any reorganization committee, the commission may provide for a public

hearing on the question of whether the proposal should be disapproved or referred to a reorganization committee and set a time and place for that hearing.

SEC. 136. Section 56828.5 of the Government Code is repealed.

SEC. 137. Section 56829 of the Government Code is repealed.

SEC. 138. Section 56829 is added to the Government Code, to read:

56829. The executive officer shall give notice of that hearing by publication, as provided in Sections 56153 and 56154, and by posting, as provided in Sections 56158 and 56159.

SEC. 139. Section 56830 of the Government Code is repealed.

SEC. 140. Section 56830 is added to the Government Code, to read:

56830. The executive officer shall also give mailed notice of any hearing, as provided in Sections 56155 to 56157, inclusive, by mailing notice of hearing to all of the following persons and entities:

- (a) Each affected city and affected district.
- (b) The chief petitioners, if any.
- (c) Each person who has filed a written request for special notice with the executive officer.

SEC. 141. Section 56831 of the Government Code is repealed.

SEC. 142. Section 56831 is added to the Government Code, to read:

56831. The hearing shall be held by the commission on the date and at the time and place specified in the notice. After the conclusion of the hearing, the commission shall adopt a resolution doing either of the following:

- (a) Disapproving the proposal of reorganization.
- (b) Ordering the proposal referred to a reorganization committee for study, report, and recommendation.

SEC. 143. Section 56832 of the Government Code is repealed.

SEC. 144. Section 56832 is added to the Government Code, to read:

56832. The commission may accept contributions from any source for the purpose of paying the expenses of a reorganization committee in the conduct of its study, report, and recommendation. Any affected county, affected city, or affected district may make contributions for that purpose. The commission and any affected county, affected city, or affected district may make any of its facilities available for the use of a reorganization committee and may authorize any of its officers and employees to furnish advice, assistance, or services to the committee.

SEC. 145. Section 56833 of the Government Code is repealed.

SEC. 146. Section 56833 is added to the Government Code, to read:

56833. Any resolution adopted by the commission ordering a proposal of reorganization referred to a reorganization committee shall do all of the following:

(a) Describe the proposed reorganization and designate the subject districts (the description and designation may be by reference to the proposal).

(b) Specify the maximum number of members, not to exceed three, to represent each subject district on the committee.

(c) Fix a time and place for the first meeting of the reorganization committee.

(d) Designate a date, not less than 60 days from the date of the first meeting of the committee, for the completion and submission to the commission of the report and recommendation of the committee.

SEC. 147. Section 56833.1 of the Government Code is repealed.

SEC. 148. Section 56833.3 of the Government Code is repealed.

SEC. 149. Section 56833.5 of the Government Code is repealed.

SEC. 150. Section 56834 of the Government Code is repealed.

SEC. 151. Section 56834 is added to the Government Code, to read:

56834. From time to time during the course of study upon a proposed plan of reorganization, the commission may do any of the following:

(a) Extend the time for completion and submission of the report and recommendation of a reorganization committee.

(b) Change the scope of the study by the addition or deletion of territory or of subject districts.

(c) Authorize the committee to develop, study, report, and make recommendations upon alternative plans of reorganization.

SEC. 152. Section 56835 of the Government Code is repealed.

SEC. 153. Section 56835 is added to the Government Code, to read:

56835. At least 15 days before the date of the first meeting of a reorganization committee, the executive officer shall mail a copy of the resolution adopted by the commission to each subject district designated in the resolution.

SEC. 154. Section 56836 of the Government Code is repealed.

SEC. 155. Section 56836 is added to the Government Code, to read:

56836. Any person, including, but not limited to, a member of the legislative body of a subject district and an officer or employee of the district, may be appointed as a member to represent the district upon a reorganization committee.

SEC. 156. Section 56837 of the Government Code is repealed.

SEC. 157. Section 56837 is added to the Government Code, to read:

56837. (a) The legislative body of each affected district shall appoint one or more members, not to exceed the maximum number

specified by the commission, to represent the district on the reorganization committee. That legislative body may remove and replace any member previously appointed by it, and may fill any vacancy in its membership upon the committee.

(b) In the case of a reorganization committee created pursuant to subdivision (b) of Section 56827, the county board of supervisors shall appoint one or more members, not to exceed the maximum number specified by the commission, to represent the county on the reorganization committee. The county board of supervisors may appoint any person, including, but not limited to, an officer or employee of the county to represent the county on the reorganization committee. The county board of supervisors may remove and replace any member previously appointed by it, and may fill any vacancy in its membership on the committee.

(c) In the case of a reorganization committee created pursuant to subdivision (b) of Section 56827, the commission shall appoint one or more members to represent the general public on the reorganization committee. The number of members appointed to represent the general public shall not exceed the maximum number specified by the commission to represent the county or each subject district. A member appointed pursuant to this subdivision shall not be an officer or employee of any local agency. The commission may remove and replace any member previously appointed by it, and may fill any vacancy in its membership on the committee.

SEC. 158. Section 56838 of the Government Code is repealed.

SEC. 159. Section 56838 is added to the Government Code, to read:

56838. The clerk of a subject district shall give immediate notice to the executive officer of all appointments and removals made by the legislative body to a reorganization committee.

SEC. 160. Section 56839 of the Government Code is repealed.

SEC. 161. Section 56839 is added to the Government Code, to read:

56839. At any time after the date fixed for the first meeting of a reorganization committee or during the course of the study by the committee, if the legislative body of any subject district, after written request by the executive officer, does not appoint any members to the committee, those members may be appointed by the commission.

SEC. 162. Section 56839.1 of the Government Code is repealed.

SEC. 163. Section 56840 of the Government Code is repealed.

SEC. 164. Section 56840 is added to the Government Code, to read:

56840. If, during the course of study upon a proposed plan of reorganization, the commission authorizes a change in the scope of the study, the membership of the reorganization committee shall be immediately changed to exclude representatives of each district or city for which a change of organization is no longer proposed and to

include representatives of each district or city for which a new change of organization is proposed.

SEC. 165. Section 56840.5 of the Government Code is repealed.

SEC. 166. Section 56841 of the Government Code is repealed.

SEC. 167. Section 56841 is added to the Government Code, to read:

56841. Subject to any standards and procedures adopted by regulation by the commission, a reorganization committee shall provide for the selection of a presiding officer and secretary either of whom may but are not required to be members of the committee, adopt the standards and procedures which it deems advisable, fix the time and place for meetings of the committee, and determine the manner and method to be followed by the committee in its study, report, and recommendation.

SEC. 168. Section 56842 of the Government Code is repealed.

SEC. 169. Section 56842 is added to the Government Code, to read:

56842. A quorum shall be deemed to be present at a meeting of a reorganization committee if members representing one-half or more of the subject districts are present. Each subject district shall be entitled to one vote at any reorganization committee meeting, which vote shall be determined by a majority of the members of the district present at the meeting.

SEC. 170. Section 56842.2 of the Government Code is repealed.

SEC. 171. Section 56842.5 of the Government Code is repealed.

SEC. 172. Section 56842.6 of the Government Code is repealed.

SEC. 173. Section 56842.7 of the Government Code is repealed.

SEC. 174. Section 56843 of the Government Code is repealed.

SEC. 175. Section 56843 is added to the Government Code, to read:

56843. If a reorganization committee does not complete and submit its report and recommendation before the date specified by the commission or, prior to that date, if members of the committee representing one-half or more of the subject districts report to the commission that the committee is unable to agree upon the report and recommendation, the commission may either order the discharge of the committee, or appoint additional members to the committee, not to exceed the maximum number authorized for a single subject district, to represent the public and order the committee, as so enlarged, to continue its study.

SEC. 176. Section 56844 of the Government Code is repealed.

SEC. 177. Section 56844 is added to the Government Code, to read:

56844. If the commission orders the discharge of a reorganization committee, the commission may make a study, report, and recommendation upon a plan of reorganization in the place of the reorganization committee.

SEC. 178. Section 56844.1 of the Government Code is repealed.

SEC. 179. Section 56844.2 of the Government Code, as added by Chapter 911 of the Statutes of 1997, is repealed.

SEC. 180. Section 56844.2 of the Government Code, as added by Chapter 590 of the Statutes of 1998, is repealed.

SEC. 181. Section 56845 of the Government Code is repealed.

SEC. 182. Section 56845 is added to the Government Code, to read:

56845. If the commission appoints additional members to the reorganization committee to represent the public and orders the reorganization committee, as so enlarged, to continue its study, the additional members shall have all of the rights and powers of members representing a single subject district, including participation in all studies, reports, and recommendations, attendance at all meetings, and the casting of a single vote on behalf of all of the additional members on any matter before the committee.

SEC. 183. Section 56846 of the Government Code is repealed.

SEC. 184. Section 56846 is added to the Government Code, to read:

56846. Every officer of any affected county, affected city, or affected district shall make available to a reorganization committee any records, reports, maps, data, or other documents which in any way affect or pertain to the committee's study, report, and recommendation and shall confer with the committee concerning the problems and affairs of that county, city, or district.

SEC. 185. Section 56847 of the Government Code is repealed.

SEC. 186. Section 56847 is added to the Government Code, to read:

56847. Upon completion of the study of a reorganization committee, the committee shall prepare and submit to the commission a report and recommendation containing all of the following:

(a) A brief summary of the nature and extent of the study of the committee.

(b) A full and complete description of the plan of reorganization and any alternative plans of reorganization which were studied by the committee.

(c) The recommendation of the committee for the approval or disapproval of all or any part of the plan of reorganization and of any alternative plans of reorganization.

SEC. 187. Section 56848 is added to the Government Code, to read:

56848. Approval by a reorganization committee of the report and recommendation shall require the affirmative vote of more than one-half of the subject districts represented on the reorganization committee.

SEC. 188. Section 56848.3 of the Government Code is repealed.

SEC. 189. Section 56848.5 of the Government Code is repealed.

SEC. 190. Section 56849 of the Government Code is repealed.

SEC. 191. Section 56849 is added to the Government Code, to read:

56849. The reorganization committee shall file the original of its report and recommendation with the executive officer and a copy of the report and recommendation with the clerk of each subject district. Upon filing that report and recommendation with the executive officer, the reorganization committee shall be terminated. However, the commission may cause the committee to be reconvened at any time for the sole purpose of correcting or clarifying any error, omission, or uncertainty appearing in the report and recommendation, as determined by the commission.

SEC. 192. Section 56850 of the Government Code is repealed.

SEC. 193. Section 56851 of the Government Code is repealed.

SEC. 194. Section 56852 of the Government Code is repealed.

SEC. 195. Section 56852.3 of the Government Code is repealed.

SEC. 196. Section 56852.5 of the Government Code is repealed.

SEC. 197. Section 56853 of the Government Code is repealed.

SEC. 198. Section 56853 is added to the Government Code, to read:

56853. (a) If a majority of the members of each of the legislative bodies of two or more local agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, the commission shall approve, or conditionally approve, the proposal. The commission shall order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b) of Section 57081.

(b) Before ordering any material change in the provisions or the terms and conditions of the consolidation or reorganization, as set forth in the proposals of the local agencies, the commission shall direct the executive officer to give each subject agency mailed notice of that change. The commission shall not, without the written consent of all subject agencies, take any further action on the consolidation or reorganization for 30 days following that mailing. Upon written demand by any subject agency, filed with the executive officer during that 30-day period, the commission shall make determinations upon the proposals only after notice and hearing proposals. If no written demand is filed, the commission may make those determinations without notice and hearing. The application of any provision of this subdivision may be waived by consent of all of the subject agencies.

(c) Where the commission has initiated a change of organization or reorganization affecting more than one special district, the commission may utilize and is encouraged to utilize a reorganization committee to review the proposal.

SEC. 199. Section 56854 of the Government Code is repealed.

SEC. 200. Section 56854 is added to the Government Code, to read:

56854. (a) Notwithstanding Sections 57077 and 57107, the commission shall order (1) the consolidation of districts, (2) dissolution, (3) merger, or (4) the establishment of a subsidiary district, or (5) a reorganization that includes any of these changes of organization without an election, except that an election shall be held in each affected city or district if there are written protests as follows:

(1) Where the proposal was not initiated by the commission, and where an affected city or district has not objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in subdivisions (b) and (c) of Section 57081.

(2) Where the proposal was not initiated by the commission, and where an affected city or district has objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in paragraphs (1) and (2) of subdivision (a) and subdivision (b) of Section 57114.

(3) Where the proposal was initiated by the commission, and regardless of whether an affected city or district has objected to the proposal by resolution, a written protest has been submitted that meets the requirements of Section 57113.

(b) Notwithstanding subdivision (a), the commission shall not order a merger or establishment of a subsidiary district without the consent of the affected city.

(c) This section shall not apply to any proposal for a change of organization or reorganization that is submitted to the commission before January 1, 2003, where the Goleta Sanitary District or the Goleta West Sanitary District is an affected district. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the following special circumstances:

The voters of the Goleta Sanitary District previously voted against a proposed consolidation with the Goleta West Sanitary District by a margin of two to one. More recently, a reorganization proposal was submitted to the commission in Santa Barbara County that would have combined the Goleta Sanitary District and the Goleta West Sanitary District under circumstances where no opportunity for confirmation by the Goleta Sanitary District voters would be available. In light of the issues that were raised in connection with these earlier consolidation and reorganization proposals, a five-year moratorium on the application of Section 56854 to proposals affecting the Goleta Sanitary District or the Goleta West Sanitary District is necessary to ensure an opportunity for voter confirmation.

SEC. 201. Section 56855 of the Government Code is repealed.

SEC. 202. Section 56855 is added to the Government Code, to read:

56855. (a) This section shall apply to any proposal which contains the annexation of territory to a fire protection district which is organized pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code, and the affected territory is or is proposed to be all or part of a city which is within the fire protection district.

(b) Prior to the adoption by the local agency formation commission of a resolution making determinations, the district may request and the commission shall impose, as a term and condition, a requirement that the legislative body of the city shall enter into a contract with the district. The contract shall require:

(1) That the affected territory shall remain part of the district for a period of at least 10 years.

(2) That the city shall pay the cost of services provided by the district. This payment shall be in amounts and on terms specified in the contract.

(3) Any other conditions to which the city and the district mutually agree.

SEC. 203. Section 56856 of the Government Code is repealed.

SEC. 204. Section 56856 is added to the Government Code, to read:

56856. (a) The commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a special district of territory that is within a farmland security zone created pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Division 1 if that special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads, unless the facilities or services benefit land uses that are allowed under the farmland security zone contract and the landowner consents to the change of organization or reorganization.

(b) This section shall not apply during the three-year period preceding the termination of a farmland security zone contract under Article 7 (commencing with Section 51296) of Chapter 7 of Division 1.

SEC. 205. Section 56857 of the Government Code is repealed.

SEC. 205.5. Section 56857 is added to the Government Code, to read:

56857. (a) Upon receipt by the commission of a proposed change of organization or reorganization that includes the annexation or territory to any district, if the proposal is not filed by the affected district the commission shall place the proposal on the agenda for the next commission meeting for information purposes only and shall transmit a copy of the proposal to any district to which an annexation of territory is requested.

(B) Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission.

(b) If the commission so conditions its approval, the commission may order that any further action pursuant to this division be continued and held in abeyance for the period of time designated by the commission, not to exceed six months from the date of that conditional approval.

(c) The commission order may also provide that any election called upon any change of organization or reorganization shall be called, held, and conducted before, upon the same date as, or after the date of any election to be called, held, and conducted upon any other change of organization or reorganization.

(d) The commission order may also provide that in any election at which the questions of annexation and district reorganization or incorporation and district reorganization are to be considered at the same time, there shall be a single question appearing on the ballot upon the issues of annexation and district reorganization or incorporation and district reorganization.

56886. Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions. However, none of the following terms and conditions shall directly regulate land use, property development, or subdivision requirements:

(a) The payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any city, county, or district.

(b) The levying or fixing and the collection of any of the following, for the purpose of providing for any payment required pursuant to subdivision (a):

(1) Special, extraordinary, or additional taxes or assessments.

(2) Special, extraordinary, or additional service charges, rentals, or rates.

(3) Both taxes or assessments and service charges, rentals, or rates.

(c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, affected counties, affected districts, and affected territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district, or any improvement district within a local agency, and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates, or (3) both taxes or assessments and service charges, rentals, or rates, in the same manner as provided in the

organization or reorganization, for the purpose of succeeding to all of the rights, duties, and obligations of the extinguished local agency with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

(n) The designation of (1) the method for the selection of members of the legislative body of a district or (2) the number of those members, or (3) both, where the proceedings are for a consolidation, or a reorganization providing for a consolidation or formation of a new district and the principal act provides for alternative methods of that selection or for varying numbers of those members, or both.

(o) The initiation, conduct, or completion of proceedings on a proposal made under, and pursuant to, this division.

(p) The fixing of the effective date of any change of organization, subject to the limitations of Section 57202.

(q) Any terms and conditions authorized or required by the principal act with respect to any change of organization.

(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency.

(s) The levying of assessments, including the imposition of a fee pursuant to Section 50029 or 66484.3 or the approval by the voters of general or special taxes. For the purposes of this section, imposition of a fee as a condition of the issuance of a building permit does not constitute direct regulation of land use, property development, or subdivision requirements.

(t) The extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency or a successor local agency in the affected territory.

(u) The transfer of authority and responsibility among any affected cities, affected counties, and affected districts for the administration of special tax and special assessment districts, including, but not limited to, the levying and collecting of special taxes and special assessments, including the determination of the annual special tax rate within authorized limits; the management of redemption, reserve, special reserve, and construction funds; the issuance of bonds which are authorized but not yet issued at the time of the transfer, including not yet issued portions or phases of bonds which are authorized; supervision of construction paid for with bond or special tax or assessment proceeds; administration of agreements to acquire public facilities and reimburse advances made to the district; and all other rights and responsibilities with respect to the levies, bonds, funds, and use of proceeds that would have applied to the local agency that created the special tax or special assessment district.

(v) Any other matters necessary or incidental to any of the terms and conditions specified in this section.

56886.5. If a proposal includes the formation of a new government, the commission shall determine whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.

56887. Any change of organization or reorganization may be conditionally approved by a local agency formation commission subject to the certification by the California Coastal Commission of an amendment to the local coastal program of a city or a county.

56887.5. If any change of organization or reorganization pertains to city or district territory which is located, in whole or in part, within the boundaries of any city or county, any terms and conditions authorized by Section 56886 may be made applicable to that city or county. However, no indebtedness or liability which is subject to the requirement of an election, under the provisions of Section 18 of Article XVI of the California Constitution, shall be incurred or assumed by any city or county, except as provided in Section 18 of Article XVI of the California Constitution.

56888. (a) This section shall only apply to a special reorganization.

(b) All public employees to which Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 applies shall continue to be deemed public employees of the original local agency or of the newly incorporated local agency for all the purposes of that chapter, including, but not limited to, the continuation and application of any collective bargaining agreement that applies to these employees, and all representational and collective bargaining rights under that chapter.

(c) Any existing collective bargaining agreement shall remain in effect and be fully binding on the original local agency or on the newly incorporated local agency, and on the employee organizations that are parties to the agreement for the balance of the term of the agreement, and until a subsequent agreement has been established.

(d) Any existing retiree benefits, including, but not limited to, health, dental, and vision care benefits, shall not be diminished.

(e) Notwithstanding any other provision of law, an employee organization that has been recognized as the exclusive representative of local agency public employees affected by a special reorganization shall retain exclusive representation of the unit employees of the original local agency, or of the newly incorporated local agency.

56889. If any commission order approving or conditionally approving a change of organization or reorganization would result in the annexation to a city of land that is subject to a contract executed

pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), for which the commission has determined pursuant to Section 56754 that the city shall succeed to the contract, the commission shall impose a condition that requires the city to adopt the rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by Sections 51231, 51237, and 51237.5.

56890. Any of the terms and conditions authorized by Section 56886 may be made applicable to all or any part of any city or district or any improvement district within that local agency or any territory annexed to, or detached from, any city or district or improvement district within that local agency.

Article 3. Reconsideration

56895. (a) When a commission has adopted a resolution making determinations, any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to Section 56658, the commission shall consider that request at a public hearing.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file any action, including, but not limited to, an action pursuant to Section 21167 of the Public Resources Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the commission is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as he or she deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be

continued from time to time but not to exceed 70 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56854.

Article 4. Amendment

56897. If pursuant to Section 56895, the commission approves any addition, deletion, amendment, or revision of its resolution making determinations, further proceedings for the change of organization or reorganization shall be taken in compliance with that addition, deletion, amendment, or revision. Any provision of this division requiring compliance with the resolution adopted by the commission making determinations shall be deemed to include any addition, deletion, amendment, or revision made to that resolution.

56898. Whenever the executive officer is required by law to prepare an impartial analysis of a ballot proposition for approval by the commission, the commission may, by regulation, provide a procedure for approval or modification of the executive officer's analysis.

In any event, the analysis shall be prepared and submitted to the commission in sufficient time for the commission to consider and approve or modify the analysis, and submit the analysis to the officials conducting the election not later than the last day for submission of rebuttal arguments. The impartial analysis submitted by the commission shall not exceed 500 words in length and shall include a general description of the affected territory.

SEC. 211.5. Section 56895 is added to the Government Code, to read:

56895. (a) When a commission has adopted a resolution making determinations, any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution. The request shall state the specific

modification to the resolution being requested and shall state what new or different facts that could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to Section 56658, the commission shall consider that request at a public hearing.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file any action, including, but not limited to, an action pursuant to Section 21167 of the Public Resources Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the commission is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as he or she deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 35 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56883.

SEC. 212. Section 57000 of the Government Code is amended to read:

57000. (a) After adoption of a resolution making determinations by the commission pursuant to Part 3 (commencing with Section 56650), protest proceedings for a change of organization or reorganization shall be taken pursuant to this part.

(b) If a proposal is approved by the commission, with or without amendment, wholly, partially, or conditionally, the commission shall conduct proceedings in accordance with this part. The proceedings shall be conducted and completed pursuant to those provisions which are applicable to the proposal and the territory contained in the proposal as it is approved by the commission. If the commission approves the proposal with modifications or conditions, proceedings shall be conducted and completed in compliance with those modifications or conditions.

(c) Any reference in this part to the commission also means the executive officer for any function which the executive officer will perform pursuant to a delegation of authority from the commission.

(d) When the commission makes a determination pursuant to this division that will require an election to be conducted, it shall inform the board of supervisors or the city council of the affected city of that determination and request the board or the city council to direct the elections official to conduct the necessary election.

(e) When a board of supervisors or a city council is informed by the commission that a determination has been made which requires an election, it shall direct the elections official to conduct the necessary election. The board or council shall do all of the following:

(1) Call, provide for, and give notice of a special election or elections upon that question.

(2) Fix a date of election.

(3) Designate precincts and polling places.

(4) Take any other action necessary to call, provide for, and give notice of the special election or elections and to provide for the conduct and the canvass of returns of the election, as determined by the commission.

(f) Any provision in this part which requires that an election be called, held, provided for, or conducted shall mean that the procedures specified in subdivisions (d) and (e) shall be followed.

SEC. 213. Section 57001 of the Government Code is amended to read:

57001. If a certificate of completion for a change of organization or reorganization has not been filed within one year after the commission approves a proposal for that proceeding, the proceeding shall be deemed abandoned unless prior to the expiration of that year the commission authorizes an extension of time for that completion. The extension may be for any period deemed reasonable to the commission for completion of necessary prerequisite actions by any

party. If a proceeding has not been completed because of the order or decree of a court of competent jurisdiction temporarily enjoining or restraining the proceedings, this shall not be deemed a failure of completion and the one-year period shall be tolled for the time that order or decree is in effect.

SEC. 214. Section 57002 of the Government Code is amended to read:

57002. (a) Within 35 days following the adoption of the commission's resolution making determinations, and following the reconsideration period specified in subdivision (b) of Section 56895 the executive officer of the commission shall set the proposal for hearing and give notice of that hearing by mailing, publication, and posting, as provided in Chapter 4 (commencing with Section 56150) of Part 1. The date of that hearing shall not be less than 15 days, or more than 60 days, after the date the notice is given.

(b) Where the proceeding is for the establishment of a district of limited powers as a subsidiary district of a city, upon the request of the affected district, the date of the hearing shall be at least 90 days, but no more than 135 days, from the date the notice is given.

(c) If authorized by the commission pursuant to Section 56663, a change of organization or reorganization may be approved without notice, hearing, and election.

SEC. 214.5. Section 57002 of the Government Code is amended to read:

57002. (a) Within 35 days following the adoption of the commission's resolution making determinations, and following the reconsideration period specified in subdivision (b) of Section 56895, the executive officer of the commission shall set the proposal for hearing and give notice of that hearing by mailing, publication, and posting, as provided in Chapter 4 (commencing with Section 56150) of Part 1. The date of that hearing shall not be less than 15 days, or more than 60 days, after the date the notice is given.

(b) Notwithstanding subdivision (a), for any proposal that includes an incorporation, the clerk of the conducting authority shall set the proposal for hearing within 15 days following the adoption of the commission's resolution making determinations. The hearing shall be set for the next regularly scheduled hearing that provides sufficient time to give public notice of that hearing by mailing, publication, and posting, as provided in Chapter 4 (commencing with Section 56150) of Part 1.

(c) Where the proceeding is for the establishment of a district of limited powers as a subsidiary district of a city, upon the request of the affected district, the date of the hearing shall be at least 90 days, but no more than 135 days, from the date the notice is given.

(d) If authorized by the commission pursuant to Section 56663, a change of organization or reorganization may be approved without notice, hearing, and election.

SEC. 215. Section 57003 of the Government Code is amended to read:

57003. Once notice is given by the executive officer of the commission pursuant to this chapter, and until proceedings are completed or terminated pursuant to this part, no conflicting petition or resolution of application seeking the change of organization or reorganization of all or part of the territory described by the notice given by the executive officer shall be filed with, or acted on, by the commission.

SEC. 216. Section 57004 of the Government Code is repealed.

SEC. 217. Section 57005 of the Government Code is repealed.

SEC. 218. Section 57006 of the Government Code is repealed.

SEC. 219. Section 57007 of the Government Code is amended to read:

57007. Except when a district formation is part of a reorganization, protest proceedings shall be conducted as set forth in the principal act of the district to be formed, and commission protest proceedings shall not apply, except for the provisions relating to the completion and effective date of a change of organization or reorganization contained in Chapter 3 (commencing with Section 57200). When the district formation is part of a reorganization, all of the proceedings shall be conducted pursuant to this part and Section 56100.

SEC. 220. Section 57008 of the Government Code is amended to read:

57008. For any proposal initiated by the commission pursuant to subdivision (a) of Section 56375, the commission shall hold a public protest hearing in the affected territory.

SEC. 221. Section 57025 of the Government Code is amended to read:

57025. (a) The executive officer of the commission shall give notice of the protest hearing to be held on the proposal by publication pursuant to Sections 56153 and 56154 and by posting pursuant to Sections 56158 and 56159.

(b) The executive officer shall also give mailed notice to each affected city, affected district, or affected county, the proponents, if any, all landowners owning land within any territory proposed to be formed into, or to be annexed to, or detached from, an improvement district within any city or district, and to persons requesting special notice, in accordance with the provisions of Sections 56155 to 56157, inclusive.

(c) In the case of a proposed annexation to a city of affected territory consisting of 75 acres or less, the executive officer of the commission shall give mailed notice to each landowner within the affected territory.

(d) In the case of a proposed change of organization or reorganization that would result in the extension of any previously

authorized special tax or benefit assessment to the affected territory, the executive officer of the commission shall give mailed notice to each landowner within the affected territory.

SEC. 222. Section 57026 of the Government Code is amended to read:

57026. The mailed notice required to be given by Section 57025 shall contain all of the following information:

(a) A statement of the distinctive short form designation assigned by the commission to the proposal.

(b) A statement of the manner in which, and by whom, proceedings were initiated. However, a reference to the proponents, if any, shall be sufficient where proceedings were initiated by a petition.

(c) A description of the exterior boundaries of the subject territory.

(d) A description of the particular change or changes of organization proposed for each of the subject districts or cities and new districts or new cities proposed to be formed, and any terms and conditions to be applicable. The description may include a reference to the commission's resolution making determinations for a full and complete description of the change of organization or reorganization, and the terms and conditions.

(e) A statement of the reason or reasons for the change of organization or reorganization as set forth in the proposal submitted to the commission.

(f) (1) Except as otherwise provided in paragraph (2), a statement of the time, date, and place of the protest hearing on the proposed change of organization or reorganization.

(2) Notwithstanding paragraph (1), if inhabited territory is proposed to be annexed to a city with more than 100,000 residents which is located in a county with a population of over 4,000,000 the date shall be at least 90 days, but not more than 105 days, after the date of adoption of the resolution initiating the proceedings. The resolution shall specify a date 90 days prior to the hearing when registered voters may begin to file protests.

(g) If the subject territory is inhabited and the change of organization or reorganization provides for the submission of written protests, a statement that any owner of land within the territory, or any registered voter residing within the territory, may file a written protest against the proposal with the executive officer of the commission at any time prior to the conclusion of the hearing by the commission on the proposal.

(h) If the subject territory is uninhabited and the change of organization or reorganization provides for submission of written protests, a statement that any owner of land within the territory may file a written protest against the proposal with the executive officer

of the commission at any time prior to the conclusion of the hearing by the commission on the proposal.

SEC. 223. Section 57050 of the Government Code is amended to read:

57050. (a) The protest hearing on the proposal shall be held by the commission on the date and at the time specified in the notice given by the executive officer. The hearing may be continued from time to time but not to exceed 60 days from the date specified for the hearing in the notice.

(b) At the protest hearing, prior to consideration of protests, the commission's resolution making determinations shall be summarized. At that hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which is made, presented, or filed. Any person who has filed a written protest may withdraw that protest at any time prior to the conclusion of the hearing.

SEC. 223.5. Section 57050 of the Government Code is amended to read:

57050. (a) The protest hearing on the proposal shall be held by the commission on the date and at the time specified in the notice given by the executive officer. The hearing may be continued from time to time but not to exceed 60 days from the date specified for the hearing in the notice. The hearing on a proposal that includes an incorporation may be continued from time to time but not to exceed 35 days from the date specified for the hearing in the notice.

(b) At the protest hearing, prior to consideration of protests, the commission's resolution making determinations shall be summarized. At that hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which is made, presented, or filed. Any person who has filed a written protest may withdraw that protest at any time prior to the conclusion of the hearing.

SEC. 224. Section 57051 of the Government Code is amended to read:

57051. At any time prior to the conclusion of the protest hearing in the notice given by the executive officer, but not thereafter, any owner of land or any registered voter within inhabited territory proposed to be annexed or detached, or any owner of land within uninhabited territory proposed to be annexed or detached, may file a written protest against the annexation or detachment. Each written protest shall state whether it is made by a landowner or registered voter and the name and address of the owner of the land affected and the street address or other description sufficient to identify the location of the land or the name and address of the registered voter as it appears on the affidavit of registration. Protests may be made on behalf of an owner of land by an agent authorized in writing by the owner to act as agent with respect to that land. Protests may be made

on behalf of a private corporation which is an owner of land by any officer or employee of the corporation without written authorization by the corporation to act as agent in making that protest.

Each written protest shall show the date that each signature was affixed to the protest. All signatures without a date or bearing a date prior to the date of publication of the notice shall be disregarded for purposes of ascertaining the value of any written protests.

SEC. 225. Section 57052 of the Government Code is amended to read:

57052. Upon conclusion of the protest hearing, the commission shall determine the value of written protests filed and not withdrawn. The value of written protests shall be determined in the same manner prescribed in Sections 56707, 56708, and 56710 for determining the sufficiency of petitions filed with the commission.

SEC. 226. Section 57053 of the Government Code is amended and renumbered to read:

56886.3. If the terms and conditions of any change of organization provide for the formation of a new improvement district, or the annexation or detachment of territory to, or from, an existing improvement district, the commission shall do all of the following:

(a) Exclude any lands proposed to be formed into, or to be annexed to, the improvement district which the commission finds will not be benefited by becoming a part of the improvement district.

(b) Exclude any lands proposed to be detached from an improvement district which the commission finds will be benefited by remaining a part of the improvement district.

SEC. 227. Section 57075 of the Government Code is amended to read:

57075. In the case of registered voter districts or cities, where a change of organization or reorganization consists solely of annexations, detachments, or formation of county service areas, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002.

(a) In the case of inhabited territory, take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:

(A) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(B) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

(b) In the case of uninhabited territory, take either of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

SEC. 228. Section 57075.5 of the Government Code is amended to read:

57075.5. Notwithstanding Section 57075, if territory proposed to be annexed to a city with more than 100,000 residents is inhabited and is located in a county with a population of over 4,000,000, the commission, not more than 30 days after conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and shall take one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory annexed subject to the confirmation by the voters on the question, and call a special election and submit to the voters residing within the affected territory the question of whether it shall be annexed to the city, if written protests have been filed and not withdrawn by either 15 percent or more of the registered voters within the territory, or 15 percent or more of the number of owners of land who also own not less than 15 percent of the total assessed value of land within the territory.

(c) Order the territory annexed without an election if written protests have been filed and not withdrawn by less than 15 percent of the registered voters within the territory and less than 15 percent of the owners of land who own less than 15 percent of the total assessed value of land within the territory.

SEC. 229. Section 57076 of the Government Code is amended to read:

57076. In the case of landowner-voter districts, where a change of organization or reorganization consists solely of annexations or detachments, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not

withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(b) Order the change of organization or reorganization subject to an election within the affected territory if written protests have been filed and not withdrawn represent either of the following:

(1) Twenty-five percent or more of the number of owners of land who also own 25 percent or more of the assessed value of land within the territory.

(2) Twenty-five percent or more of the voting power of landowner voters entitled to vote as a result of owning property within the territory.

(c) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the number of owners of land who own less than 25 percent of the assessed value of land within the affected territory.

SEC. 230. Section 57077 of the Government Code is amended to read:

57077. (a) Where a change of organization consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district.

(3) Order the change of organization without election if it is a change of organization that meets the requirements of Section 57081, 57102, or 57107; otherwise, the commission shall take the action specified in paragraph (2).

(b) Where a reorganization consists of one or more dissolutions, incorporations, formations, disincorporations, mergers, establishments of subsidiary districts, consolidations, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the reorganization subject to confirmation of the voters, or in the case of landowner-voter districts, subject to confirmation by

the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district.

(3) Order the reorganization without election if it is a reorganization which meets the requirements of Section 57081, 57102, 57107, or 57111; otherwise, the commission shall take the action specified in paragraph (2).

SEC. 231. Section 57078 of the Government Code is amended to read:

57078. In the case of any reorganization or change of organization, a majority protest shall be deemed to exist and the proposed change of organization or reorganization shall be abandoned if the commission finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent any of the following:

(a) In the case of uninhabited territory, landowners owning 50 percent or more of the assessed value of the land within the territory.

(b) In the case of inhabited territory, 50 percent or more of the voters residing in the territory.

(c) In the case of a landowner-voter district, 50 percent or more of the voting power of the voters entitled to vote as a result of owning land within the district.

SEC. 232. Section 57078.5 is added to the Government Code, to read:

57078.5. If a proposed annexation consists of two or more distinct communities, as defined in the county general plan, census unincorporated places listing, or other commonly recognized community designation, as determined by the commission, and any one community has more than 250 registered voters, any protest filed pursuant to Section 57078 shall be accounted separately for that community, unless the annexation is proposed pursuant to Section 56375.3.

SEC. 233. Section 57079 of the Government Code is repealed.

SEC. 234. Section 57079.5 of the Government Code is amended and renumbered to read:

56668.3. (a) If the proposed change of organization or reorganization includes a city detachment or district annexation, except a special reorganization, and the proceeding has not been terminated based upon receipt of a resolution requesting termination pursuant to either Section 56751 or Section 56857, factors to be considered by the commission shall include all of the following:

(1) Whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district.

(2) The commission's resolution making determinations.

(3) Any factors which may be considered by the commission as provided in Section 56668.

(4) Any resolution objecting to the action that may be filed by an affected agency.

(5) Any other matters which the commission deems material.

(b) The commission shall give great weight to any resolution objecting to the action that is filed by a city or a district. The commission's consideration shall be based only on financial or service related concerns expressed in the protest. Except for findings regarding the value of written protests, the commission is not required to make any express findings concerning any of the factors considered by the commission.

SEC. 235. Section 57080 of the Government Code is amended to read:

57080. (a) With respect to a proceeding initiated on or after January 1, 2000, when approved and authorized by the commission pursuant to Section 56745, the commission shall, not later than 35 days after conclusion of the hearing, adopt a resolution ordering the annexation without an election or shall terminate the proceedings. Sections 57050, 57051, 57052, subdivision (a) of 57075, and Section 57078 do not apply to any annexation subject to this subdivision.

(b) With respect to a proceeding initiated on or after January 1, 2007, when approved and authorized by the commission pursuant to Section 56375.3, Sections 57050, 57051, and 57052, shall apply and subdivision (a) of Section 57075 does not apply.

(1) If the territory proposed to be annexed is inhabited territory, the commission, not more than 30 days after conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and shall do either of the following:

(A) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(B) Order the territory annexed without an election.

(2) If the territory proposed to be annexed is uninhabited, the commission, not more than 30 days after conclusion of the hearing, shall adopt a resolution which does either of the following:

(A) Terminates proceedings.

(B) Orders the territory annexed.

SEC. 236. Section 57081 of the Government Code is amended to read:

57081. (a) If authorized by the commission pursuant to Section 56853, the protest proceedings shall be conducted for the consolidation of districts or the reorganization of all or any part of those districts into a single local agency pursuant to this section. The commission shall hold at least one noticed public hearing on the proposal within 30 days after approval of the application by the commission. After the conclusion of the hearing, the commission shall order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b).

(b) An election shall only be held if the commission finds either of the following:

(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(A) At least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization who own at least 25 percent of the assessed value of land within the territory.

(B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the territory.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization, owning at least 25 percent of the assessed value of land within the territory.

(c) The petition shall be filed with the commission prior to the conclusion of the protest hearing.

SEC. 237. Section 57082 of the Government Code is amended and renumbered to read:

57100. Any commission resolution ordering a change of organization or a reorganization shall contain all of the following:

(a) A statement that the action is being taken pursuant to this division.

(b) A statement of the type of change of organization or reorganization being acted on.

(c) A description of the exterior boundaries of the territory for each change of organization or reorganization approved by the commission.

(d) The name or names of any new or consolidated city or district.

(e) All of the terms and conditions upon the change of organization or reorganization approved by the commission.

(f) The reasons for the change of organization or reorganization.

(g) A statement as to whether the regular county assessment roll or another assessment roll will be utilized.

(h) A statement that the affected territory will or will not be taxed for existing general bonded indebtedness of any agency whose boundaries are changed.

(i) Any other matters that the commission deems material.

SEC. 238. Section 57082.5 of the Government Code is amended and renumbered to read:

57101. With respect to any proceeding that would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), for which the commission has determined pursuant to Section 56754 that the city may exercise its option to not succeed to the contract, the commission shall include

within its resolution ordering the annexation of the territory a finding regarding whether the city intends to not succeed to the contract.

SEC. 239. Section 57083 of the Government Code is amended and renumbered to read:

57102. (a) In any resolution ordering a dissolution, the commission shall make findings upon one or more of the following matters:

(1) That the corporate powers have not been used, as specified in Section 56871, and that there is a reasonable probability that those powers will not be used in the future.

(2) That the district is a registered-voter district and is uninhabited.

(3) That the board of directors of the district has, by unanimous resolution, consented to the dissolution of the district.

(b) If the commission makes any of the findings specified in subdivision (a), the commission may, except as otherwise provided in Section 57103, order the dissolution of the district without election.

SEC. 240. Section 57083.5 of the Government Code is amended and renumbered to read:

57103. Any order in any resolution adopted by the commission on or after January 1, 1986, ordering the dissolution of a local hospital district, organized pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, is subject to confirmation by the voters.

SEC. 240.5. Section 57084 of the Government Code is amended and renumbered to read:

57104. Any order of merger may be adopted for a district of limited powers, including any district previously established as a subsidiary district, if the entire territory of the district is included within the boundaries of a city upon the date of the order.

SEC. 241. Section 57085 of the Government Code is amended and renumbered to read:

57105. An order establishing a district of limited powers as a subsidiary district may be adopted if upon the date of that order the commission determines that either of the following situations exists:

(a) The entire territory of the district is included within the boundaries of a city.

(b) A portion or portions of the territory of the district are included within the boundaries of a city and that portion or portions meet both of the following requirements:

(1) Represent 70 percent or more of the area of land within the district, as determined by reference to the statements and the maps or plats filed pursuant to Chapter 8 (commencing with Section 54900) of Division 2 of Title 5 for the current fiscal year.

(2) Contain 70 percent or more of the number of registered voters who reside within the district as shown on the voters' register in the office of the county clerk or registrar of voters.

SEC. 241.5. Section 57086 of the Government Code is amended and renumbered to read:

57106. For the purposes of Sections 57104 and 57105, the boundaries shall be determined as of the date of adoption of the order of the commission. Any then pending but uncompleted proceedings for changes in the boundaries of the city or district shall be disregarded.

SEC. 242. Section 57087 of the Government Code is amended and renumbered to read:

57107. In any resolution ordering a merger or establishment of a subsidiary district, the commission shall take one of the following actions:

(a) Order the merger or establishment of the subsidiary district subject to confirmation of the voters upon the questions, as the case may be, of merger, the establishment of a subsidiary district, or both merger and the establishment of a subsidiary district.

(b) Order the merger or establishment of the subsidiary district without election, if the legislative body of the city and the board of directors of the district have by resolution consented to the merger or the establishment of the subsidiary district.

SEC. 243. Section 57087.5 of the Government Code is amended and renumbered to read:

57108. At any time prior to the conclusion of the protest hearing by the commission ordering the district to be merged with or established as a subsidiary district of a city, a petition may be filed with the executive officer referring, by date of adoption, to the commission's resolution making determinations and requesting that any election upon that question be called, held, and conducted only within that district. Any petition so filed shall be immediately examined and certified by the executive officer by the same method and in the same manner as provided in Sections 56707 to 56711, inclusive, for the examination of petitions by the executive officer. The commission shall forward the proposal for an election upon the question of a merger or the establishment of a subsidiary district only within the district to be merged or established as a subsidiary district, if the executive officer certifies that any petition so filed was signed by either of the following:

(a) In the case of a registered voter district, by not less than 10 percent of the registered voters of the district.

(b) In the case of a landowner-voter district, by not less than 10 percent of the number of landowner-voters within the district who also own not less than 10 percent of the assessed value of land within the district.

SEC. 244. Section 57087.7 of the Government Code is amended and renumbered to read:

57109. At any time prior to the completion of the protest hearing by the commission and the adoption of a resolution ordering a

reorganization that includes an incorporation and the establishment of a subsidiary district or a merger, a petition may be filed with the executive officer referring, by date of adoption, to the commission's resolution making determinations and requesting that a separate election be called, held, and conducted only within that district on the establishment of the subsidiary district or the merger. That election shall be conducted at the same time as the election on the incorporation. Any petition so filed shall be immediately examined and certified by the executive officer by the same method and in the same manner as provided in Sections 56707 to 56711, inclusive, for the examination of petitions by the executive officer. The commission shall call, hold, and conduct any election upon the question of a merger or the establishment of a subsidiary district only within the district to be merged or established as a subsidiary district, if the executive officer certifies that any petition so filed was signed by either of the following:

- (a) In the case of a registered voter district, by not less than 10 percent of the registered voters of the district.
- (b) In the case of a landowner-voter district, by not less than 10 percent of the number of landowner-voters within the district who also own not less than 10 percent of the assessed value of land within the district.

SEC. 245. Section 57088 of the Government Code is amended and renumbered to read:

57110. In any resolution approving, subject to the confirmation of the voters, both an original and an alternative proposal as determined by the commission pursuant to paragraph (2) of subdivision (a) of Section 56863, the ballot at the election shall enable those voting to do one of the following:

- (a) Disapprove both proposals.
- (b) Approve either the original proposal or the alternative proposal.

The board of supervisors shall adopt a resolution confirming the proposal which was favored by a majority of votes cast at the election. Where both proposals were favored by a majority of the votes cast, the board of supervisors shall adopt a resolution confirming the proposal which received the greater number of votes.

SEC. 245.5. Section 57089 of the Government Code is amended and renumbered to read:

57111. In any reorganization proceeding where the component changes of organization would not individually require a confirmation election, no confirmation election shall be required to approve the reorganization.

SEC. 246. Section 57090 of the Government Code is amended to read:

57090. (a) Except as otherwise provided in subdivision (b), if proceedings are terminated, either by majority protest as provided

in Sections 57075, 57076, and 57077, or if a majority of voters do not confirm the change of organization or reorganization as provided in Section 57179, no substantially similar proposal for a change of organization or reorganization of the same or substantially the same territory may be filed with the commission within two years after the date of adoption of the certificate of termination adopted by the commission if the proposal included an incorporation or city consolidation and within one year for any other change of organization or reorganization.

(b) The commission may waive the requirements of subdivision (a) if it finds these requirements are detrimental to the public interest.

SEC. 247. Section 57091 of the Government Code is amended and renumbered to read:

57112. (a) Except as otherwise provided in subdivision (b), if proceedings are terminated by failure of a majority of voters to confirm a resolution ordering merger or establishment of a subsidiary district, no new proposal for a merger or establishment of a subsidiary district involving the same district may be filed with the commission within two years of the date of the certification adopted by the commission, pursuant to Section 57179.

(b) The commission may waive the requirements of subdivision (a) if it finds these requirements are detrimental to the public interest.

SEC. 248. Section 57092 of the Government Code is amended and renumbered to read:

57113. (a) Notwithstanding Section 57081, 57102, 57107, 57108, or 57111, for any proposal that was initiated by the commission pursuant to subdivision (a) of Section 56375, the commission shall forward the change of organization or reorganization for confirmation by the voters if the commission finds either of the following:

(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(A) At least 10 percent of the number of landowners within any affected district within the affected territory who own at least 10 percent of the assessed value of land within the territory. However, if the number of landowners within an affected district is less than 300, the petition requesting the proposal to be submitted to the voters shall be signed by at least 25 percent of the landowners who own at least 25 percent of the assessed value of land within the territory of the affected district.

(B) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory. However, if the number of voters entitled to vote within an affected district is less than 300, the petition requesting

the proposal to be submitted to the voters shall be signed by at least 25 percent of the voters entitled to vote.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 10 percent of the number of landowners within any affected district within the affected territory, owning at least 10 percent of the assessed value of land within the territory. However, if the number of voters entitled to vote within an affected district is less than 300, the petition requesting the proposal to be submitted to the voters shall be signed by at least 25 percent of the voters entitled to vote.

(b) The petition shall be filed with the commission prior to the conclusion of the protest hearing.

SEC. 249. Section 57093 of the Government Code is amended and renumbered to read:

57114. (a) Notwithstanding Section 56854 and Section 57089, for any proposal for the dissolution of one or more districts and the annexation of all or substantially all of their territory to another district, the commission shall forward the change of organization or reorganization for confirmation by the voters if the commission finds either of the following:

(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(A) At least 25 percent of the number of landowners within any affected district within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within any affected district within the affected territory, owning at least 25 percent of the assessed value of land within the territory of that district.

(b) If a petition that meets the requirements of this section has been filed, the commission shall approve the proposal subject to confirmation by the voters of each district that has filed such a petition. The voter confirmation requirements set forth in subdivision (a) shall not apply to any proposal initiated by the commission under Section 56375 or where each affected district has consented to the proposal by a resolution adopted by a majority vote of its board of directors.

SEC. 250. Section 57100 of the Government Code is amended and renumbered to read:

57115. Any resolution of the commission forwarding a change of organization or a reorganization for confirmation by the voters shall, in addition to any applicable requirements contained in Sections 57100 to 57111, inclusive, do all of the following:

(a) Designate the affected territory within which the special election or elections shall be held.

(b) Provide for the question or questions to be submitted to the voters.

(c) Specify any terms or conditions provided for in the change of organization or reorganization.

(d) State the vote required for confirmation of the change of organization or reorganization.

SEC. 251. Section 57101 of the Government Code is amended and renumbered to read:

57116. In addition to any other requirements, any resolution of the commission ordering an incorporation subject to an election shall do all of the following:

(a) Provide for the election of the officers of the proposed city required to be elected, except as provided in Section 56727 and except as to officers designated as appointive, pursuant to Section 56723.

(b) Provide for the election on the question of whether members of the city council in future elections are to be elected by district or at large.

(c) If the petition so requests, state that the voters may express a preference as to whether or not the city shall operate under the city manager form of government, the ballot question being for or against the city manager form of government.

(d) If the petition so requests, state that the voters may express their preference between names for the new city.

SEC. 252. Section 57102 of the Government Code is amended and renumbered to read:

57117. In addition to any other requirements, any resolution of the commission ordering a consolidation of cities subject to an election shall do all of the following:

(a) Provide for the election of officers of the successor city required to be elected.

(b) State that the voters may express their preference as to the name of the successor city.

SEC. 253. Section 57103 of the Government Code is amended and renumbered to read:

57118. In any resolution ordering a change of organization or reorganization subject to the confirmation of the voters, the commission shall determine that an election will be held:

(a) Within the territory of each city or district ordered to be incorporated, formed, disincorporated, dissolved or consolidated.

(b) Within the entire territory of each district ordered to be merged with or established as a subsidiary district of a city, or both within the district and within the entire territory of the city outside the boundaries of the district.

(c) If the executive officer certifies a petition pursuant to Section 57108 or 57109, within the territory of the district ordered to be merged with or established as a subsidiary district of a city.

(d) Within the territory ordered to be annexed or detached.

(e) If ordered by the commission pursuant to Section 56876 or 56759, both within the territory ordered to be annexed or detached and within all or the part of the city or district which is outside of the territory.

(f) If the election is required by Section 57114, separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57114.

SEC. 254. Section 57103.1 of the Government Code is amended and renumbered to read:

57119. Notwithstanding Section 57118, in any resolution ordering a special reorganization, the commission shall call an election in both of the following territories:

(a) The territory ordered to be detached from the city.

(b) The entire territory of the city from which the detachment is ordered to occur.

SEC. 255. Section 57104 of the Government Code is amended and renumbered to read:

57120. In addition to any other requirements, any resolution of the commission ordering an incorporation or a formation subject to an election shall provide for the establishment of the appropriations limit determined pursuant to Section 56811.

SEC. 256. Section 57125 of the Government Code is amended to read:

57125. Special elections called within all or any part of a city or registered-voter district shall be governed by the general election provisions and the local election provisions of the Elections Code, so far as they may be applicable, relating to the qualifications of voters, the manner of voting, the form of the ballot, the duties of precinct and election officers, the canvassing of returns, and all other particulars. If the commission determines that there is any inconsistency:

(a) Between the general elections provisions and the local elections provisions of the Elections Code, the local elections provisions shall control.

(b) Between this division and the Elections Code, this division shall control.

SEC. 257. Section 57126 of the Government Code is amended to read:

57126. Special elections called within all or any part of a landowner-voter district shall be governed by the general elections

provisions of the principal act, so far as they may be applicable, relating to the qualifications of voters, the manner of voting, the form of the ballot, the duties of precinct and election officers, the canvassing of returns, and all other particulars. To the extent of any inconsistency between the provisions of this division and the principal act as determined by the commission, the provisions of this division shall control.

SEC. 258. Section 57127 of the Government Code is amended to read:

57127. If the commission calls any special election within all or any part of any district, any references in the principal act to the board of directors of the district and to the clerk or secretary of the district shall be deemed to mean the commission and the executive officer, respectively.

SEC. 259. Section 57129 of the Government Code is amended to read:

57129. Where any records of a city or a district are required for the purpose of calling, holding, or conducting any special election called by the commission pursuant to this division, those records or certified copies of those records shall be delivered, upon request, to the elections official by the city or district officer having custody of the records or copies and shall be returned to that officer immediately after the canvass of the election returns. All other election records, documents, instruments, and election supplies, including, but not limited to, rosters, ballots, and tally sheets, shall be retained or disposed of by the elections official in the manner provided by law.

SEC. 260. Section 57130 of the Government Code is amended to read:

57130. The elections official shall cause notice of each change of organization or reorganization election to be given by publication, posting, and mailing as provided in Chapter 1 (commencing with Section 57025) of Part 4.

SEC. 260.5. Section 57131 of the Government Code is amended to read:

57131. The notice of election required to be given by Section 57130 shall contain all of the matters specified in Section 57115.

SEC. 261. Section 57133 of the Government Code is amended to read:

57133. The question or questions to be submitted at any special election or elections called pursuant to this part shall be in substantially the following form:

(a) For an incorporation: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of _____ County ordering the incorporation of the territory described in the order and designated in the order as _____ (insert the district

short form designation previously assigned by the commission) be confirmed?"

(b) For an annexation: "Shall the order adopted on _____, 20____, by the _____ (insert Local Agency Formation Commission) ordering the annexation to _____ (insert city or district) of the territory described in that order and designated as _____ (insert the short form designation previously assigned by the commission) be confirmed?"

(c) For a detachment: "Shall the order adopted on _____, 20____, by the _____ (insert Local Agency Formation Commission) ordering the detachment from the _____ (insert city or district) of the territory described in the order and designated in the order as _____ (insert the short form designation previously assigned by the commission) be confirmed?"

(d) For a city consolidation: "Shall the order adopted on _____, 20____, by the _____ (insert Local Agency Formation Commission) of the County of _____ (insert name of city) ordering the consolidation of the Cities of _____ (insert names of all cities ordered consolidated) into a single city known as the City of _____ be confirmed?"

(e) For a disincorporation: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the disincorporation of the City of _____ be confirmed?"

(f) For a reorganization: "Shall the order adopted on _____, 20____, by the _____ (insert Local Agency Formation Commission) ordering a reorganization affecting the _____ (insert names of all affected cities or districts) and providing for _____ (insert list of all changes of organization or new cities proposed to be incorporated or districts to be formed) be confirmed?"

(g) For a district dissolution: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the dissolution of the _____ district be confirmed?"

(h) For a district consolidation: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the consolidation of _____ (insert the names of all districts ordered consolidated) into a single district known as the _____ District be confirmed?"

(i) For a merger: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the merger of the _____ District with the City of _____ be confirmed?"

(j) For establishment of a subsidiary district: "Shall the order adopted on _____, 20____, by the Local Agency Formation Commission of the County of _____ ordering the _____ District

established as a subsidiary district of the City of _____ be confirmed?"

(k) For a district formation, use form of question under principal act of district being formed. If none, use substantially the following form: "Shall the order adopted on _____, 20 _____, by the Local Agency Formation Commission of _____ County ordering the formation of a district in the territory described, known as _____, be approved?"

SEC. 262. Section 57138 of the Government Code is amended to read:

57138. If the commission orders both a merger and the establishment of a subsidiary district, questions on each matter shall be printed on the ballot, one above the other. Immediately preceding the first question, there shall be printed in the words "Vote on both questions."

SEC. 263. Section 57144 of the Government Code is amended to read:

57144. Within five days after a special election is called pursuant to this part, the executive officer shall submit to the commission, for its approval or modification, an impartial analysis of the proposed incorporation or change of organization.

The impartial analysis shall not exceed 500 words in length in addition to a general description of the boundaries of the territory affected.

The commission shall approve or modify the analysis and submit the analysis to the elections official no later than the last day for submission of rebuttal arguments.

Immediately below the impartial analysis there shall be printed in no less than 10-point bold type a legend substantially as follows:

"The above statement is an impartial analysis of Proposition _____ If you desire a copy of the proposition, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

SEC. 264. Section 57145 of the Government Code is amended to read:

57145. (a) The legislative body of any affected agency, or any member or members of the legislative body of any affected agency authorized by it, or any individual voter or association of citizens entitled to vote on the change of organization or reorganization, or any combination of those voters and association of citizens may file a written argument for, or a written argument against, the question to be submitted to the voters.

Arguments shall not exceed 300 words in length and shall be filed with the elections official no later than the last day for submission of arguments specified by Section 57146.

(b) If more than one argument for or more than one argument against the proposal is filed with the elections official within the time

prescribed in Section 57145, the elections official shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the elections official shall give preference and priority in the order named to the following arguments:

- (1) The legislative body of an affected agency or any authorized member or members of the legislative body.
- (2) Individual voters or association of citizens or a combination of voters and associations.

SEC. 265. Section 57146 of the Government Code is amended to read:

57146. (a) On the basis of the time reasonably necessary to prepare and print the arguments, analysis, and sample ballots for the election, the elections official shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters. Notice of the date fixed shall be published in accordance with Section 56153 in a newspaper of general circulation which is circulated in the affected territory. Arguments may be changed until and including the date fixed by the elections official.

(b) The notice shall contain all of the following information:

- (1) A statement of the proposition to be voted on and a general description of the boundaries of the affected territory.
- (2) An invitation to any registered voter or association of citizens entitled to vote on the proposal to submit and file with the elections official for printing and distribution in the ballot pamphlet, an argument for or an argument against the proposal.
- (3) The date of the election.
- (4) A statement that only one argument for and one argument against will be selected and printed in the ballot pamphlet.
- (5) A statement that arguments shall not exceed 300 words in length and shall be accompanied by not more than five signatures.

SEC. 266. Section 57148 of the Government Code is amended to read:

57148. (a) The elections official shall cause a ballot pamphlet concerning the proposal to be printed and mailed to each voter entitled to vote on the question.

The ballot pamphlet shall contain all of the following information in the order prescribed:

- (1) The impartial analysis of the proposition prepared by the commission.
- (2) One argument for the proposal, if any.
- (3) One rebuttal to the argument for the proposal, if any.
- (4) One argument against the proposal, if any.
- (5) One rebuttal to the argument against the proposal, if any.

A copy of the complete text of the proposition shall be made available by the elections official, to any voter upon request.

(b) The elections official shall mail a ballot pamphlet to each voter entitled to vote in the election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 267. Section 57149 of the Government Code is amended to read:

57149. The canvass of ballots cast at any election held pursuant to this division shall be conducted pursuant to Sections 15300 to 15309, inclusive, of the Elections Code. The elections official shall immediately, upon the completion of any canvass, report the results to the executive officer of the local agency formation commission.

SEC. 268. Section 57150 of the Government Code is amended to read:

57150. All proper expenses incurred in conducting elections for a change of organization or reorganization pursuant to this chapter shall be paid, unless otherwise provided by agreement between the commission and the proponents, as follows:

(a) In the case of annexation or detachment proceedings, by the local agency to or from which territory is annexed, or from which territory is detached, or was proposed to be annexed or detached.

(b) In the case of incorporation or formation proceedings, by the newly incorporated city or the newly formed district, if successful, or by the county within which the proposed city or district is located if the incorporation proceedings are terminated. In the case of a separate election for city officers held following the election for incorporation pursuant to Section 56825.5, by the newly incorporated city.

(c) In the case of disincorporation or dissolution proceedings, from the remaining assets of the disincorporated city or dissolved district or by the city proposed to be disincorporated or the district proposed to be dissolved if disincorporation or dissolution proceedings are terminated.

(d) In the case of consolidation proceedings, by the successor city or district or by the local agencies proposed to be consolidated, to be paid by those local agencies in proportion to their respective assessed values, if proceedings are terminated.

(e) In the case of a reorganization:

(1) If the reorganization is ordered, by the affected local agencies or successor local agencies, as the case may be, for any of the above-enumerated changes of organization which may be included in the particular reorganization, to be paid by those local agencies in proportion to their assessed value.

(2) If the reorganization proceedings are terminated or the proposal is defeated, by the county within which the city is located.

SEC. 269. Section 57175 of the Government Code is repealed.

SEC. 270. Section 57176 of the Government Code is amended to read:

57176. The commission shall execute, within 30 days of the canvass of the election, a certificate of completion confirming the order of the change of organization or reorganization if a majority of votes cast upon the question are in favor of the change of organization or reorganization in any of the following circumstances:

(a) At an election called in the territory ordered to be organized or reorganized.

(b) At an election called within the territory ordered to be organized or reorganized and within the territory of the affected agency.

(c) At both an election called within the area to be organized or reorganized and an election called within the territory of an affected city, when required by the commission pursuant to Section 56759.

SEC. 271. Section 57176.1 of the Government Code is amended to read:

57176.1. Notwithstanding Section 57176, the commission shall execute, within 30 days of the canvass of the election, a certificate of completion confirming a special reorganization if a majority of votes cast upon the question are in favor of the special reorganization in both of the following circumstances:

(a) An election called in the territory ordered to be detached from the city.

(b) An election called in the entire territory of the city from which the detachment is ordered to occur.

SEC. 272. Section 57177 of the Government Code is amended to read:

57177. The commission shall execute a certificate of completion confirming either the order of a merger or the order for the establishment of a subsidiary district in the following manner:

(a) Where the question submitted to the voters was only upon merger or only upon establishment of a subsidiary district, the commission shall execute a certificate of completion confirming the order if a majority of the votes cast on the question favored the order either:

(1) At an election called only within the district.

(2) At each election, where one election was called within the district and another election was called within the territory of the city outside the boundaries of the district.

(b) Where both the question of merger and the question of establishment of a subsidiary district were submitted to the voters within the district only and both questions were favored by a majority of the voters, the commission shall order that change of organization favored by the greater number of voters. Where the number of votes was the same on both questions, the merger shall be ordered.

(c) Where both the question of merger and the question of establishment of a subsidiary district were submitted at an election called both within the district and at an election within the territory

of the city outside the district boundaries, and both questions were favored by a majority of the voters in both areas, that change of organization receiving the greater number of votes in both elections shall be completed. Where the number of votes was the same, or where the question of merger received the greater number of votes in one of the elections, a merger shall be completed.

SEC. 273. Section 57177.5 of the Government Code is amended to read:

57177.5. In the case of elections on an order of consolidation of cities or districts, the commission shall take one of the following actions:

(a) Execute a certificate of completion confirming the order of consolidation if, within the territory of each city or district ordered to be consolidated, a majority of the votes cast on the question favored the consolidation.

(b) Execute a certificate of completion terminating proceedings if, in one of the cities or districts ordered to be consolidated, the votes cast in favor of consolidation did not constitute a majority.

SEC. 274. Section 57178 of the Government Code is amended to read:

57178. In addition to any other requirements, the certificate of completion confirming an order of incorporation or consolidation of cities shall do all of the following:

(a) Give the name of the new or successor city favored by the electors.

(b) Declare the persons receiving the highest number of votes for the several offices of the new or successor city to be elected to those offices. If the incorporation applicant requested that the first election for city officers was to occur after the election on the proposal which included incorporation, the resolution shall call an election at which city officers shall be elected.

(c) In the case of an incorporation, declare which system of electing council members was favored, that is, election by district or election at large; and declare whether the city manager form of government was favored by the electors.

SEC. 275. Section 57179 of the Government Code is amended to read:

57179. If the majority of the votes cast is against the change of organization or reorganization, the commission shall execute a certificate of termination proceedings.

SEC. 276. Section 57200 of the Government Code is amended to read:

57200. (a) Immediately after completion of proceedings ordering a change of organization or reorganization without election or confirming an order for a change of organization or reorganization after confirmation by the voters, the executive officer shall prepare

and execute a certificate of completion and shall make the filings required by this division.

(b) Whenever the commission approves the inclusion of any territory of a landscape and lighting assessment district within a city, the executive officer shall notify the clerk of the landscape and lighting assessment district or other person designated by the district to receive notification.

SEC. 277. Section 57201 of the Government Code is amended to read:

57201. The certificate of completion prepared and executed by the executive officer shall contain all of the following information:

(a) The name of each newly incorporated city, each new district, and the name of each existing local agency for which a change of organization or reorganization was ordered and the name of the county within which any new or existing local agencies are located.

(b) A statement of each type of change of organization or reorganization ordered.

(c) A description of the boundaries of the new city ordered incorporated, the new district ordered formed or of any territory affected by the change of organization or reorganization, which description may be made by reference to a map and legal description showing the boundaries attached to the certificate.

(d) Any terms and conditions of the change of organization or reorganization. The terms and conditions shall provide public utilities, as defined in Section 216 of the Public Utilities Code, 90 days following the recording of the certificate of completion to make the necessary changes to impacted utility customer accounts.

SEC. 278. Section 57302 of the Government Code is amended to read:

57302. The general provisions of this part shall apply only if, and to the extent that, the terms and conditions of any change of organization or reorganization do not make specific provision for any of the matters referred to in this part. If a change of organization or a reorganization specifically provides for, and is made subject to any of, the terms and conditions authorized by Section 56886, the specific terms and conditions shall control over the general provisions of this part. Any of those terms and conditions may be provided for, and be made applicable to, any affected county, affected city, or affected district, to all or any part of the territory of the county, city, or district, to any territory proposed to be annexed to the county, city, or district and to the owner or owners of property within that territory.

SEC. 279. Section 57303 of the Government Code is amended to read:

57303. If no determination is made pursuant to subdivision (d) of Section 56886, the principal amount of bonded indebtedness which may be incurred or assumed by any city, county, or district, under any statute or charter provision imposing a limitation on bonded

indebtedness, shall not be affected by any change of organization or reorganization.

SEC. 280. Section 57379 of the Government Code is amended to read:

57379. If the first general municipal election following an incorporation election will occur less than one year after the effective date of incorporation, or occurred on or after November 1, 1987, and less than one year after the incorporation election, of the five elected members of the city council, the three receiving the lowest number of votes shall hold office until the second general municipal election following the incorporation election and until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office until the third general municipal election following the incorporation election and until their successors are elected and qualified.

The first general municipal election following the incorporation election shall not be held unless either a proposition is to be voted upon or offices other than city council member offices are to be filled.

In the event that, pursuant to Section 56727, the first election for city council members was held after the election on the incorporation proposal, the term "incorporation election" in this section means the first election for city council members.

SEC. 281. Section 57384 of the Government Code is amended to read:

57384. (a) Except as provided in subdivision (b), whenever a city has been incorporated from territory formerly unincorporated, the board of supervisors shall continue to furnish, without additional charge, to the area incorporated all services furnished to the area prior to the incorporation. Those services shall be furnished for the remainder of the fiscal year during which the incorporation became effective or until the city council requests discontinuance of the services, whichever occurs first.

(b) This subdivision applies only to incorporations for which the petition or resolution of application for incorporation is filed with the commission on or after January 1, 1987. Prior to the commission adopting a resolution making determinations, the board of supervisors may request that the city reimburse the county for the net cost of services provided pursuant to subdivision (a). The commission shall impose this requirement as a term and condition of its resolution. The city shall be obligated to reimburse the county within five years of the effective date of the incorporation or for a period in excess of five years, if the board of supervisors agrees to a longer period. As used in this subdivision, "net cost of services" means the total direct and indirect expense to the county of providing services, as determined pursuant to paragraph (2) of subdivision (c) of Section 56810, adjusted by any subsequent change in the California Consumer Price Index, less any revenues which the county retains

that were generated from the formerly unincorporated territory during the period of time the services are furnished pursuant to subdivision (a). This subdivision applies only to those services which are to be assumed by the city.

(c) At the request of the city council, the board of supervisors, by resolution, may determine to furnish, without charge, to the area incorporated all or a portion of services furnished to the area prior to the incorporation for an additional period of time after the end of the fiscal year during which the incorporation became effective. The additional period of time after the end of the fiscal year during which the incorporation became effective for which the board of supervisors determines to provide services, without charge, and the specific services to be provided shall be specifically stated in the resolution adopted by the board of supervisors.

SEC. 282. Section 57402 of the Government Code is amended to read:

57402. After ascertaining that disincorporation has carried, the commission shall determine and certify in a written statement to the board of supervisors the indebtedness of the city, the amount of money in its treasury, and the amount of any tax levy or other obligation due the city which is unpaid or has not been collected.

SEC. 283. Section 57404 of the Government Code is amended to read:

57404. If the commission does not provide the board of supervisors with the certified statement required by Section 57402, the board shall make the determinations provided for in that section.

SEC. 285. Section 99 of the Revenue and Taxation Code is amended to read:

99. (a) For the purposes of the computations required by this chapter:

(1) In the case of a jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215, the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1, or the annual tax increment determined pursuant to Section 96.5, for local agencies whose service area or service responsibility would be altered by the jurisdictional change, as determined pursuant to subdivision (b) or (c).

(2) In the case of a city incorporation, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56810 of the Government Code and the adjustments in tax revenues that may occur pursuant to Section 56815 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 56810 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the incorporation.

(3) In the case of a formation of a district as defined in Section 2215, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56810 of the Government Code to the district and shall make the adjustment as determined by Section 56810 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the formation.

(b) Upon the filing of an application or a resolution pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory that is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to each local agency pursuant to Section 96.1 and Section 96.5.

(3) Within 45 days of notice of the filing of an application or resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the amount of, and allocation factors with respect to, property tax revenue estimated pursuant to paragraph (2) that is subject to a negotiated exchange.

(4) Upon receipt of the estimates pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. This negotiation period shall not exceed 60 days.

The exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years.

(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts,

negotiate any exchange of property tax revenues. Prior to entering into negotiation on behalf of a district for the exchange of property tax revenue, the board shall consult with the affected district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.

(6) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 56658 of the Government Code until the local agencies included in the property tax revenue exchange negotiation, within the 60-day negotiation period, present resolutions adopted by each such county and city whereby each county and city agrees to accept the exchange of property tax revenues.

(7) In the event that the commission modifies the proposal or its resolution of determination, any local agency whose service area or service responsibility would be altered by the proposed jurisdictional change may request, and the executive officer shall grant, 15 days for the affected agencies, pursuant to paragraph (4) to renegotiate an exchange of property tax revenues. Notwithstanding the time period specified in paragraph (4), if the resolutions required pursuant to paragraph (6) are not presented to the executive officer within the 15-day period, all proceedings of the jurisdictional change shall automatically be terminated.

(8) In the case of a jurisdictional change that consists of a city's qualified annexation of unincorporated territory, an exchange of property tax revenues between the city and the county shall be determined in accordance with subdivision (e) if that exchange of revenues is not otherwise determined pursuant to either of the following:

(A) Negotiations completed within the applicable period or periods as prescribed by this subdivision.

(B) A master property tax exchange agreement among those local agencies, as described in subdivision (d).

For purposes of this paragraph, a qualified annexation of unincorporated territory means an annexation, as so described, for which proceedings before the relevant local agency formation commission are initiated, as provided in Section 56651 of the Government Code, on or after January 1, 1998, and on or before January 1, 2005.

(9) No later than the date on which the certificate of completion of the jurisdictional change is recorded with the county recorder, the executive officer shall notify the auditor or auditors of the exchange of property tax revenues and the auditor or auditors shall make the appropriate adjustments as provided in subdivision (a).

(c) Whenever a jurisdictional change is not required to be reviewed and approved by a local agency formation commission, the

local agencies whose service area or service responsibilities would be altered by the proposed change, shall give notice to the State Board of Equalization and the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change and request the auditor and assessor to make the determinations required pursuant to paragraphs (1) and (2) of subdivision (b). Upon notification by the auditor of the amount of, and allocation factors with respect to, property tax subject to exchange, the local agencies, pursuant to the provisions of paragraphs (4) and (6) of subdivision (b), shall determine the amount of property tax revenues to be exchanged between and among the local agencies. Notwithstanding any other provision of law, no such jurisdictional change shall become effective until each county and city included in these negotiations agrees, by resolution, to accept the negotiated exchange of property tax revenues. The exchange may be limited to an exchange of property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years. Upon the adoption of the resolutions required pursuant to this section, the adopting agencies shall notify the auditor who shall make the appropriate adjustments as provided in subdivision (a). Adjustments in property tax allocations made as the result of a city or library district withdrawing from a county free library system pursuant to Section 19116 of the Education Code shall be made pursuant to Section 19116 of the Education Code, and this subdivision shall not apply.

(d) With respect to adjustments in the allocation of property taxes pursuant to this section, a county and any local agency or agencies within the county may develop and adopt a master property tax transfer agreement. The agreement may be revised from time to time by the parties subject to the agreement.

(e) (1) An exchange of property tax revenues that is required by paragraph (8) of subdivision (b) to be determined pursuant to this subdivision shall be determined in accordance with all of the following:

(A) The city and the county shall mutually select a third-party consultant to perform a comprehensive, independent fiscal analysis, funded in equal portions by the city and the county, that specifies estimates of all tax revenues that will be derived from the annexed territory and the costs of city and county services with respect to the annexed territory. The analysis shall be completed within a period not to exceed 30 days, and shall be based upon the general plan or adopted plans and policies of the annexing city and the intended uses

for the annexed territory. If, upon the completion of the analysis period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (B) shall apply.

(B) The city and the county shall mutually select a mediator, funded in equal portions by those agencies, to perform mediation for a period of not to exceed 30 days. If, upon the completion of the mediation period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (C) shall apply.

(C) The city and the county shall mutually select an arbitrator, funded in equal portions by those agencies, to conduct an advisory arbitration with the city and the county for a period of not to exceed 30 days. At the conclusion of this arbitration period, the city and the county shall each present to the arbitrator its last and best offer with respect to the exchange of property tax revenues. The arbitrator shall select one of the offers and recommend that offer to the governing bodies of the city and the county. If the governing body of the city or the county rejects the recommended offer, it shall do so during a public hearing, and shall, at the conclusion of that hearing, make written findings of fact as to why the recommended offer was not accepted.

(2) Proceedings under this subdivision shall be concluded no more than 150 days after the auditor provides the notification pursuant to paragraph (3) of subdivision (b), unless one of the periods specified in this subdivision is extended by the mutual agreement of the city and the county. Notwithstanding any other provision of law, except for those conditions that are necessary to implement an exchange of property tax revenues determined pursuant to this subdivision, the local agency formation commission shall not impose any fiscal conditions upon a city's qualified annexation of unincorporated territory that is subject to this subdivision.

(f) Except as otherwise provided in subdivision (g), for the purpose of determining the amount of property tax to be allocated in the 1979-80 fiscal year and each fiscal year thereafter for those local agencies that were affected by a jurisdictional change which was filed with the State Board of Equalization after January 1, 1978, but on or before January 1, 1979. The local agencies shall determine by resolution the amount of property tax revenues to be exchanged between and among the affected agencies and notify the auditor of the determination.

(g) For the purpose of determining the amount of property tax to be allocated in the 1979-80 fiscal year and each fiscal year thereafter, for a city incorporation that was filed pursuant to Sections 54900 to 54904 after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by the jurisdiction for the 1978-79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the

final local agency formation commission staff report pertaining to the incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978-79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977-78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for that incorporation, the commission shall by October 10, determine pursuant to Section 54790.3 of the Government Code the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980-81 fiscal year and each fiscal year thereafter for incorporations approved by the voters in June 1979.

(h) For the purpose of the computations made pursuant to this section, in the case of a district formation that was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1, 1978, but before January 1, 1979, the amount of property tax to be allocated to the district for the 1979-80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(i) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1 or its predecessor section, or the annual tax increment determined pursuant to Section 96.5 or its predecessor section, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by the jurisdictional change, as determined as follows:

(1) The governing body of each district, county superintendent of schools, or county whose service areas or service responsibilities would be altered by the change shall determine the amount of property tax revenues to be exchanged between and among the affected jurisdictions. This determination shall be adopted by each affected jurisdiction by resolution. For the purpose of negotiation, the county auditor shall furnish the parties and the county board of education with an estimate of the property tax revenue subject to negotiation.

(2) In the event that the affected jurisdictions are unable to agree, within 60 days after the effective date of the jurisdictional change, and if all the jurisdictions are wholly within one county, the county board of education shall, by resolution, determine the amount of property tax revenue to be exchanged. If the jurisdictions are in more than one county, the State Board of Education shall, by resolution,

within 60 days after the effective date of the jurisdictional change, determine the amount of property tax to be exchanged.

(3) Upon adoption of any resolution pursuant to this subdivision, the adopting jurisdictions or State Board of Education shall notify the county auditor who shall make the appropriate adjustments as provided in subdivision (a).

(j) For purposes of subdivision (i), the annexation by a community college district of territory within a county not previously served by a community college district is an alteration of service area. The community college district and the county shall negotiate the amount, if any, of property tax revenues to be exchanged. In these negotiations, there shall be taken into consideration the amount of revenue received from the timber yield tax and forest reserve receipts by the community college district in the area not previously served. In no event shall the property tax revenue to be exchanged exceed the amount of property tax revenue collected prior to the annexation for the purposes of paying tuition expenses of residents enrolled in the community college district, adjusted each year by the percentage change in population and the percentage change in the cost of living, or per capita personal income, whichever is lower, less the amount of revenue received by the community college district in the annexed area from the timber yield tax and forest reserve receipts.

(k) At any time after a jurisdictional change is effective, any of the local agencies party to the agreement to exchange property tax revenue may renegotiate the agreement with respect to the current fiscal year or subsequent fiscal years, subject to approval by all local agencies affected by the renegotiation.

SEC. 286. This act is intended to implement the recommendations of the Commission on Local Governance for the 21st Century, as transmitted to the Legislature on January 20, 2000.

SEC. 287. Sections 90.5, 97.5, 115.5, and 211.5 of this bill incorporate amendments to Sections 56828, 56833.1, 56840, and 56857 of the Government Code proposed by both this bill and AB 1495, which sections are renumbered respectively as Sections 56658, 56666, 56800, and 56895 of the Government Code in this bill, and Sections 214.5 and 223.5 of this bill also incorporate amendments to Sections 57002 and 57050 of the Government Code proposed by both this bill and AB 1495. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends or repeals Sections 56828, 56833.1, 56840, 56857, 57002, and 57050 of the Government Code, and (3) this bill is enacted after AB 1495, in which case Sections 56828, 56833.1, 56840, 56857, 57002, and 57050 of the Government Code, as amended by AB 1495, shall remain operative only until the operative date of this bill, at which time Sections 90.5, 97.5, 115.5, 211.5, 214.5, and 223.5 of this bill shall become operative, and Sections 90, 97, 115,

214, and 223 of this bill and Section 56895 of the Government Code, as added by Section 211 of this bill, shall not become operative.

SEC. 288. (a) Section 123.5 of this bill incorporates amendments to Section 56845 of the Government Code proposed by both this bill and AB 1495, which section is renumbered as Section 56815 of the Government Code in this bill. Section 123.5 shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends or repeals Section 56845 of the Government Code, (3) AB 2779 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1495, in which case Section 56815 of the Government Code, as added by Section 123 of this bill, and Section 123.7 of this bill shall not become operative.

(b) Section 123.7 of this bill incorporates amendments to Section 56845 of the Government Code proposed by both this bill and AB 2779. It shall become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill enacted amends or repeals Section 56845 of the Government Code, (3) AB 1495 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2779, in which case Section 56815 of the Government Code, as added by Section 123 of this bill, and Section 123.5 of this bill shall not become operative.

(c) Section 123.7 of this bill also incorporates amendments to Section 56845 of the Government Code proposed by this bill, AB 1495, and AB 2779. It shall also become operative if (1) all three bills are enacted and become effective on or before January 1, 2001, (2) all three bills amend or repeal Section 56845 of the Government Code, and (3) this bill is enacted after AB 1495 and AB 2779, in which case Section 56815 of the Government Code, as added by Section 123 of this bill, and Section 123.5 of this bill shall not become operative.

SEC. 289. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Assembly Bill No. 1948

CHAPTER 493

An act to amend Section 56381 of the Government Code, relating to local agency formation commissions.

[Approved by Governor September 12, 2002. Filed with Secretary of State September 12, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1948, Kelley. Local agency formation commissions.

Existing law prescribes the apportionment for the net operating expenses of the local agency formation commission among the county and the cities and special districts within the county.

This bill would revise the method of calculating independent special district revenues in order to determine independent special districts' apportionments of the net operating expenses of a commission, and would provide that no independent special district shall be apportioned a share of more than 50% of the total independent special districts' share of the commission's operational costs. The bill would provide, with respect to a district formed under the Local Health Care District Law that operates a hospital, that the district may not be apportioned any share until the fiscal year following positive net revenue, as defined, or, if the district has filed for and is operating under federal bankruptcy, until the fiscal year after its discharge from bankruptcy.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Health care districts operating hospitals throughout California are under severe financial assault.

(2) District hospitals provide a substantial proportion of health care services to low-income residents of the state, to minority populations, and to the uninsured. District hospitals serve a disproportionately large number of Medicare and Medi-Cal beneficiaries, as compared to nonpublic hospitals.

(3) Health care districts constitute the single largest provider of basic and emergency health services in rural California. In some communities, health care districts are the only providers of health care services.

(4) Health care districts operate 35 of California's 71 rural hospitals. In addition, districts operate some 15 health care clinics and skilled

nursing facilities. Health care district facilities provide inpatient care to more than 200,000 Californians and support more than 1,800,000 outpatient visits annually.

(5) Reimbursement for health care services from Medi-Cal, Medicare, and health maintenance organizations currently covers less than one-half of the actual cost of hospital services and these reimbursements are declining.

(6) The cost of recruiting and retaining health care workers, especially nursing staff, has increased sharply in recent years.

(7) The average district hospital in California operates with a net annual operating deficit of one million five hundred thousand dollars (\$1,500,000).

(8) As a group, California's district hospitals lost a total in excess of seventy million dollars (\$70,000,000) on operations in the 2000-01 fiscal year. In the past five years, five district hospitals have been forced to declare bankruptcy, and one has closed permanently.

(9) Recently imposed government mandates including, but not limited to, seismic safety, data reporting, Local Agency Formation Commission (LAFCO) assessments, and the federal Health Insurance Portability and Accountability Act of 1996 have put major financial strains on district hospitals. More of these facilities may soon be forced into bankruptcy and closure.

(b) It is the intent of the Legislature to enact legislation that would more fairly allocate the cost of operating LAFCOs to be borne by health care districts, which are seldom involved in changes of organization, or other activities which require action or oversight by LAFCOs.

SEC. 2. Section 56381 of the Government Code is amended to read:

56381. (a) The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter. The commission shall transmit its proposed and final budgets to the board of supervisors; to each city; to the clerk and chair of the city selection committee, if any, established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1; to each independent special district; and to the clerk and chair of the independent special district selection committee, if any, established pursuant to Section 56332.

(b) After public hearings, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the

auditor shall apportion the net operating expenses of a commission in the following manner:

(1) (A) In counties in which there is city and independent special district representation on the commission, the county, cities, and independent special districts shall each provide a one-third share of the commission's operational costs.

(B) The cities' share shall be apportioned in proportion to each city's total revenues, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county, or by an alternative method approved by a majority of cities representing a majority of the combined cities' populations.

(C) The independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. Except as provided in subparagraph (D), an independent special district's total revenue shall be calculated for nonenterprise activities as total revenues for general purpose transactions less revenue category aid from other governmental agencies and for enterprise activities as total operating and nonoperating revenues less revenue category other governmental agencies, as reported in the most recent edition of the "Special Districts Annual Report" published by the Controller. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the independent special district share of costs. For the purposes of fulfilling the requirement of this section, a multicounty independent special district shall be required to pay its apportionment in its principal county.

(D) (i) For purposes of apportioning costs to a health care district formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code that operates a hospital, a health care district's share, except as provided in clauses (ii) and (iii), shall be apportioned in proportion to each district's net revenue from operations as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development, as a percentage of the combined independent special districts net operating revenues within a county.

(ii) A health care district for which net revenue from operations is a negative number may not be apportioned any share of the commission's operational costs until the fiscal year following positive net revenue from operations, as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development.

(iii) A health care district that has filed and is operating under public entity bankruptcy pursuant to federal bankruptcy law, shall not be apportioned any share of the commission's operational costs until the fiscal year following its discharge from bankruptcy.

(E) Notwithstanding the requirements of subparagraph (C), the independent special districts' share may be apportioned by an alternative method approved by a majority of the districts, representing a majority of the combined populations. However, in no event shall the independent special-districts' share exceed the amount that would be calculated pursuant to subparagraphs (C) and (D).

(F) Notwithstanding the requirements of subparagraph (C), no independent special district shall be apportioned a share of more than 50 percent of the total independent special districts' share of the commission's operational costs. In those counties in which a district's share is limited to 50 percent of the total independent special districts' share of the commission's operational costs, the share of the remaining districts shall be increased on a proportional basis so that the total amount for all districts equals the share apportioned by the auditor to independent special districts.

(2) In counties in which there is no independent special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) In counties in which there are no cities, the county and its special districts shall each provide a one-half share of the commission's operational costs. The independent special districts' share shall be apportioned in the manner described for cities' apportionment in paragraph (1). If there is no independent special district representation on the commission, the county shall pay all of the commission's operational costs.

(4) Instead of determining apportionment pursuant to paragraph (1), (2), or (3), any alternative method of apportionment of the net operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the independent special districts representing a majority of the combined total population of independent special districts in the county.

(5) In no event shall the independent special districts' share exceed the amount that would be calculated pursuant to subparagraphs (C) and (D) of paragraph (1).

(c) After apportioning the costs as required in subdivision (b), the auditor shall request payment from the board of supervisors and from

each city and each independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county, city, or district. The auditor shall provide written notice to the county, city, or district prior to appropriating a share of the property tax or other revenue to the commission for the payment due the commission pursuant to this section. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the commission's operating expenses as specified by the commission. When the city and district payments are received by the commission, the county's portion of the commission's annual operating expenses shall be credited with funds already received from the county. If, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If, during the fiscal year, the commission is without adequate funds to operate, the board of supervisors may loan the commission funds and recover those funds in the commission's budget for the following fiscal year.

O



Gray Davis
GOVERNOR

STATE OF CALIFORNIA



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INTERIM DIRECTOR

LAFCO
MUNICIPAL SERVICE REVIEW
GUIDELINES
FINAL DRAFT
2002

Governor's Office of Planning and Research

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LAFCO MUNICIPAL SERVICE REVIEW GUIDELINES FINAL DRAFT

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EXECUTIVE SUMMARY

These guidelines are the result of legislation (Chapter 761, Statutes of 2000) signed by Governor Gray Davis relating to powers and authorities of Local Agency Formation Commissions (LAFCO).

Development of the legislation resulted from the recommendations of the Commission on Local Governance for the 21st Century (Commission). The Commission published its recommendations in a final report, *Growth Within Bounds*, issued on January 20, 2000.

The report recommended and the legislation enacted a new process for LAFCO to review municipal services on a regular basis. As part of its review of municipal services, LAFCO is required to prepare a written statement of its determination with respect to each of the following:

1. Infrastructure needs or deficiencies;
2. Growth and population projections for the affected area;
3. Financing constraints and opportunities;
4. Cost avoidance opportunities;
5. Opportunities for rate restructuring;
6. Opportunities for shared facilities;
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
8. Evaluation of management efficiencies; and
9. Local accountability and governance.

The Governor's Office of Planning and Research (OPR) is directed by statute to prepare these guidelines to assist LAFCO in complying with the new requirement for municipal service reviews.

The guidelines were developed through five public workshops, numerous meetings of an OPR appointed stakeholder task force and four public review periods. The guidelines encourage public participation and consultation with stakeholder organizations at the earliest opportunity. OPR has tried to clearly identify those actions which are required by law and those where OPR recommends a particular process or policy when undertaking the municipal service review.

The guidelines are divided into three parts: Part I - Preparing to Undertake a Municipal Service Review, Part II - The Municipal Service Review Process, and Part III - Taking Action on the Municipal Service Review.

Part I describes the statutory framework and requirements of the municipal service review. This Part also provides guidance on how a LAFCO, service provider and the public can prepare to most effectively engage in the municipal service review process including, but not limited to:

- Development of a long-term schedule of all municipal service reviews which are required to be undertaken by LAFCO during the five-year cycle for Sphere of Influence (SOI) updates.
- Development of a work plan for an individual municipal service review.
- Gathering of data and information related to the municipal service review.
- Development of a strategy for preparing a municipal service review report.
- Identifying the boundary of the municipal service review study boundary

Part II includes guidance on the individual municipal service review process including integrating municipal service reviews with other LAFCO actions, application of the California Environmental Quality Act and potential environmental justice impacts, and the development of the nine determinations.

Part III contains information on how to draft the final individual municipal service review report, suggestions on public participation and the requirements for the hearing at which the report is adopted.

In developing the Guidelines, it is OPR's intent to provide a structure to assist LAFCOs to carry out their statutory responsibility of promoting orderly growth and development, preserving the state's finite open space and agricultural land resources, and working to ensure that high quality public services are provided to all California residents in the most cost effective and efficient manner.

PART I - PREPARING TO UNDERTAKE A MUNICIPAL SERVICE REVIEW

CHAPTER 1. INTRODUCTION

This Chapter provides background on the development of the Municipal Service Review Guidelines, an explanation of their purposes and information on the overall structure and use of this document.

A. STATUTORY BACKGROUND ON MUNICIPAL SERVICE REVIEW GUIDELINES

On September 26, 2000, Governor Gray Davis signed into law AB 2838 (Chapter 761, Statutes of 2000), authored by Assembly Speaker Robert M. Hertzberg. This legislation, titled the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) and codified as California Government Code §56000 et seq, marked the most significant reform to local government reorganization law since the 1963 statute that created Local Agency Formation Commissions (LAFCOs) in each county.

Development of the legislation resulted from the recommendations of the Commission on Local Governance for the 21st Century. The Commission, established through statute in 1997, published its recommendations in a final report, *Growth Within Bounds*, issued on January 20, 2000.

Pursuant to Government Code §56430, the Governor's Office of Planning and Research (OPR) is required to prepare guidelines for Local Agency Formation Commissions (LAFCO) to conduct reviews of local municipal services.

Prior to the 2000 amendments, the law already permitted LAFCOs to conduct municipal service review studies. These LAFCO service studies generally provided evaluation tools to support future LAFCO actions or were part of a reorganization committee effort.

Existing law (§56430), now states that in order to prepare and update a Sphere of Influence (SOI), LAFCOs are required to first conduct a municipal service review of the municipal services provided in the county or other appropriate designated area.

The term "municipal services" generally refers to the full range of services that a public agency provides or is authorized to provide. The definition is somewhat modified under the CKH Act, however, because LAFCO is only required to review services provided by agencies with SOIs. Therefore, general county government services, such as courts and social services, are not required to be reviewed.

As part of its review of municipal services, LAFCO is required to prepare a written statement of its determination with respect to each of the following:

10. Infrastructure needs or deficiencies;
 1. Growth and population projections for the affected area;
 2. Financing constraints and opportunities;
 3. Cost avoidance opportunities;
 4. Opportunities for rate restructuring;
 5. Opportunities for shared facilities;
 6. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
 7. Evaluation of management efficiencies; and
 8. Local accountability and governance.

These guidelines have been developed to assist LAFCOs step through the process of making these determinations.

B. DEVELOPMENT OF GUIDELINES

Pursuant to the requirements of the CKH Act, the Municipal Service Review Guidelines has been developed in consultation with the California Association of California LAFCOs and numerous other organizations representing service providers and the public. Participating organizations include the California Special Districts Association, the League of California Cities, the California State Association of Counties, the Association of California Water Agencies, the League of Women Voters, the California Fire Districts' Association, housing and environmental groups and dozens of representatives from cities, counties, special districts and interested parties.

Consultations and collaboration occurred during facilitated public workshops in Sacramento, Fresno, Santa Ana, Red Bluff and San Diego; five working group sessions with representatives from affected local government entities; and interviews and meetings with interested constituents.

An issues paper and draft outline of the Municipal Service Review Guidelines¹ was published in May 2001 and subjected to a 21-day public review period. The Preliminary Draft² LAFCO Municipal Service Review Guidelines was issued for a 21-day review in August 2001 and comments were reviewed and incorporated into the Final Draft Municipal Service Review Guidelines as appropriate.

¹ Prepared under contract with Graichen Consulting and edited by OPR

² Ibid

A 21-day public review of the Final Draft Guidelines was provided in October of 2002 with appropriate comments incorporated into the Final Municipal Service Review Guidelines.

California LAFCOs have been especially generous with their contributions of service studies, procedures, and other technical products. Special districts and cities have provided samples of model service practices. OPR wishes to recognize the contributions of the Napa County LAFCO in preparing Chapter 8 of this document. Every attempt has been made to incorporate successful procedures, processes and templates created by numerous public agencies.

C. HOW TO USE THE GUIDELINES

The Guidelines are organized into three parts: preparations for undertaking a municipal service review, the process of developing the municipal service review, and taking final actions on the municipal service reviews.

Part I - Preparing to Undertake a Municipal Service Review includes five chapters: Chapter 1 included introductory comments and background on the guidelines. Chapter 2 contains a description of the basic roles and responsibilities of LAFCO, service providers and the public in the municipal service review process. Chapter 3 includes a strategy for developing an overall schedule for municipal service reviews. Chapter 4 contains information on developing a work plan for individual municipal service reviews. Chapter 5 provides guidance on determining the study area boundaries for a municipal service review.

Part II - The Municipal Service Review Process includes three chapters. Chapter 6 provides guidance on integrating a municipal service review with other LAFCO actions, as appropriate. Chapter 7 includes information on compliance with the California Environmental Quality Act (CEQA). Chapter 8 describes the development of the nine required written determinations.

Part III - Taking Action on the Municipal Service Review includes two chapters. Chapter 9 provides guidance on preparing the draft and final municipal service review report for the LAFCO Commission's consideration. Chapter 10 describes the public hearing process.

Appendix A provides a list of important definitions. **Appendix B** includes a list of acronyms used in the Guidelines. Readers may wish to use the list of definitions and acronyms as reference tools when using the Guidelines. **Appendices C - L** provide additional background and templates.

The Municipal Service Review Guidelines is not a regulatory document. It is intended to enable LAFCOs to consistently make the most accurate and substantiated municipal

service review determinations possible using effectively compiled and analyzed information. The resultant municipal service reviews will be information tools available to the public, and to all cities, counties, special districts, agencies and groups that seek to improve the quality of California's public service infrastructure.

In developing the Guidelines, it is OPR's intent to provide a structure to assist LAFCOs to carry out their statutory responsibility of promoting orderly growth and development, preserving the state's finite open space and agricultural land resources, and working to ensure that high quality public services are provided to all California residents in the most cost effective and efficient manner.

CHAPTER 2. BASIC ROLES AND RESPONSIBILITIES

Beginning in January of 2001, LAFCOs became responsible for undertaking municipal

IMPACT OF 2000 AMENDMENTS

The requirement to undertake municipal service reviews and make specified findings is one of the most significant modifications to the role and responsibilities of LAFCO in the enacting legislation since the 1960's. OPR recommends that each LAFCO, service provider and public advocacy group take time to review and understand their roles in this new statutory environment.

service reviews prior to the update of an entity's SOI. This chapter outlines the basic roles and responsibilities of the LAFCO, the service provider and the public in implementing this requirement. Refer to Appendix C for general background information on the requirement for LAFCO to perform municipal service reviews.

A. MUNICIPAL SERVICE REVIEW: ROLE OF LAFCO

In order to ensure that deliberations by LAFCO on municipal service reviews are consistent, it is important that LAFCO adopt standard written policies and procedures regarding the manner in which it exercise its powers including how it will review any municipal service (Government Code §56300).

Municipal service reviews are required for services for which a SOI has been adopted. LAFCO is required to prepare a municipal service review for any municipal service which is provided by an entity which LAFCO approves a SOI.

WHAT SERVICES ARE COVERED?

Existing law requires that a service review be completed in preparation of the adoption and/or update of a SOI. Therefore, any municipal service which has a service area defined by LAFCO through a SOI will need to have a municipal service review. LAFCO may include one or more services in the review and the study area may be the whole county, multiple counties or any appropriate sub-area, as determined by LAFCO (Government Code §56430).

As part of the municipal service review process, LAFCO should convene stakeholders as appropriate and facilitate collaborative efforts to address issues and challenges.

Stakeholders may include affected and interested LAFCOs and other government agencies, other interested parties and members of the public.

Cooperatively developed municipal service reviews enable LAFCO and service providers to more effectively accomplish mutual public service objectives. To the extent possible, stakeholders should work together to evaluate existing and future service needs and determine what structures are needed to support healthy growth while preserving important agricultural and open space resources. Although LAFCO does not have direct land use authority and is not enabled to manage or operate a service provider agency, LAFCO can serve as intermediaries for the State in addressing specific growth challenges.

An effective municipal service review process should include early consultations with stakeholders, an inclusive municipal service review design, public review of municipal service review work plans and municipal service review report, and an overall collaborative process (see the process flow chart in Appendix D).

Through collaboration, LAFCO and interested parties can: identify common goals and objectives and diffuse issues that foster competition rather than cooperation; share expertise and help lower costs by assisting LAFCOs in determining what types of information need to be gathered and in what form; identify information that is already available to streamline data collection; develop strategies for augmenting LAFCO's technical capabilities by funding or loaning technical staff to work under LAFCO's direction; develop strategies for constructively addressing overlapping service boundaries; and develop plans to implement recommendations developed as a result of a municipal service review.

B. MUNICIPAL SERVICE REVIEW: ROLE OF THE SERVICE PROVIDER

Service providers play an important role in the collaborative process for conducting a municipal service review. The cooperation of service providers is important to ensure that LAFCO has access to all necessary information in a timely manner, and to assist LAFCO in interpreting that information. The service provider should view the municipal service review process as an opportunity to share accurate and current data, accomplishments and information that will allow the LAFCO to make sound conclusions and determinations with respect to services. LAFCOs will use the information provided by service providers to review proposals for changes in services, including SOI updates, incorporations and other boundary decisions.

C. MUNICIPAL SERVICE REVIEW: ROLE OF THE PUBLIC

LAFCOs should encourage and provide multiple public participation opportunities in the municipal service review process. To this end, LAFCOs should develop and maintain a list of interested parties to whom such outreach can be extended. Service providers can assist in involving the public by including municipal service review information in newsletters or billing statements. Public comments should be

PUBLIC PARTICIPATION

A major goal of the CKH Act amendments was to increase public participation in public service planning and delivery. Consistent with that goal, public notice requirements for all LAFCO processes were strengthened or augmented. LAFCOs were also required to adopt service review determinations in a public forum

considered and incorporated into the municipal service review process and reports where appropriate and feasible.

The municipal service review process chart (Appendix D) recommends that LAFCO provide several opportunities for the public to provide input in the process. These opportunities can include stakeholder

meetings, public hearings or workshops to initiate municipal service reviews, a public review period of the draft municipal service review report, and a public hearing to consider adoption of written determinations.

CHAPTER 3. DEVELOPING A SCHEDULE OF MUNICIPAL SERVICE REVIEWS

LAFCO should develop a schedule for undertaking municipal service reviews reflective of the individual needs of their county and as a workload management tool. Key internal and external considerations in the development of a schedule for municipal service reviews include:

- To what extent are your SOIs current?
- Are there any pending proposals involving changes to SOIs that may trigger the need for a municipal service review?
- What is the relative complexity of the service(s) being reviewed? (Appendix E includes information on data collection that may assist the LAFCO to determine level of complexity.)
- What is the capacity of the LAFCO to undertake municipal service reviews? (Appendix F includes information about the use of consultants for municipal service reviews and Appendix G includes examples of funding options.)
- What are the general operating practices of the LAFCO (i.e., frequency of meetings, length of meetings, number of items typically on the agenda)?

REVIEW DEADLINES

The CKH Act's most recent amendments took effect on January 1, 2001. Although §56430 does not directly provide a specific date when all service reviews must be completed, a deadline can be inferred from §56425, which states, "Upon determination of a sphere, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than every five years."

OPR recommends that LAFCO take the time to establish a schedule and process for undertaking municipal service reviews which reflects agreement of the board members, service providers, the public, the executive officer and LAFCO staff.

A. DEVELOPMENT OF THE SCHEDULE: LAFCO PREPARATION

Since existing law requires SOIs to be updated every five years, and municipal service reviews must be completed for SOI updates, municipal service reviews should be updated at least every five years. LAFCOs have complete flexibility in scheduling these reviews including identifying which services will be reviewed, whether similar services will be reviewed at the same time, and what service areas/geographic regions will be reviewed within an individual municipal service review.

TECHNICAL INPUT
LAFCO municipal service review procedures should include a specific process for service providers and the public to identify unique challenges to providing services to a particular area.

OPR recommends that LAFCOs develop a five-year schedule of reviews in order to ensure that all required municipal service reviews are completed in a timely manner. In developing any schedule of reviews, the LAFCO should develop policies and procedures on how it will handle reviews which occur due to changes in local circumstances such as proposals that may require changes to the SOI, proposed annexations, SOI amendments and incorporations.

LAFCO should also provide opportunities for service providers to be involved in the establishment of the schedule, development of the work plan for an individual municipal service review, designing of the review and preparation of the final municipal service review report for the LAFCO Commission. LAFCO should adopt standard policies and procedures relative to public involvement to ensure that community members and service providers have an opportunity to participate in these activities.

Below are some tools to assist LAFCO in preparing to undertake municipal service reviews including of service provider profiles, SOI status logs, maps, and matrices.

- GETTING PREPARED**
- Review service provider profiles
 - Review SOI status log
 - Obtain service provider maps
 - Create service provider matrices
 - Create five-year schedule

Review Service Provider Profiles: Many LAFCOs have developed service provider directories, profiles or inventories, which can be used as a resource. Service provider profiles vary from county to county but most include basic information such as service provider names, district maps, telephone numbers, key staff, size, population served, services provided,

appropriate enabling legislation, authorized and latent powers, date of formation and some budget information.

Some directories only include information on service providers with SOIs. Others include data on most providers including private purveyors and districts that are not subject to SOI or other requirements.

When available, directories can also be used by cities and counties when updating plans, conducting California Environmental Quality Act (CEQA) reviews, and reviewing development projects, and by the public when seeking basic information about services in their communities.

LAFCOs that have not compiled agency profiles should consider using information obtained during municipal service reviews and SOI updates to start compiling a directory of profiles. Appendices H, I, and J are examples of service provider profiles for a Community Service District (CSD), city and special district.³

Review SOI Status Logs: Some LAFCOs maintain a status log for all SOIs under its jurisdiction (See Appendix K for an example of a SOI status log). These logs identify past actions of the LAFCO relative to changes in the SOI of specific service providers. LAFCOs that have not kept status logs should consider keeping these logs and/or otherwise memorializing the information gained from the municipal service review.

Organize Your Data: Once LAFCO has assembled basic information about applicable services and service providers, it may want to use one or more of the following methods for organizing the information. Some suggestions include maps, matrices and timelines.

1. **Maps:** Countywide, regional and service area maps can be useful in identifying what geographic areas should be reviewed. Some of these maps may be obtained from existing sources such as service provider profiles. Before creating new maps, the LAFCO should check with local planning agencies to determine if they have prepared such maps as part of development reviews, EIRs or General Plan preparation. Useful maps include countywide, regional and service area maps. (Appendix E provides more information on how maps can assist in data collection.)

2. **Matrices:** LAFCOs may find it useful to prepare a matrix listing all service providers by the services that they provide or are authorized to provide. (See Table 1 below, sample template.) It may also be useful to identify latent powers either on a

ADVANTAGES OF ORGANIZING INFORMATION ON SPREADSHEETS

Data organized using a spreadsheet format or other flexible software, allows each column to be sorted individually. One service provider may provide several services which may or may not be reviewed at the same time. Also, the information can be resorted by area or region.

³ Appendices referenced in this Chapter are provided as examples. The exact content and style are not specifically endorsed.

separate or the same matrix. (Appendix E includes more information on data collection.)

3. **Timeline:** LAFCO may use the data compiled to develop a draft five year timeline for initiating and completing all municipal service reviews.

TABLE 1 - SERVICE PROVIDER MATRIX TEMPLATE

| Provider | Area or Region | Fire (FI) | Sanitation (SA) | Water (WA) | Flood Control (FC) | Solid Waste (SW) | Recreation and Parks (R&P) | Other |
|--------------------|----------------|-----------|-----------------|------------|--------------------|------------------|----------------------------|-------|
| ARFPD | | FI | | | | | | |
| ARFCD | | | | | FC | | | |
| Arcade R&P | | | | | | | R&P | |
| Arcade Water | | | | WA | | | | |
| AM R&P | | | | | | | R&P | |
| Brannan-Andrus LMD | | | | | FC | | | |
| Citizens Utilities | | | | WA | | | | |
| CH ID | | | | WA | | | | |
| Clay Water | | | | WA | | | | |
| RD 369 | | | | | FC | | | |
| Cordova R&P | | | | | | | R&P | |
| CSA9 | | | SA | | | | | |
| CSD #1 | | | SA | | | | | |

*Using letters facilitates sorts.

B. DEVELOPMENT OF THE SCHEDULE: SERVICE PROVIDER PREPARATION

Service providers can help shape municipal service reviews by getting involved early in the process and assisting in: the establishment of the schedule, providing information, developing a work plan, collecting data/information and completing the municipal service review report.

A municipal service review is only as good as the data on which it is based. LAFCO will need specific information on the services being provided in the region and will probably need to request this information from the service providers. The types of information will vary from agency to agency and by the type of service being reviewed.

¹ This template is provided for illustration only and does not contain every type or class of municipal service.

Below is a list of the types of information a service provider may wish to gather to expedite the municipal service review process. It is not necessary to collect all types of data listed below. Select only those items that are relevant to the type of services under review.

1. A list of relevant statutory and regulatory obligations.
2. A copy of the most recent master services plan.
3. A metes and bounds legal description of the agency's boundary.
4. Service Area Maps (to the extent already prepared) including (1) A service boundary map; (2) A map indicating parcel boundaries (GIS maps may be available from the land use jurisdiction); (3) A vicinity or regional map with provider's boundary, major landmarks, freeways or highways, and adjacent or overlapping service provider boundaries (note: more than one map may need to be prepared to show all data); and (4) Maps indicating existing land uses within city or district boundaries and on adjacent properties.
5. Applicable excerpts from regional transportation, water, air quality, fair share housing allocation, airport land use, open space or agricultural plans or policies, or other environmental policies or programs.
6. Copies of regulatory and operating permits.
7. Number of acres or square miles included within the service area.
8. Type of sphere or sphere boundaries.
9. Assessed valuation.
10. Estimate of population within district boundaries.
11. As appropriate, the number of people, households, parcels or units currently receiving service, or the number of service connections.
12. Projected growth in service demand or planned new service demand/capacity.
13. Special communities of interest or neighborhoods affected by service.
14. Capital improvement plans.
15. Current service capacity.
16. Call volume.
17. Response time.
18. Annual operating budget.

Don't Reinvent the Wheel

Service providers may regularly submit reports to a regulatory or financing agency which contain the information the LAFCO needs to complete the municipal service review. Use the information in these reports to respond to information requests by LAFCO.

Early consultation with the LAFCO and meaningful input by the service provider can reduce the time and cost to both parties.

Share Best Practices and Unique Challenges

Service providers should take the opportunity to let LAFCOs know about best practices and other accomplishments of the agency when service information is requested.

In addition, service providers should inform the LAFCO about particular challenges that exist in providing services to a particular area so that this may be considered by the LAFCO during the municipal service review.

C. PRELIMINARY SCOPING - IF PREPARING FIVE YEAR SCHEDULE

A five year schedule for under taking all mandatory municipal service reviews is not required by existing law. However, OPR recommends the preparation of a schedule to ensure that all municipal service reviews are completed for use in updating SOIs at least once every five years.

As part of the development of the five-year schedule of reviews, the LAFCO should undertake preliminary scoping. This Chapter provides general guidance; however, LAFCOs may need to modify these recommendations to reflect local conditions and circumstances; knowledge of processes that work better in a specific area; the repetitive nature, simplicity or complexity of a service; and other factors that are municipal service review specific.

MENTORING LAFCOs
It may be useful to obtain guidance from experienced LAFCOs, such as Mentor LAFCOs, to assist with processing complex service reviews. It will also be useful for LAFCOs to share completed municipal service reviews as they become available. CALAFCO may be contacted for recommendations of mentor LAFCOs and to ascertain the availability of completed service reviews. A list of LAFCOs is also available on the CALAFCO website at <http://www.calafco.org/>.

Preliminary scoping for the establishment of a five-year schedule of reviews includes, but is not limited to, the following steps:

Step 1. Service List - Create list of services and providers (see Table 1).

Step 2. Map - Prepare a map of study area boundaries.

Step 3. Single Service or Bundled Services - Decide whether to study individual or clustered services.

Step 4. Early Consultation - Consult with affected LAFCOs, regional planning staff, city and county planning staff, service providers, stakeholder groups and the public.

Step 5. Multi-County Review - Decide whether the municipal service review affects or overlaps adjacent LAFCOs. (See Appendix L.)

Step 6. LAFCO Capacity - Identify potentials for funding, staffing, mentoring or consultant arrangements or options.

Step 7. Data Assessment - Review existing sources of information. (Appendix E includes information on data collection.)

Step 8. Impact of Pending Proposals - If pending LAFCO proposals are driving the municipal service review, meet with proponents to define issues, and discuss funding, timeframes, and the coordination of the municipal service review, the pending proposal and any required SOI update.

Step 9. Funding Shares/Cost Sharing - Appendix G includes several examples of funding sources for municipal service reviews.

D. PREPARING THE SCHEDULE

The schedule for undertaking municipal service reviews can be as simple as a list of reviews by year, indicating the services to be reviewed, providers affected and on anticipated study area boundaries. OPR recommends that the schedule be posted on the LAFCO web site, distributed to individuals and organizations on its "interested parties mailing list" and to all affected service providers. Once the schedule is prepared, circumstances may arise that require it to be modified, especially if the schedule covers multiple years. LAFCO should review the schedule regularly to make necessary modifications.

CHAPTER 4. DEVELOPMENT OF A WORK PLAN FOR INDIVIDUAL MUNICIPAL SERVICE REVIEWS

This Chapter includes guidance on undertaking an individual municipal service review based on the schedule developed in Chapter 3. OPR recommends that a work plan be developed for each municipal service review. LAFCO may wish to develop a standard model for these work plans to ensure consistency and to save time. An effective work plan will assist the LAFCO to make key decisions about the following questions:

- Will the municipal service review include only one service or will several related services be reviewed together?
- Is there a need for inter-county coordination? (Appendix L includes a discussion of inter-agency coordination.)
- Will the municipal service review be integrated into some other LAFCO action(s)? (Chapter 6 includes a discussion of this issue.)
- Should the LAFCO use a consultant to complete the municipal service review? (Appendix G includes a discussion on use of consultants.)
- To what extent does the LAFCO budget reflect funding for the completion of the municipal service review? Will there be a need for supplemental funding? If so, how will that supplemental funding be provided, i.e. fees, dues, loans? (Appendix H includes additional information on funding options.)

Development of a work plan includes four major steps: (1) Review of the information gained through preliminary scoping, as it relates to the particular service being reviewed, (2) Gathering of additional data and information that may be needed to perform the particular municipal service review under consideration; (3) Development of a strategy for preparing a report which will adequately inform the Commission to make the nine required municipal service review determinations; and (4) Writing of the actual work plan.

This chapter provides general guidance, however, LAFCOs may need to modify these recommendations to reflect local conditions and circumstances, knowledge of processes that work better in a specific area, the repetitive nature, simplicity or complexity of a municipal service review, and other factors that are municipal service review specific.

A. REVIEW PRELIMINARY SCOPING DOCUMENTS

As a first step in developing the individual municipal service review work plan, LAFCO should review the information that was developed through preliminary scoping. This step is necessary because the preliminary scoping may have taken place a year or more prior to the initiation of a specific municipal service review. By reviewing information that has already been identified through preliminary scoping, the LAFCO can determine whether the information is still valid or requires updating and/or supplementing.

B. GATHER ADDITIONAL INFORMATION

In preparation for the completion of a work plan for a particular municipal service review, the LAFCO should continue its work in gathering information which it started when the LAFCO established its schedule for performing municipal service reviews. If

the preliminary scoping was not previously undertaken, refer to steps one through nine in Chapter 3 before proceeding to the steps below.

Step 1. Re-establish discussions of municipal service review issues with affected service providers, county and city planning staff, and regional planning agencies.

Step 2. To the extent feasible, the LAFCO should conduct meetings to identify sensitive issues and areas of concern that need to be considered during municipal service review preparation, such as open space and agricultural land preservation, infill and affordable housing issues, environmental justice concerns, land use or economic issues such as base closures, deteriorating or inadequate infrastructure, economic downturns, growth and market forecasts, immediate financial effects on agencies, cost sharing and budgeting, advocacy issues, area-specific characteristics, known or anticipated service rate and property tax payer concerns, regional issues, rural versus urban differences, suburban or emerging county needs and characteristics, environmental resources, or other issues, processes or constraints.

Step 3. List and discuss major known issues, such as permit violations or recent consolidations, relating to the nine written determinations that must be rendered.

Step 4. Determine if it is appropriate to integrate SOI updates, other applicable pending proposals and expected subsequent government reorganizations, within the scope of the municipal service review.

C. DEVELOP A STRATEGY FOR PREPARATION OF THE MUNICIPAL SERVICE REVIEW REPORT

A part of its review of municipal services, LAFCO must prepare a written statement of its determination with respect to each of the following (Government Code §56430):

1. Infrastructure needs or deficiencies.
2. Growth and population projections for the affected area.
3. Financing constraints and opportunities.
4. Cost avoidance opportunities.
5. Opportunities for rate restructuring.
6. Opportunities for shared facilities.
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
8. Evaluation of management efficiencies.
9. Local accountability and governance.

The LAFCO will need to decide what information and level of analysis is necessary to support sound and defensible determinations. Because the LAFCO Commission is responsible for making these determinations based on staff research, analysis and recommendations, it is important that the municipal service review report contain sufficiently detailed information that supports and justifies the recommended determinations. To this end, the LAFCO staff should consider the general format and content requirements of the final municipal service review report.

The amount of information and analysis necessary to complete a municipal service review report will vary depending upon the particular service being reviewed, local circumstances, and any additional actions that might need to be taken based on the municipal service review. To the extent that LAFCO is aware of other proposals or pending actions that will be related to or dependent upon a particular municipal service review, the LAFCO may wish to address other issues in the municipal service review report or require supplemental information and analysis in the municipal service review.

D. WRITING THE WORK PLAN

OPR recommends that each municipal service review be undertaken pursuant to a formalized work plan. This work plan does not necessarily have to be approved by the LAFCO Commission, but should be developed by staff with the Commission's knowledge and input.

OPR recommends the LAFCO develop a consistent format for the work plan, to streamline its preparation and encourage standardization of the process for conducting municipal service reviews. Consistency should be a primary goal in the LAFCO's review of municipal services, not only for the benefit of the LAFCO and its staff, but also for other stakeholders who will routinely be involved in the municipal service review process.

The work plan should minimally include the following elements:

- List of Service(s) to be reviewed.
- Service Providers that will be affected/involved.
- Study Area Boundaries for the municipal service review. (Chapter 5 includes more information on how to establish study area boundaries.)
- Data Collection process. (Appendix E includes a discussion of data collection.)
- Public Participation process. (Chapter 2 provides additional information on the role of public participation in the review of municipal services.)
- Public hearing process. (Chapter 10 contains more information on the hearing process. Appendix D, the process flow chart, illustrates how the hearing

process may work if the LAFCO chooses to integrate the municipal service review into other LAFCO actions.)

CHAPTER 5. IDENTIFYING THE MUNICIPAL SERVICE REVIEW STUDY BOUNDARY

The CKH Act requires that LAFCOs focus on services rather than individual SOIs, proposals or service providers. To review a service, LAFCO needs to identify the geographic area within which the service should be studied. Government Code 556430 states, "the commission shall include in the area designated for municipal service review the county, the region, the sub-region, or such other geographic area as is appropriate for an analysis of the service or services to be reviewed."

LAFCOs should consult with other affected LAFCOs when scoping a proposed municipal service review. An affected LAFCO is a LAFCO for a county other than the principal county that may be affected by a municipal service review. This is especially important for municipal service reviews which may lead to the consideration of proposals that have the potential to cause significant environmental, fiscal or economic impacts on the affected county.

A. METHODS FOR IDENTIFYING AN APPROPRIATE MUNICIPAL SERVICE REVIEW BOUNDARY

There is no single method for identifying an appropriate municipal service review boundary. Within the State, there are numerous combinations of services, and types of service regions and community service areas within in counties.

Each LAFCO will need to work with affected and interested agencies and planning jurisdictions, if different, to define logical municipal service review study boundaries that respond to local conditions, geography and circumstances. This includes:

- Selecting a service or group of services for review;
- Determining who provides, uses and is affected by that service (those services);

TAILOR BOUNDARIES TO SERVICES AND LOCAL AREA
LAFCO should tailor study boundaries to reflect local conditions and the specific service under review.
There are widely varying local conditions including numerous types of geologic, topographical and climate zones. Some counties have isolated rural and mountain communities. Other counties are densely populated.
Some counties have an agriculture based economy; others have urban or urban/suburban economies.
There are large and small drainage basins, and counties with mountains or large lakes. Some districts cross county boundaries, provide regional services, or serve a single isolated town.
LAFCO should have a clear methodology for establishing boundaries based on these and other factors.

- Determining what topographic features, tax zones, joint powers agreements, shared facilities, resources and infrastructure, among other factors, link a service to a particular location or locations that could be studied; and
- Mapping or otherwise identifying the area for study.

B. EXAMPLES OF MUNICIPAL SERVICE REVIEW BOUNDARY DETERMINATIONS

The following are examples of municipal service review study areas based on hypothetical conditions and circumstances.

Example 1: County A is a rural county generally bisected by a mountain range. The County's western slope contains two adjacent rapidly urbanizing communities with mainly large lot residential housing. Each of two community service districts provides parks and recreation, street lighting and landscaping, and road maintenance services to one of the communities. Only one district provides fire protection and emergency services. There are five fire districts that surround the potential study area and are planning to serve areas that are approved for urbanization, some of which are within CSD boundaries.

All fire districts are planning to construct new facilities near or in the two communities. There are definable areas where there is little relationship between the fire service providers' boundaries and first response fire protection and emergency service responsibilities. All of the districts have substantial territory within a State Responsibility Area, and, therefore, receive fire-fighting assistance from the California Department of Forestry (CDF). The CDF provides fire protection services by contract to one of the community services district. The County provides overlapping park and open space services in the area.

Analysis: OPR suggests that this study area's boundary include the western slope of the mountain ridge with the urban limit line forming a possible southern boundary. To maximize efficiency, this municipal service review should probably include multiple services.

Example 2: Nine sanitation service districts serve territory contained in a well-defined drainage basin. District A owns and operates a wastewater treatment plant in the basin. All districts are parties to a joint powers agreement to use the facility and share maintenance and operation costs. Other major service providers' boundaries are based on the location of urban areas and have little relationship to drainage basin boundaries.

Analysis: OPR suggests that this study area's boundaries be generally coterminous with drainage basin boundaries. Only wastewater service should be studied, although

LAFCO could determine whether a similar structure exists for water providers and consider the potential for a combined water/sanitation municipal service review.

Example 3: Two small cities are located in the southern portion of a rural county. Each city provides most of its own municipal services with the exception of water, sanitation, and mosquito abatement/vector control. Three regional districts provide those services.

Analysis: OPR suggests that this study area's boundary include the planning areas of both cities. Services to be studied would be limited to those provided by the two cities although an overview of the three regional districts could also be included. LAFCO could streamline the process by conducting joint SOI updates concurrent with the municipal service review, and a single CEQA review.

Example 4: County A is a large county with substantial rural, suburban and urban areas. During the past eleven years, the number of fire districts in County A has decreased from 25 to 16 due to service provider initiated consolidation proposals. Several fire districts are considering initiating consolidation proposals when their fire chiefs retire. Four of the service providers serve isolated rural areas. One urban/rural provider provides emergency services to smaller, adjacent rural districts. None have overlapping boundaries. All participate in mutual aid agreements. Developers on the east side of the county have been approaching fire service providers in an adjacent county for the purpose of obtaining fire service for proposed isolated senior citizen communities.

Analysis: OPR suggests that this study area's boundary include the entire county and include all fire protection service providers. The fire protection service providers from adjacent counties should be asked to participate in stakeholder meetings, and/or provide other input into the study. Providers could be clustered by geographic location, or urban/rural characteristics.

Example 5: One hundred thirty-five (135) flood control, drainage, land reclamation or levee maintenance service providers serve a 100 square mile drainage area with deteriorating or insufficient infrastructure. Property values in the area are depressed. Many share insurance, capital facilities, attorneys or staff. Several have no paid staff. There is significant variation in assessed service rates, which, in many cases, bears a direct relationship to levels of service. There are few overlapping boundaries. The districts are located in four counties.

Analysis: OPR suggests that study area's boundary include the entire 100 square mile area. The affected LAFCOs could develop a joint powers agreement and conduct a joint municipal service review study for flood control, drainage and levee maintenance.

PART II - THE MUNICIPAL SERVICE REVIEW PROCESS

CHAPTER 6. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH OTHER LAFCO ACTIONS

This Chapter provides guidance on how to integrate municipal service reviews with other LAFCO actions. LAFCOs are not required to review a SOI at the same time that it performs a municipal service review. Some LAFCOs may, however, find that integrating municipal service reviews with other LAFCO business proves a better context in which to review the information and streamlines both the municipal service review and SOI processes. Appendix D provides a flow chart which illustrates how an integrated municipal service review may be undertaken.

WHEN TO DO MUNICIPAL SERVICE REVIEWS

The CKH Act's most recent amendments took effect on January 1, 2001. Although §56430 does not directly provide a specific date when all service reviews must be completed, a deadline can be inferred from §56425, which states, "Upon determination of a sphere, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than every five years."

A. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH SOI ACTIONS

INTEGRATE MUNICIPAL SERVICE REVIEWS WITH OTHER ACTIONS

This Chapter provides guidance on how to integrate service reviews with other LAFCO actions. LAFCOs are not required to review a SOI at the same time that it performs a service review. Some LAFCOs may, however, find that integrating service reviews with other LAFCO business proves a better context in which to review the information and streamlines both the service and SOI processes. Appendix E provides a flow chart which illustrates how an integrated service review may be undertaken.

The information, recommendations and determinations, contained in a municipal service review, are intended to guide and inform SOI decisions. This includes actions to create or update an SOI. Government Code §56430(c) states,

"The commission shall conduct a municipal service review before, or in conjunction with, but no later than the time it is considering an action to establish a SOI in accordance with §56425 or §56426.5 or to update a SOI pursuant to §56425."

Any SOI adopted prior to December 31, 2000 must be updated, as necessary, but at least by January 1, 2006. Some updates may simply involve an affirmation of the existing SOI boundaries or some modifications to the SOI to achieve consistency with the CKH Act. §56430 states that municipal service reviews must be conducted prior to, or concurrent with, those updates. Therefore all municipal service reviews must be completed by January 1, 2006.

A LAFCO may have several reasons for prioritizing a specific municipal service review. Perhaps there is a pending proposal to create, update or substantially amend an SOI; a pending health and safety issue; or the SOI is many years old. Whatever the reason, LAFCO should consider combining municipal service reviews and related SOI processes where feasible. Reasons for combining municipal service reviews with SOI reviews include:

- Several districts with affected SOIs may be included in a single municipal service review.
- SOI actions, staff reports, planning documents and public hearings may be consolidated with those required for municipal service reviews.
- Prudent clustering of SOI actions and related municipal service reviews may reduce processing costs, and enable costs to be spread among more affected or interested parties.
- CEQA encourages the consideration of multiple related actions where appropriate. It may be possible to evaluate a municipal service review and its associated SOI action(s) in a single CEQA review.
- Service review determinations and SOIs actions may be viewed from a more inclusive or regional perspective.

B. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH OTHER PROPOSALS

During the conduct of a municipal service review, LAFCO may determine that study conclusions will strongly support specific government organization or reorganization proposals or actions. In those cases, LAFCO, or affected service providers, may desire to initiate recommended actions concurrent with the municipal service review. Under certain circumstances, concurrent processing could ensure that the municipal service review information gathering process focuses on issues relevant to anticipated subsequent actions.

C. MUNICIPAL SERVICE REVIEWS IN THE REGIONAL CONTEXT

While LAFCO does not have any direct land use authority, the CHK Act assigns LAFCOs a prominent role in regional planning issues by charging it to consider a wide range of land use and growth factors when it acts on matters under its jurisdiction. LAFCO has broad statutory responsibility to consider planned, orderly, efficient patterns of urban development which also preserve agricultural lands and achieve a fair share of the region's housing needs. (§56668 and §56668.5)

LAFCOs can have a powerful influence on local land use planning decisions through participation in city and county general plan processes. Section 65352 (a) of state planning law requires cities and counties to refer their general plans to LAFCO before

adopting or amending their general plans. This is an example of many opportunities that LAFCO has to influence local and regional land use decisions in ways that are consistent with LAFCO's charge. On one hand, LAFCO must consider consistency with local general plans when it makes boundary decisions, but LAFCO also has the ability to influence the nature of those local general plans through active participation in their development.

Regional planning initiatives are another opportunity for LAFCO to collaborate with planning agencies and encourage development of coordinated goals and policies. Examples of regional initiatives include habitat conservation plans, regional transportation plans, and watershed management plans, to mention a few.

Service reviews occur in the larger context of county and regional planning efforts that are not always in harmony. LAFCO should use every opportunity to engage in these other planning efforts to ensure that LAFCO's concerns are reflected in land use planning decisions. LAFCO should also take advantage of the opportunity to use its municipal service review process as a means of encouraging collaboration with planning agencies on important policy issues. By both participating in these other planning efforts and using information gained from these activities LAFCO can help improve the quality and consistency of data. Service reviews should help put into context the relationship between service options and regional issues, goals and policies.

Refer to Government Code §56377, §56378, §56386, §56430, §56668, and §56668.5 for specific requirements for LAFCOs to consider regional issues or coordination with regional planning agencies.

D. ENVIRONMENTAL JUSTICE CONSIDERATIONS AND MUNICIPAL SERVICE REVIEWS

In undertaking municipal service reviews and making the nine determinations, LAFCO board members should consider their responsibilities under civil rights and environmental justice laws. In general, these laws prohibit actions by public entities which disproportionately affect one category of individuals as defined by race, creed, ethnicity, disability, family status and income.

OPR recommends that LAFCO request legal counsel guidance to assure that the policies and processes that it implements are appropriate. These guidelines include a number of recommendations which encourage broad public participation and municipal service review analysis which would affirmatively support the broad civil rights and environmental justice responsibilities of LAFCO including:

- Adopt general policies and procedures relative to the undertaking of the municipal service review. This will avoid any appearance of an unequal review of some services.
- Develop and publish a five-year schedule for municipal service reviews to maximize the ability of the public to participate in the process.
- Convene stakeholders and facilitate collaborative efforts to address issues and challenges that are identified during the municipal service review process.
- Undertake municipal service reviews across county lines if that would more appropriately address the community of interest.
- Adopt the work plan for the individual municipal service review at a public meeting.
- Incorporate the municipal service review with other LAFCO actions (such as a SOI update) for the purpose of demonstrating the context in which the information gained in the municipal service review will be used.
- Publish the Draft Municipal Service Review Report and provide for a 21-day public review period before scheduling the report to be considered by LAFCO.
- Sponsor public workshops prior to the hearing at which the Final Municipal Service Review Report will be adopted.

CHAPTER 7. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Public Resources Code §21000 et sequitur, also known as the California Environmental Quality Act (CEQA), requires public agencies to evaluate the potential environmental effects of their actions. Only discretionary actions that are defined as projects are subject to CEQA. A project is the whole of an action, which has the potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change to the environment (CEQA Guidelines §15378).

In order for CEQA to apply to a municipal service review, it must be considered a project under CEQA. Service reviews may meet this definition particularly if viewed in light of *City of Livermore v. Local Agency Formation Commission of Alameda County* (1986). In that court decision, LAFCO adoption of SOI guidelines was held to be a project because the revised guidelines could affect future growth patterns. A municipal service review may have the same effect of influencing future growth patterns.

A. APPLICABILITY OF CEQA

Service reviews are intended to support SOI updates, which may include expansions or reductions in SOI boundaries, the creation of new SOIs, or SOIs amendments that trigger a need to update the pertinent SOI. The language of §56430 of the CKH Act requires that LAFCO will:

- Consider municipal service reviews, and municipal service review recommendations, during noticed public hearings;
- Render determinations regarding a number of issues including various government options, the advantages and disadvantages of the consolidation and reorganization of service providers, and the identification of infrastructure needs; and
- Use the reviews when rendering future decisions to create, update or amend an SOI, or approve or disapprove government organization or reorganization proposals.

In some cases, a municipal service review, and its required determinations, will provide policy guidance for future LAFCO decisions that may direct or affect the location and pattern of growth. Because of the nature of the analysis required, municipal service reviews may be perceived or interpreted by some as the first step in creating, updating or amending SOIs or initiating other government organizations or reorganizations. In other cases, municipal service reviews may actually be an integral part of a larger project. Service reviews may frequently be triggered by pending applications to LAFCO for SOI amendments, or for annexations that cannot proceed without an SOI update.

To ensure compliance with CEQA, and avoid unnecessary legal challenges, LAFCOs should consider municipal service reviews as projects subject to CEQA. The LAFCO would be the "lead agency" responsible for complying with CEQA because it is the entity with the principal responsibility for approving or carrying out the municipal service review (i.e., the project) (Public Resources Code §21067). As the CEQA lead agency, the LAFCO must ensure that all required elements of the CEQA review process are conducted consistent with the requirements of CEQA and LAFCOs' own adopted CEQA procedures.

B. CEQA DETERMINATIONS

CEQA requires a lead agency to make one of three basic environmental determinations with respect to the potential environmental effects of a project. The project may qualify for an exemption, which requires no further analysis. If the project is not exempt and there are no potentially significant environmental effects, the lead agency may prepare a Negative Declaration (ND). If the project is not

exempt and there is the potential for one or more significant environmental effects, an Environmental Impact Report (EIR) must be prepared.

No two municipal service reviews will be exactly alike and each needs to be evaluated on its specific merits and characteristics. Each LAFCO should ensure that its own locally adopted CEQA procedures and guidelines are updated to account for environmental determinations on municipal service review activities.

C. EXEMPTIONS

Each lead agency must first review a project to determine if it is exempt from CEQA review. There are three types of exemptions that a LAFCO could review for applicability to a specific municipal service review: statutory, categorical and "general rule" exemptions. The lead agency should support its reliance on an exemption with substantial evidence in the record.

A municipal service review may potentially qualify for a statutory exemption as a Feasibility and Planning Study:

"A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors. This Chapter does not apply to the adoption of a plan that will have a legally binding effect on later activities." (CEQA Guidelines §15262).

There are two categorical exemptions that might apply to a municipal service review. These are Class 6 and Class 20 categorical exemptions. Categorical exemptions may not be used if there are special circumstances that would raise the potential for the project to have a significant environmental effect (CEQA Guidelines §15300.2).

"Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted or funded." (CEQA Guidelines §15306)

"Class 20 consists of changes in the organization or reorganization of local government agencies where the changes do not change the geographical area in which previous existing powers are exercised. Examples include but are not limited to: (a) Establishment of a subsidiary district; (b) Consolidation of two or more districts having identical powers; and (c) Merger with a city of a district lying entirely within the boundaries of the city." (CEQA Guidelines §15320)

A general rule exemption may apply to a project, where it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse environmental effect (CEQA Guidelines §15061(b)(3)). LAFCOs are advised to use this exemption with particular caution because legal challenges to the use of this exemption may be more difficult to defend.

If a LAFCO determines that an exemption is appropriate, it is recommended that the LAFCO prepare and file a Notice of Exemption (NOE) as described in §15062 of the CEQA Guidelines. If an NOE is not filed, the statute of limitations is 180 days from the date of the lead agency's decision to approve the project, as opposed to 35 days if an NOE is filed.

D. INITIAL STUDY

If LAFCO determines that a municipal service review project is not exempt, then an Initial Study must be prepared to determine whether a Negative Declaration or an EIR is the appropriate level of review under CEQA. LAFCO is required to consult with responsible and trustee agencies prior to its determination of the appropriate environmental document to prepare (see CEQA Guidelines §15063.)

E. NEGATIVE DECLARATION

A Negative Declaration may be prepared by LAFCO for a project when the Initial Study shows that there is no substantial evidence that the project may have a significant effect on the environment (CEQA Guidelines §15070-§15075).

The Negative Declaration must be made available to the public and others who have expressed an interest in the project, not less than 20 days before the project is heard by LAFCO. Prior to approval of the project, the LAFCO Commission must consider any comments received on the Negative Declaration.

If LAFCO determines to carry out or approve the project, a Notice of Determination (NOD) must be filed with the County Clerk within five working days. The County Clerk must post the NOD within 24 hours of receipt. The posting of the NOD starts a 30-day statute of limitations for challenges under CEQA. If an NOD is not filed, the statute of limitations is 180 days from the date of the lead agency's decision to approve the project.

F. ENVIRONMENTAL IMPACT REPORT

If a municipal service review is subject to an EIR process because of potentially significant effects, the LAFCO should rely upon §15080-§15097 of the CEQA Guidelines for guidance on the preparation of an EIR. An EIR may be required where the

municipal service review is closely tied to a larger action, such as an SOI update, that may have a significant effect on the environment.

An EIR may require up to a year to complete, and associated costs can reach \$50,000 or more. Where LAFCO resources to prepare an EIR are limited, it is recommended that LAFCO consider using the services of a consultant.

CHAPTER 8. DEVELOPING WRITTEN DETERMINATIONS

This Chapter provides guidance for evaluating each of the nine categories for which written determinations must be rendered pursuant to Government Code §56430.

The tables contained in this Chapter were developed to illustrate the factors or issues a LAFCO may wish to consider when making the nine mandatory municipal service review determinations pursuant to §56430 of the Government Code. Each LAFCO should use the issues identified in the tables to the extent that they are appropriate to the service being reviewed and local conditions.

For example, the review of a cemetery service will not include the complex evaluation of items applicable to an infrastructure-intensive provider such as a sanitation district. A cemetery municipal service review discussion for water supply would at most pertain to on-site drinking or irrigation water needs, not the complex water rights and water supply negotiations affecting major urban water service providers. The level of evaluation and discussion should be driven by the specific service or issues relating to that service.

The nine municipal service review determinations are interdependent. Therefore, some of the issues related to each of the nine determinations may overlap, and information about one determination may substantially affect other determinations. For example, Subsection (H), Government Structure Options, includes issues which may be pertinent to all other subsections because those categories provide input into an evaluation of the advantages and disadvantages of various government structure options.

WORK TOGETHER TO TAILOR ISSUE LISTS

The lists of issues in this Chapter are very general and were designed to address a variety of services provided in all parts of the state.

LAFCOs and service providers are encouraged to work together to develop regionally appropriate and service specific lists of issues.

The individual LAFCO can then work from these more focused lists and further tailor lists to reflect the specific area and services being studied.

1. INFRASTRUCTURE NEEDS AND DEFICIENCIES

In identifying an agency's infrastructure needs and deficiencies, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 1. | Government restructure options to enhance and/or eliminate identified infrastructure needs and/or deficiencies. |
| 2. | Expansion of services to eliminate duplicate infrastructure construction by other agencies. |
| 3. | Condition of infrastructure and the availability of financial resources to make necessary changes. |
| 4. | Level of service and condition of infrastructure in light of revenue and operating constraints. |
| 5. | Infrastructure capabilities to accommodate future development with flexible contingency plans. |
| 6. | Reserve capacity for properties not served within current boundaries and estimate of properties within current boundaries not eligible for service. |
| 7. | Provisions for adequate service for properties not currently being served within current boundaries. |
| 8. | Location of existing and/or planned facilities. |
| 9. | Location of existing and/or planned infrastructure in relation to affordable housing programs. |
| 10. | Compliance with environmental and safety standards. |
| 11. | Applicable permit status (i.e. CEQA, etc.). |
| 12. | Consistency with service and/or capital improvement plans and local and regional land use plans/policies. |

2. GROWTH AND POPULATION PROJECTIONS FOR THE AFFECTED AREA

In identifying an agency's growth and population projections, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Projected growth in and around the agency's service areas. |
| 2. | Historic and expected land use absorption trends. |
| 3. | Estimate of future service needs. |
| 4. | Impact of land use plans and growth patterns on service demands. |
| 5. | Impact of service plans and policies on growth and/or land use patterns for adjacent areas, on mutual or regional social and economic interest, and on the local governmental structure of the county. |

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 6. | Relationship between an agency's boundary and SOI with the projected growth in the study area. |
| 7. | Compatibility of service plan(s) with other local agency land use/development plans. |
| 8. | Compatibility between agency service plans, regional growth projections and efficient urban development. |

3. FINANCING CONSTRAINTS AND OPPORTUNITIES

In identifying an agency's financing constraints and opportunities, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Implementation of appropriate financing/funding practices. |
| 2. | Potential for shared financing and/or joint funding applications. |
| 3. | Combination of enterprise and/or non-enterprise financing functions. |
| 4. | Compared analysis of financing rates between other agencies in study area. |
| 5. | Bond rating(s). |
| 6. | Ability to obtain financing. |
| 7. | Existing and/or proposed assessment district(s). |
| 8. | Opportunities for additional revenue streams, including joint agency grant applications, untapped resources, or alternative government structures. |
| 9. | Methods to pay down existing debt(s), including using excess revenues. |

4. COST AVOIDANCE OPPORTUNITIES

In identifying an agency's cost avoidance opportunities, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 1. | Opportunity for joint agency practices, including shared insurance coverage opportunities. |
| 2. | Availability of outsourcing for financial and administrative duties, and cost-benefits of outsourcing versus in-house management. |
| 3. | Duplication of services. |
| 4. | Impact of service practices and/or facilities in relation to land: available for infill; where excess capacity exists; planned for growth; easiest to serve; and with the fewest topographic and geographic constraints; and in a manner that supports affordable housing objectives. |
| 5. | Impact of service practices and/or facilities in relation to benefit/detriment of service cost. |
| 6. | Impact of growth inducement measures on construction costs and near-term infrastructure deficiencies. |

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| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 7. | Policies and/or plans to extend services to an area proposed for annexation or new development, particularly with respect to the impact of extending services on existing customers. |
| 8. | Impact of service practices and/or facilities on affordable housing objectives. |
| 9. | Impact of additional services/capacity on agency's fiscal viability, including cost and adequacy of services in existing or proposed service areas and/or areas served by other special districts, cities, or the county. |
| 10. | Relationship between current level of service and customer needs and preferences. |
| 11. | Opportunities for savings or augmentation in overhead, including employee salary or benefits, elected official compensation or benefits, equipment purchases, planning, etc. |
| 12. | Pro-rata service costs for customer/ratepayer and/or taxpayer. |
| 13. | Application and/or bid process for contractor assistance, including comparison of rates. |

5. OPPORTUNITIES FOR RATE RESTRUCTURING

In identifying an agency's opportunities for rate restructuring, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 1. | Agency's methodology for determining rates. |
| 2. | Availability of revenue enhancement opportunities to lessen and/or stabilize rates. |
| 3. | Relationship between rate differences among service providers and levels of service. |
| 4. | Rate comparison between service providers with similar service conditions. |
| 5. | Cost of services versus fees. |
| 6. | The services that ratepayers and/or assessed properties are receiving for which they are paying. |
| 7. | Financial impacts on existing customers caused by the funding of infrastructure needed to support new development. |
| 8. | Impacts of standby rates (charges assessed to under-or-undeveloped land used for rural, agricultural or open spaces uses) on open space and affordable housing plans. |
| 9. | Relationship between rate and service policies and the provision of decent and affordable housing. |
| 10. | Availability of reasonable emergency reserves. |
| 11. | Use of annual savings. |

6. OPPORTUNITIES FOR SHARED FACILITIES

In identifying an agency's opportunities for shared facilities, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Current shared activities with other service providers, including shared facilities and staff. |
| 2. | Suggested existing and/or future shared facility opportunities by the agency. |
| 3. | Opportunities for conjunctive and/or joint use projects, such as groundwater storage/parks, schools/parks, or flood detention/parks. |
| 4. | Duplication of existing and/or planned facilities of other service providers. |
| 5. | Availability of excess capacity to serve customers of other agencies. |

7. GOVERNMENT STRUCTURE OPTIONS

In identifying an agency's government structure options, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|---|
| 1. | Available government options to provide more logical service boundaries to the benefit of customers and regional planning goals and objectives. |
| 2. | Recommendations by a service provider and/or an interested party for government options. |
| 3. | Anticipated proposals to LAFCO that will affect the service provider. |
| 4. | Prior proposals or attempts by the agency to consolidate and/or reorganize. |
| 5. | Availability of government options that improve public participation, local accountability, and governance. |
| 6. | Opportunities to create definite and certain boundaries that conform to lines of assessment or ownership and/or eliminate islands, corridors of unincorporated territory, and other difficult or illogical service areas. |
| 7. | Existing boundary disputes. |
| 8. | Elimination of overlapping boundaries that confuse the public, cause service inefficiencies, unnecessarily increase in the cost of infrastructure, exacerbate rates and/or undermine good planning practices. |
| 9. | Reevaluation of boundaries, including downsizing SOI boundaries and/or approving other boundary modifications that remove important open space and agricultural lands from urban services areas. |
| 10. | Availability of government options that stabilize, steady and/or clarify the government process in order to reduce costs or increase customer satisfaction. |
| 11. | Availability of government options that may produce economies of scale and improve buying power in order to reduce service and housing costs. |

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| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 12. | Availability of government options that cause appropriate facilities to be shared and avoid the construction of extra and/or necessary infrastructure. |
| 13. | Making excess capacity available to other service users in order to eliminate duplicate infrastructure construction by multiple agencies and reduce costs to customers. |
| 14. | Opportunities to improve the availability of water rights and/or supplies (surface, reclaimed or groundwater) to a larger customer base through a change in government organization. |
| 15. | Availability of government options that could facilitate construction, financing and/or eliminate the need for new facility construction. |
| 16. | Cost-benefit of restructuring current elected board and/or administration to any proposed alternative. |
| 17. | Cost-benefit of restructuring overhead, including staff, capital outlays, allocation of reserves or savings, loaded administrative charges for grant administration, accounting, and other contracted services. |
| 18. | Cost-benefit of restructuring the direct distribution of costs or debts from shared facilities to a larger user population. |
| 19. | Opportunities for the sale of surplus properties through a change in government organization. |
| 20. | Availability of excess reserves for service improvements and/or rate reductions through a change in government organization. |
| 21. | Opportunities to enhance capital improvement plans and programs through a change in government structure. |
| 22. | Opportunities to streamline services through the reorganization of service providers that no longer provide services for which they were formed. |
| 23. | Opportunities for early debt repayment and related savings through a change in government structure. |
| 24. | Elimination of rate structures that impose growth pressures on open space resources. |
| 25. | Identification of illogical boundaries and their effect on rates. |
| 26. | Impact of government structure options on an agency's financial stability. |
| 27. | Rationale for an agency's emergency and/or undesignated reserves (fund equity or balance), particularly in relation to their gross annual revenue. |
| 28. | Changes and/or modifications in boundaries in order to promote planned, orderly, and efficient patterns of urban development. |
| 29. | Changes and/or modifications in boundaries in order to avoid premature inducement, facilitation, or conversion of existing open space lands, including: the direction of growth away from prime agricultural and important open space lands towards infill areas or areas containing nonprime agricultural land; the development of vacant land adjacent to existing urban areas and within existing spheres of influence. |
| 30. | Boundary adjustments in order to minimize the amount of land needed to accommodate growth in the next 5-10 years within the spheres of influence of special districts and cities. |

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| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 31. | Prevention of extensions of urban services to important agriculture and open space areas not planned for growth or within the boundaries of the city or special district. |
| 32. | Impact of a change in government structure on the implementation of regional transportation, water quality, air quality, fair share housing allocation, environmental justice, airport land use, open space, agricultural, and other environmental policies or programs. |
| 33. | Impacts of government structures on fair housing programs. |
| 34. | Available government options that improve the ability to provide and explain budget and financial data. |
| 35. | Opportunities for improvement in the quality and/or levels of service through changes in government structure. |
| 36. | Impact of investment policies on service levels and quality. |
| 37. | Evaluation of bond rates, ability to borrow or obtain grants, budget practices and other aid. |
| 38. | Ability to gain environmental benefits (wetland restoration, water conservation, and other conservation policies) through government structure options. |
| 39. | Opportunities to integrate services without excessive cost. |
| 40. | Cost-benefit analysis of potential changes in government structure through merging staff, staff reduction by attrition, phasing out of elected or appointed positions, and management staff. |
| 41. | Opportunities for improved service delivery and/or an increase in system standards by system integration through changes in government structure. |
| 42. | Identify prohibitions in the affected Principal Acts that would affect government structure options, including pending litigation, court judgments, other legal issues, restricted assets, financial or other constraints. |
| 43. | Integration of debts and obligations analyses. |
| 44. | Potential successor agencies. |
| 45. | Impact on existing systems (upgrades) due to government structure changes. |
| 46. | Impact on operating cost (short and long term) due to government structure changes. |
| 47. | Evaluation of long term savings through government structure changes versus related transition costs. |
| 48. | Evaluation of permit status upon integration. |

8. EVALUATION OF MANAGEMENT EFFICIENCIES

In evaluating an agency's management efficiencies, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Evaluation of agency's capacity to assist with and/or assume services provided by other agencies. |
| 2. | Evaluation of agency's spending on mandatory programs. |
| 3. | Comparison of agency's mission statement and published customer service goals and objectives. |
| 4. | Availability of master service plan(s). |
| 5. | Contingency plans for accommodating existing and planned growth. |
| 6. | Publicized activities. |
| 7. | Implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement. |
| 8. | Personnel policies. |
| 9. | Availability of resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service. |
| 10. | Available technology to conduct an efficient business. |
| 11. | Collection and maintenance of pertinent data necessary to comply with state laws and provide adequate services. |
| 12. | Opportunities for joint powers agreements, Joint Powers Authorities, and/or regional planning opportunities. |
| 13. | Evaluation of agency's system of performance measures. |
| 14. | Capital improvement projects as they pertain to §65401 and §651039c. |
| 15. | Accounting practices. |
| 16. | Maintenance of contingency reserves. |
| 17. | Written policies regarding the accumulation and use of reserves and investment practices. |
| 18. | Impact of agency's policies and practices on environmental objectives and affordable housing. |
| 19. | Environment and safety compliance. |
| 20. | Current litigation and/or grand jury inquiry involving the service under LAFCO review. |

9. LOCAL ACCOUNTABILITY AND GOVERNANCE

In evaluating an agency's local accountability and governance structure, LAFCO may wish to address the following factors in its review:

| ITEM NO. | FACTOR / ISSUE |
|----------|--|
| 1. | Compliance with state disclosure laws and the Brown Act. |
| 2. | Level of public participation (i.e. open meetings, accessible staff and elected officials, an accessible office open to the public, a phone and/or message center, customer complaint and suggestion opportunities). |
| 3. | Agency representatives (i.e., board members, employees, staff). |
| 4. | Public outreach efforts (i.e. newsletters, bill inserts, TV, website). |
| 5. | Media involvement (i.e. meetings publicized, evening board meetings, evening or weekend public planning sessions). |
| 6. | Accessibility of meetings (i.e. meetings publicized, evening board meetings, evening or weekend public planning sessions). |
| 7. | Election process. |
| 8. | Participation of service users in elections (i.e. elections publicized, day and evening voting). |
| 9. | Public access to adopted budgets. |
| 10. | Budget reports' compatibility with state law. |
| 11. | Audits. |
| 12. | Access to program progress reports. |
| 13. | Current provision of service(s). |

PART III - TAKING ACTION ON THE MUNICIPAL SERVICE REVIEW

CHAPTER 9. PREPARING THE MUNICIPAL SERVICE REVIEW REPORT

After collecting and evaluating municipal service review information, LAFCO's Executive Officer should prepare a written report to document the analysis and determinations.

A. DRAFT MUNICIPAL SERVICE REVIEW REPORT

The Draft Municipal Service Review Report should minimally contain the following elements:

- An Executive Summary.
- Review of baseline data and information related to the service or services being reviewed.
- A description of the public participation process.
- An analysis of services, service providers and other issues consistent with the intent of the CKH Act (§56001, §56300, §56301), and including, but not limited to, factors to be considered (§56668), areas of required determination (§56430), SOI concerns (§56425, §56425.5) and environmental justice issues, if any.
- Draft Determinations. (see section B below for more information).
- Follow-up recommendations, if any.
- Appropriate maps that identify service areas, and clearly delineate overlapping areas using GIS generated maps, if available, to ensure consistency among agencies.

B. WRITTEN DETERMINATIONS

The nine determinations that must be made by the LAFCO Commission are critical because they represent the culmination of the municipal service review process. The CKH Act does not identify a particular format for the nine required determinations nor does it dictate the substance of these determinations. OPR provides the following recommendations for preparation of written determinations, and recommends that each LAFCO establish its own policy or procedure for using a consistent method of preparing written determinations.

A determination is one or more declaratory statements that make a conclusion, based on all the information and evidence presented to the Commission (i.e., the administrative record), with respect to the nine factors enumerated in Government Code §56430. These determinations must be supported by evidence in the record of the municipal service review proceedings, including all of the information collected, the LAFCO's analysis and interpretation of the information, verbal and written information presented by the public, and verbal and written testimony given at public hearings. Each of the nine determinations must be adequate to bridge the gap between raw data and the final conclusion about the status or condition of the municipal service under review. OPR recommends that the determinations be written in qualitative and/or quantitative terms, as appropriate, and refer to specific information or examples relative to the municipal service under review and the particular factor (determination) being considered.

While the Commission is ultimately responsible for making these determinations, OPR recommends that the LAFCO staff report include proposed determinations for the Commission to consider, adopt and include in its final resolution.

C. DISTRIBUTION AND COMMENT PERIOD

OPR recommends that LAFCO provide a formal public review period on the draft municipal service review report and hold at least one public meeting and/or workshop prior to the report being considered by LAFCO. It may be helpful to conduct a stakeholder meeting during the review period to obtain constructive input from those who helped shape the municipal service review.

D. FINALIZING THE REPORT TO THE COMMISSION

Comments received during the public review period should be considered and incorporated in the final report as appropriate. Any person or entity that submits comments should receive a copy of the final municipal service review report and a mailed notice of the public hearing at which the municipal service review determinations will be considered by the Commission.

The determinations will still be draft until they are accepted by the Commission at a public hearing. OPR recommends that the report, at a minimum, be issued concurrent with the notice for the public hearing (21-days in advance of the hearing) to consider and adopt municipal service review determinations.

CHAPTER 10. ADOPTING THE MUNICIPAL SERVICE REVIEW REPORT

A. INTRODUCTION

After a Final Municipal Service Review Report is issued, the Commission will need to take steps to complete its municipal service review responsibilities. LAFCO will need to conduct a hearing to consider and adopt the municipal service review report which will include the draft determinations.

A well-crafted municipal service review is an information and planning resource for LAFCOs, cities, counties, special districts and regional planning agencies. The Final Municipal Service Review Reports should be made available to affected and interested agencies and local and regional planning agencies for use as data resource documents.

B. PUBLIC NOTICE

The Final Municipal Service Review Report is required to be considered by LAFCO at a noticed public hearing. Government Code §56150-§56160 include public notice provisions. Government Code §56154 and §56156 require that published and mailed notice be provided at least 21 days prior to the public hearing. All affected and interested agencies, and persons and entities requesting notice, should receive a mailed notice. The notice should include a description of the municipal service review, and any actions that may be taken by LAFCO at the hearing. Those actions may include approval of the report, adoption of the draft determinations and any other actions recommended by staff.

REMINDER

If LAFCO has initiated other proposals that are being processed concurrent with a service review, it must also comply with processing steps for those actions.

Copies of the Final Municipal Service Review Report, including draft determinations, should be made available on the LAFCO's web site and mailed to affected and interested agencies. Although not required by law, OPR recommends that the report be made available to the public at least 21 days prior to the public hearing.

C. ACTIONS AT THE HEARING

The hearing should be conducted consistent with LAFCO's adopted written procedures. Some of the actions that LAFCO could take during the hearing include:

- Adoption of Resolution of Written Determinations
Service review determinations should be adopted by Resolution.
- Adoption of Municipal Service Review Report Recommendations

LAFCO may adopt staff recommendations and direct staff to take follow up actions as appropriate.

- **Adoption of City or District SOI Updates or Amendments**

If the municipal service review supports a particular action such as an SOI update or amendment, and LAFCO has complied with required processes, those actions could be approved at the same hearing.

- **Initiation or Adoption of Other Proposals**

If the municipal service review supports a particular action such as an initiation or adoption of an organization or reorganization proposal, and LAFCO has complied with required processes, those actions could be approved or initiated at the same hearing.

D. RECONSIDERATION

The CKH Act includes a process for interested persons and entities to request LAFCO to reconsider its determinations. Pursuant to §56895, when a Commission has adopted a resolution making determinations, any person or affected agency may file a written request with the LAFCO executive officer requesting amendments to or reconsideration of the resolution. The request must include the recommended modification and state what new or different facts or applicable new law, that could not have been known previously, warrant this reconsideration.

The request for reconsideration must be filed within 30 days of the LAFCO Commission's action. The reconsideration action should be scheduled for the next LAFCO hearing for which adequate notice can be given. Oral and written testimony may be received at the reconsideration hearing. LAFCO may continue the hearing from time to time but not longer than 70 days from the date of the first hearing (§56895).

FOR MORE INFORMATION
This guidance document was prepared by OPR to assist the public, LAFCOs and service providers to effectively engage in the service review process. Additional information on LAFCO may be found on the OPR website at www.opr.ca.gov.



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LAFCO
MUNICIPAL SERVICE REVIEW
GUIDELINES
FINAL DRAFT
APPENDICES
2002

Governor's Office of Planning and Research

October 3, 2002

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APPENDIX A DEFINITIONS¹

| TERM | DEFINITION | SECTION |
|-----------------------|---|---------------|
| Affected city | Any city which: (a) contains, or its sphere of influence (SOI) contains, territory for which a change of organization is proposed or ordered either singularly or as part of a reorganization; or (b) would contain the territory described in subdivision (a) as a result of proceedings for a change of organization or reorganization taken pursuant to this division. | <u>§56011</u> |
| Affected county | Each county which contains, or would contain, any territory for which a change of organization or reorganization is proposed or ordered or which contains all or any part of a district for which a change of organization or reorganization is proposed or ordered with respect to territory outside that county. | <u>§56012</u> |
| Affected district | A special district, as defined by <u>§56036</u> , which contains, or whose SOI contains, any territory for which a reorganization or a change of organization is proposed or ordered. | <u>§56013</u> |
| Affected LAFCO | When more than one county is affected by, or participating in a municipal service review, the LAFCO for a county other than the principal county, in which a municipal service review is conducted. | |
| Affected local agency | Any agency which contains, or would contain, or whose SOI contains, any territory within any proposal or study to be reviewed by the Commission. | <u>§56014</u> |
| Affected territory | Any territory for which a change of organization or reorganization is proposed or ordered. | <u>§56015</u> |
| Annexation | The annexation, inclusion, attachment, or addition of territory to a city or district. | <u>§56017</u> |
| Board of Directors | The legislative body or governing board of a district. | <u>§56019</u> |
| Board of Supervisors | The elected board of supervisors of a county. | <u>§56020</u> |

¹ Citations refer to sections of the Government Code. Some definitions are taken from other sources or have been developed for the Guidelines so they do not have specific Code references.

| TERM | DEFINITION | SECTION |
|---------------------------|--|---------------|
| Change of organization | A city incorporation, district formation, annexation to, or detachment from, a city or district, disincorporation of a city, district dissolution, consolidation of cities or special districts, or merger or establishment of a subsidiary district. | <u>§56021</u> |
| City | Any charter or general law city, including any city the name of which includes the word "town." | <u>§56023</u> |
| City Council | The elected legislative body of a city. | <u>§56024</u> |
| Consolidation | The uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district. In the case of consolidation of special districts, all of those districts shall have been formed pursuant to the same principal act. | <u>§56030</u> |
| Cost avoidance | Actions to eliminate unnecessary costs derived from, but not limited to, duplication of service efforts, higher than necessary administration/operation cost ratios, use of outdated or deteriorating infrastructure and equipment, underutilized equipment or buildings or facilities, overlapping/inefficient service boundaries, inefficient purchasing or budgeting practices, and lack of economies of scale. | |
| County Service Area (CSA) | A dependent agency governed by the Board of Supervisors of a County pursuant to <u>§25210.1 - §25211.33</u> of the Government Code. A CSA may perform most services, which the county is authorized to perform by law, and does not perform to the same extent on a countywide basis both within and outside city boundaries. | |
| Detachment | The detachment, deannexation, exclusion, deletion, or removal from a city or district of any portion of the territory of that city or district. | <u>§56033</u> |
| Disincorporation | The disincorporation, dissolution, extinguishment, and termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city. | <u>§56034</u> |
| Dissolution | The dissolution, disincorporation, extinguishment, and termination of the existence of a district and the cessation of all its corporate powers, except for the purpose of winding up the affairs of the district. | <u>§56035</u> |

| TERM | DEFINITION | SECTION |
|-------------------------------------|--|-----------------|
| District or special district | An agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" or "special district" includes a county service area. | <u>§56036</u> |
| District of limited powers | An airport district, community services district, municipal utility district, public utilities district, fire protection district, harbor district, port district, recreational harbor district, small craft harbor district, resort improvement district, library district, local hospital district, local health district, municipal improvement district formed pursuant to any special act, municipal water district, police protection district, recreation and park district, garbage disposal district, garbage and refuse disposal district, sanitary district, county sanitation district, or public cemetery district. | <u>§56037</u> |
| Education Revenue Augmentation Fund | The state mechanism for shifting property tax revenues from local governments to schools. | |
| Enterprise activities | Activities accounted for in a manner similar to a private business such as a water utility. The acquisition, operation, and maintenance of governmental facilities and services are entirely or predominantly self-supporting through user charges or fees. The State Controller separates enterprise activities into seven categories: airports, electric, harbor and port, transit, waste disposal, utility, and hospital. | |
| Feasible | Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social and technological factors. | <u>§56038.5</u> |
| Formation | The formation, incorporation, organization, or creation of a district. | <u>§56039</u> |
| Function | Any power granted by law to a local agency or a county to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of all persons or property. | <u>§56040</u> |
| Functional revenues | Revenues generated from direct services or associated with specific services, such as a grant or statute, and expenditures. | |
| General revenues | Revenues not associated with specific services or retained in an enterprise fund. | |

| TERM | DEFINITION | SECTION |
|---------------------------------------|--|-----------------|
| Government Structure Option | | |
| Incorporation | The incorporation, formation, creation, and establishment of a city with corporate powers. Any area proposed for incorporation as a new city must have at least 500 registered voters residing within the affected area at the time commission proceedings are initiated. | <u>§56043</u> |
| Independent special district | Any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms. "Independent special district" does not include any district excluded from the definition of district contained in §56036. | <u>§56044</u> |
| Independent SD officer | The presiding officer or a member of the legislative body of an independent special district. | <u>§56045</u> |
| Infrastructure needs and deficiencies | The term, "infrastructure" is defined as public services and facilities, such as sewage-disposal systems, water-supply systems, other utility systems, and roads (General Plan Guidelines). Any area needing or planned for service must have the infrastructure necessary to support the provision of those services. The term, "infrastructure needs and deficiencies," refer to the status of existing and planned infrastructure and its relationship to the quality and levels of service that can or need to be provided. | |
| Interested agency | Each local agency, which provides facilities or services in the affected territory that a subject agency would provide. | <u>§56047.5</u> |
| Joint Commission | A single Commission formed to preside over the functions of a multi-LAFCO Joint Powers Agreement. The Commission may be comprised of all or a portion of the Commissioners of the individual Commissions that are participating in the Joint Powers Agreement. A Joint Commission, as herein defined, does not constitute an individual agency. It is intended to jointly exercise existing powers common to each agency. | |
| Lead LAFCO | The LAFCO with primary responsibility for conducting a municipal service review affecting more than one county. | |

| TERM | DEFINITION | SECTION |
|-------------------------------------|---|---------------|
| Loaded Cost | A cost that has overhead and/or other fees or charges added to the actual and direct service or item cost. | |
| Local accountability and governance | The term, "local accountability and governance," refers to public agency decision making, operational and management styles that include an accessible staff, elected or appointed decision-making body and decision making process, advertisement of, and public participation in, elections, publicly disclosed budgets, programs, and plans, solicited public participation in the consideration of work and infrastructure plans; and regularly evaluated or measured outcomes of plans, programs or operations and disclosure of results to the public. | |
| Local agency | A city, county, or special district or other public entity, which provides public services. | <u>556053</u> |
| Management efficiency | The term, "management efficiency," refers to the organized provision of the highest quality public services with the lowest necessary expenditure of public funds. An efficiently managed entity (1) promotes and demonstrates implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement, (2) has the ability to provide service over the short and long term, (3) has the resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service, (4) meets or exceeds environmental and industry service standards, as feasible considering local conditions or circumstances; (5) and maintains adequate contingency reserves. | |
| Mentor LAFCO | A LAFCO with the experience and resources necessary to advise, or contract with, other LAFCOs for the implementation of municipal service reviews. | |
| Merger | The extinguishment, termination, and cessation of the existence of a district of limited powers by the merger of that district with a city as a result of proceedings taken pursuant to this division. | <u>556056</u> |

| TERM | DEFINITION | SECTION |
|-------------------------|---|--------------------------------|
| Municipal services | The full range of services that a public agency provides, or is authorized to provide, except general county government functions such as courts, special services and tax collection. Municipal service reviews are triggered by requirements to create or update SOIs for public agencies. Therefore, a LAFCO will review services that are provided by public agencies that have, or are required to have, SOIs with review and consideration of the operations of other providers that service the same region. | |
| Non-enterprise activity | A non-enterprise activity, such as fire protection, is an activity that has an accounting system organized on a governmental fund basis. | |
| Open space | Any parcel or area of land or water, which is substantially unimproved and devoted to an open-space use. | <u>§56059</u> <u>§65560</u> |
| Overlapping territory | Territory which is included within the boundaries of two or more districts or within one or more districts and a city or cities. | <u>§56061</u> |
| Out of Agency Contract | A contract to provide services outside of an agency's boundaries. | |
| Parent district | Any district, a metropolitan water district, or any of the entities enumerated in subdivision (c) of <u>§56036</u> , which includes all or any part of another district, the first-mentioned district or entity being obligated, under the provisions of the principal act of the first-mentioned district entity, to provide and furnish any governmental or proprietary service or commodity to the second-mentioned district. | <u>§56062</u> |
| Planning area | The area directly addressed by the general plan. A city's planning area typically encompasses the city limits and potentially annexable land within its SOI (General Plan Guidelines (GPG) page 230). | |
| Plan of reorganization | A plan or program for effecting a reorganization and which contains a description of all changes of organization included in the reorganization and setting forth all terms, conditions, and matters necessary or incidental to the effectuation of that reorganization. | <u>§56063</u> |

| TERM | DEFINITION | SECTION |
|---|--|---------------|
| Prime agricultural land | An area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications: (a) Land that, if irrigated, qualifies for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible; (b) Land that qualifies for rating 80 through 100 Storie Index Rating; (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935; (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre; (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years. | <u>§56064</u> |
| Principal act | In the case of a district, the law under which the district was formed and, in the case of a city, the general laws or a charter, as the case may be. | <u>§56065</u> |
| Principal county | The county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed. | <u>§56066</u> |
| Principal LAFCO for municipal service review | The LAFCO with the lead responsibility for a municipal service review. Lead responsibility can be determined pursuant to the CKH Act definition of a Principal LAFCO as it applies to government organization or reorganization actions, by negotiation, or by agreement among two or more LAFCOs. | |
| Proceeding | Proceedings taken by the commission for a proposed change of organization or reorganization pursuant to Part 4 (commencing with <u>§57000</u>). | <u>§56067</u> |

| TERM | DEFINITION | SECTION |
|--------------------|--|---------------|
| Proposal | A request or statement of intention made by petition or by resolution of application of a legislative body or of a school district proposing proceedings for the change of organization or reorganization described in the request or statement of intention. | <u>§56069</u> |
| Public agency | The state or any state agency, board, or commission, any city, county, city and county, special district, or other political subdivision, or any agency, board, or commission of the city, county, city and county, special district, or other political subdivision. | <u>§56070</u> |
| Rate restructuring | Rate restructuring does not refer to the setting or development of specific rates or rate structures. During a municipal service review, LAFCO may compile and review certain rate related data, and other information that may affect rates, as that data applies to the intent of the CKH Act (<u>§56000</u> , <u>§56001</u> , <u>§56301</u>), factors to be considered (<u>§56668</u>), SOI determinations (<u>§56425</u>) and all required municipal service review determinations (<u>§56430</u>). The objective is to identify opportunities to positively impact rates without adversely affecting service quality or other factors to be considered. | |
| Regional | Pertaining to activities or economies at a scale greater than that of a single jurisdiction, and affecting a broad geographic area (GPG page 231) | |
| Reorganization | Two or more changes of organization initiated in a single proposal. | <u>§56073</u> |
| Responsible LAFCO | The LAFCO of a county other than the Principal County that may be impacted by recommendations, determinations or subsequent proposals elicited during a municipal service review being initiated or considered by the Lead LAFCO. | |
| Retained Earnings | The accumulated earnings of an enterprise or intragovernmental service fund which have been retained in the fund and are not reserved for any specific purpose (debts, planned improvements, contingency/emergency). | |

| TERM | DEFINITION | SECTION |
|---------------------------------|--|-----------------|
| Reserve | (1) For governmental type funds, an account used to earmark a portion of fund balance, which is legally or contractually restricted for a specific use or not appropriable for expenditure. (2) For proprietary type/enterprise funds, the portion of retained earnings set aside for specific purposes. Unnecessary reserves are those set aside for purposes that are not well defined or adopted or retained earnings that are not reasonably proportional to annual gross revenues. | |
| Service | A class established within, and as a part of, a single function, as provided by regulations adopted by the commission pursuant to Chapter 5 (commencing with §56820) of Part 3. | <u>§56074</u> |
| Service review | A study and evaluation of municipal service(s) by specific area, sub-region or region culminating in written determinations regarding nine specific evaluation categories. | |
| Special reorganization | A reorganization that includes the detachment of territory from a city or city and county and the incorporation of that entire detached territory as a city. | <u>§56075.5</u> |
| Sphere of influence (SOI) | A plan for the probable physical boundaries and service area of a local agency, as determined by the commission. | <u>§56076</u> |
| Staged municipal service review | A municipal service review method structured to consider unique conditions, circumstances and characteristics and limit the depth of review and evaluation to that necessary to render substantiated written determinations. In this approach, Stage 1 is a general, less complicated level of review. LAFCOs proceed with a more complicated focused Stage 2 review only if the Stage 1 review did not produce the information needed to substantiate required determinations. Stage 3 focuses on those items needing extensive review. | |
| Stakeholder | Refers to LAFCOs, members of the public, affected and interested agencies, and other entities interested in, and affected by, service(s) being reviewed. | |
| Subject agency | Each district or city for which a change of organization is proposed or provided in a reorganization or plan of reorganization. | <u>§56077</u> |

| TERM | DEFINITION | SECTION |
|---------------------------|--|---------------|
| Sub-region | The study area for a municipal service review chosen because of characteristics, such as geography, government structure, or development characteristics, which produces meaningful comparisons and evaluations of government structure options. | |
| Subsidiary district | A district of limited powers in which a city council is designated as, and empowered to act as, the ex officio board of directors of the district. | <u>§56078</u> |
| Substantial SOI amendment | An amendment to an SOI which causes the SOI to be internally inconsistent, is inconsistent with provisions of the CKH Act, has the potential to cause significant adverse social, economic, environmental or other consequences, or has substantial adverse regional planning implications. A substantial amendment to an SOI prior to a municipal service review is inconsistent with <u>§56430</u> . | |
| Urban service area | Developed, undeveloped, or agricultural land, either incorporated or unincorporated, within the SOI of a city, which is served by urban facilities, utilities, and services or which are proposed to be served by urban facilities, utilities, and services during the first five years of an adopted capital improvement program of the city if the city adopts that type of program for those facilities, utilities, and services. The boundary around an urban area shall be called the "urban service area boundary" and shall be developed in cooperation with a city and adopted by a commission pursuant to policies adopted by the commission in accordance with <u>§56300</u> , <u>§56301</u> , and <u>§56425</u> . | <u>§56080</u> |

APPENDIX B

ACRONYMS

- CAFR - Comprehensive Annual Financial Reports
- CEQA - California Environmental Quality Act
- CKA - Cortese-Knox Local Government Reorganization Act of 1985 as amended
- CKH - Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
- CLG - Commission on Local Governance for the 21st century
- COG - Council of Governments
- CSD - Community Services District
- DOF - State Department of Finance
- ERAF - Education Revenue Augmentation Fund
- GWB - Growth Within Bounds
- GP - General Plan Guidelines
- JPA - Joint Powers Agreement
- LAFCO - Local Agency Formation Commission
- LHC - Little Hoover Commission
- MSRG - Municipal Service Review Guidelines
- PUC - Public Utilities Commission
- SD - Special Districts: Relics of the Past or Resources of the Future
- SOI - Sphere of Influence
- TOC - Table of Contents

APPENDIX C

BACKGROUND ON MUNICIPAL SERVICE REVIEWS

The following is a discussion of the purpose and intent of the new municipal service review requirements and a description of the statutory requirements.

A. BACKGROUND AND LEGISLATIVE INTENT

In 1997, the State Legislature approved, and the Governor signed, AB 1484 (Hertzberg), establishing the Commission on Local Governance for the 21st Century (Commission). The members of the Commission included a broad spectrum of constituent groups and perspectives including counties, cities, special districts, educators, industry, and elected officials.

The Commission was charged with evaluating local governance issues and make appropriate recommendations. They were directed to focus special attention to the Cortese-Knox Local Government Reorganization Act of 1985, the 57 Local Agency Formation Commissions (LAFCOs) governed by the Act, and citizen participation in local government.

The results of those efforts were published in Growth Within Bounds (GWB) in January 2000. In GWB, the Commission stated that the role and responsibility of LAFCO is to have a:

"Comprehensive knowledge of the services available within its county, the current efficiency of providing service within various areas of the county, future needs for each service, and expansion capacity of each service provider.

Although some LAFCOs may have access to such essentials, many do not, and the Cortese-Knox Act offers no mechanism for assisting and encouraging them to gather the basic necessary information. The Commission believes that such provision should be added to the statute.

Information on public service capacity could be gathered as part of the implementation of a new requirement for periodic municipal service reviews. LAFCOs could conduct such reviews prior to or in conjunction with amendments to spheres of influence. A municipal service review would encompass a comprehensive study of each identifiable public service provided by counties, special districts, and the cities in the region.

The review would not focus exclusively on an individual jurisdiction to determine its future boundary or service areas. Rather, it would require LAFCO to look broadly at all agencies within a geographic region that

provide a service. The review would also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers.

LAFCOs should be provided flexibility in designating the geographic area to be analyzed, the timing of conducting particular reviews, and the scope of the reviews." (GWB, pages 98-99)

The GWB further states:

"The focus of the public policy debate should be on the adequacy of provision of services to citizens, not on the number of districts. The commissioners believe that there clearly needs to be an ongoing examination of the efficiency of governmental services, and that LAFCO is the appropriate agency to oversee this review. Where district consolidations or absorption of district functions into general purpose local governments will improve efficiency or transparency of service delivery, they should be aggressively pursued. Consolidating districts solely for the sake of reducing their numbers, however, is a disservice to the citizens who desire the services provided ." (GWB, pages 71-72)

B. STATUTORY MUNICIPAL SERVICE REVIEW REQUIREMENTS

The State Legislature and the Governor codified much of the Commission's findings and created a formal process that could be used to collect information and evaluate service provision from a broader perspective (Government Code §56430).

Government Code §56430 requires that a review of municipal services be conducted as part of its preparing and updating a sphere of influence (SOI).

"In order to prepare and to update SOIs in accordance with §56425, LAFCOs are required to conduct a municipal service review of the municipal services provided in the county or other appropriate designated area. LAFCOs must include in the area designated for municipal service review the county, the region, the sub-region, or other geographic area as is appropriate for an analysis of the service or services to be reviewed and, as noted previously, must prepare a written statement of its determination with respect to each of the following:

1. Infrastructure needs or deficiencies;
2. Growth and population projections for the affected area;
3. Financing constraints and opportunities;
4. Cost avoidance opportunities;
5. Opportunities for rate restructuring;

6. Opportunities for shared facilities;
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
8. Evaluation of management efficiencies; and
9. Local accountability and governance.

"In conducting a municipal service review, LAFCOs must comprehensively review all of the agencies that provide the identified service or services within the designated geographic area."
(Government Code §56430)

In addition, municipal service reviews are to be conducted before, or in conjunction with, but no later than the time it is considering an action to establish (§56430) or update an SOI (§56425 or §56426.5). The Commission also recommended that a municipal service review not replace designations or updates of spheres of influence, but should be conducted in the establishment or amendment of any spheres (GWB, page 99).

C. ANALYSIS OF STATUTORY REQUIREMENTS

Existing law requires that municipal service reviews begin with an evaluation of existing and future circumstances and may lead to consideration of different government structure options. LAFCO is required, for example, to evaluate the "advantages and disadvantages of consolidation or reorganization of service providers." The latter requirement has long been a statutory LAFCO function.

Government Code §56820.5 of the CKH Act authorizes LAFCOs to adopt, amend, or repeal regulations affecting the functions and services of special districts within the county. This statewide duty is unrelated to whether special districts are seated on individual LAFCOs. Government Code §56820.5 states LAFCOs may do any of the following:

"Classify the various types of service, which customarily are, or can be, provided within a single function of a special district. A class may be based on the type of service, the purpose or use of the service, the facilities used to provide the service, the type of consumers or users of the service, the extent of territory provided with the service, and any other factors which, in the opinion of the commission, are necessary or convenient to group persons, properties, or activities into a class having common characteristics distinct from those of other classes.

Require existing districts to file written statements with the commission specifying the functions or classes of service provided by those districts:

Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district."

However, the regulations do not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service, which the commission, pursuant to this section, has established is currently being provided by that special district (§56820.5).

The municipal service review process does not require that LAFCOs initiate any changes of organization or force any actions. It only requires that LAFCOs make determinations regarding the benefits or disadvantages of changes in government structure.

The CKH Act does, however, require that LAFCOs, and municipal service review stakeholders, consider (1) LAFCO's intrinsic mission and legislated intent; (2) the bigger picture or regional perspective needed to perceive and understand California's growth issues; and (3) the need to provide the highest quality services possible to the residents of the State of California.

D. MUNICIPAL SERVICE REVIEW GOALS AND OBJECTIVES

LAFCOs are required to conduct comprehensive reviews of all municipal services provided by agencies with existing or needed SOIs. These reviews become information tools that can be used by LAFCO, the public or local, regional and state agencies based on their area of need, expertise, or statutory responsibility. Municipal service reviews can be used to:

- Promote orderly growth and development in appropriate areas with consideration of service feasibility, service costs that affect housing affordability, and preservation of open space, important agricultural land and finite natural resources; and
- Encourage infill development and direct growth to areas planned for growth in General Plans;
- Learn about service issues and needs;
- Plan for provision of high quality infrastructure needed to support healthy growth;
- Provide tools to support regional perspectives or planning that address regional, cross county or statewide issues and processes;
- Develop a structure for dialogue among agencies that provide services;
- Develop a support network for smaller or ill funded districts that provide valuable services;

- Provide backbone information for service provider directories or inventory reference documents for counties that do not have them;
- Develop strategies to avoid unnecessary costs, eliminate waste, and improve public service provision;
- Provide ideas about opportunities to streamline service provision through use of shared facilities, approval of different or modified government structures, joint service agreements, or integrated land use planning and service delivery programs; and
- Promote shared resource acquisition, insurance policies, joint funding requests or strategies.

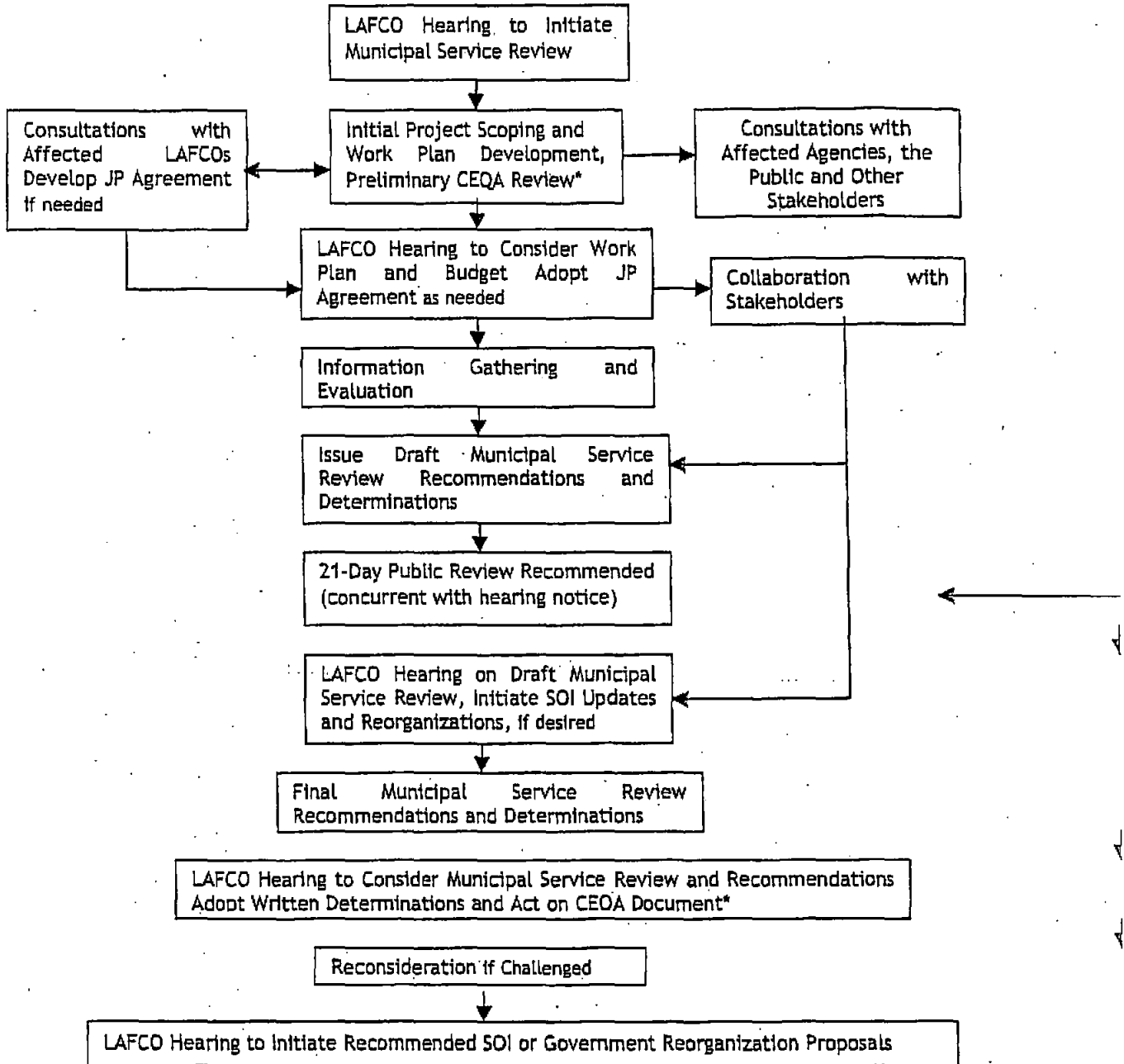
E. IMPLEMENTATION

Effective January 1, 2000, the CKH Act requires that all SOIs be updated as necessary but not less than every five years. Therefore, all SOIs, at a minimum, need to be updated by January 1, 2006.

Municipal service reviews are required to be completed prior to, or in conjunction with the update or creation of SOIs. This means that all municipal service reviews also need to be completed by January 1, 2006.

APPENDIX D

MUNICIPAL SERVICE REVIEW PROCESS FLOW CHART



*References to CEQA are placeholders. Refer to the CEQA Guidelines and LAFCOs' adopted Procedures for specific steps.

APPENDIX E

DATA COLLECTION

The municipal service review is an evaluation of how a service is being delivered in a specified area of a county by the LAFCO. The municipal service review is not an end in its self, but will form the basis of future LAFCO decisions.

Taking a comprehensive look at the services being provider within an area requires effective data collection and maintenance. Even if a LAFCO has not historically kept extensive records, good information management going forward will save time and effort the next time the service is reviewed.

OPR recommends that LAFCO work with service providers in developing the type of information it will use in evaluating the service. Extensive and overly broad information requests will cost money for both the service provider to compile and the LAFCO to review. A solid understanding of the service to be reviewed will allow the information collected to be limited to only what is reasonably necessary to undertake the review.

I. GENERAL INFORMATION COLLECTION STRATEGIES

Some targeted information collection and management options that a LAFCO may wish to consider include:

- Have mentor LAFCOs assist LAFCOs with preparing information collection formats, determining specific needed information, and evaluating compiled information.
- Have mentor districts and cities assist other agencies, especially those that are recently formed or less skilled in data compilation, budgeting, or record keeping, with information compilation.
- Have stakeholders assist with determining information needs, compiling information and initial review, with independent evaluation by LAFCO.
- Use existing information resources as feasible rather than duplicating efforts with LAFCO evaluating information to ensure that it is up-to-date and accurate.
- Augment staff or hire technical consultants to assist with individual reviews.
- Integrate municipal service review information collection with efforts related to land use plan development, urban water management plan development, National Pollution Discharge Elimination programs, State Transportation Implementation Plans, or other capital improvement program development.
- To set the long-term stage for producing municipal service reviews and updating SOIs, LAFCO can become more proactive in exercising its Responsible

Agency role in CEQA reviews. This is especially critical for proposals that include amendments to SOIs, or require annexations or district formations as conditions of approval or mitigation measures. LAFCOs can inform planning and/or environmental review departments of municipal service review information and evaluation requirements so that appropriate review is undertaken and efforts are not duplicated.

- Land use agencies can be encouraged to adopt and maintain a General Plan public facilities element. LAFCO would participate to ensure that municipal service review related information is compiled and updated.

II. SPECIFIC INFORMATION SOURCES

A. GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

One important information collection resource is OPR's General Plan Guidelines (GPG). The GPG contains a list of state and federal agencies and their web sites (page 28), a list of local, state and federal governmental agencies and the types of information that they acquire and may provide (pages 25 and 26). The GPG can be viewed on OPR's web site at www.opr.ca.gov/.

B. THE STATE CONTROLLER'S OFFICE

The State Controller's Accounting Standards and Procedures for Counties (ACPC) contains a list of organizations with contact information, and publications pertaining to budgets and financial practices for all types of agencies (ACPC, Appendix E). Other information pertaining to cities and districts is also available. Information can be accessed on the State Controller's website at www.cso.ca.gov/.

Local and regional growth and population data and projections are available from the following sources.

C. THE STATE DEPARTMENT OF FINANCE (DOF)

The following information is taken from the DOF website at www.dof.ca.gov/html/Demograp/druhpar:

Legislation created the Demographic Research Unit within the Department of Finance in 1951 to serve as the single official source of demographic data for State planning and budgeting. Population data are used to establish appropriation limitations; distribute subvention funds, various Federal program funds, wastewater treatment funds, and other State funds; allocate capital outlay funds; and aid in the planning and evaluation of programs. State agencies and departments, local governments, the Federal government, school districts, public utilities, the private sector, and the public use demographic data. DOF provides demographic research and analysis, produces publications of current population estimates and future projections of

population and school enrollment, and disseminates census data. DOF consults with other government agencies and the private sector.

The State Census Data Center (SCDC) was established on January 1, 1979 to serve as the central point for dissemination of census data to State and local government agencies and the general public in California. The SCDC program is a national effort by the U.S. Bureau of the Census designed to increase and improve public access to census statistical products. The SCDC provides services to State Agencies in processing machine-readable data, user consultation, and data analysis and provides user-training workshops upon request. The SCDC library houses a broad spectrum of data sources including the 1970, 1980, and 1990 decennial censuses, the Census of Agriculture, the Economic Censuses, and several special and periodic surveys.

Annual population estimates of the State, counties and cities are provided by the Unit. Information on housing units, vacancies, average household size, components of population change, and special populations are also available. The data are used in determining the annual appropriations limit for all California jurisdictions, to distribute State subventions to cities and counties, to comply with various State codes, and for research and planning purposes by Federal, State and local agencies, the academic community and the private sector.

The Unit projects the State and county population by age, race/ethnicity and sex, K-12 enrollment and high school graduates, and post-secondary education enrollment. As direct inputs to the State Budget, the Unit produces short-term annual statewide projections of the population by age and K-12 Average Daily Attendance.

D. THE REGIONAL COUNCIL'S OF GOVERNMENT (GOG)

The following information was obtained from the California Association of Regional Councils of Government website.

Up-to-date population and census data can often be obtained from regional COGs. COGs are Joint Powers Authorities that analyze relationships between policies in a local area and their impact on regional issues. Two important COG functions are to serve as the regional transportation planning agency under state law and as the federal metropolitan (transportation) planning organization (MPO). This involves preparation of long-range transportation plans and, in most instances, development and adoption of transportation improvement programs which allocate state and federal funds for highway, transit and other surface transportation projects.

COGs also provide allocations of regional housing needs to all cities and counties within its boundaries. (Where there is no Council of Governments that duty is carried out by the State Department of Housing and Community Development.) Some COGs tie regional housing allocation or other plans to SOI boundaries. Most COGs prepare growth and population data needed to support short and long term local and regional planning efforts. Contact data for all California COGs, and other information is

available on the California Association of Councils of Governments website at www.calcog.org/.

E. THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

The Policy Unit at HCD is responsible for developing California's five-year Consolidated Plan for receiving certain federal community development funds. As part of the plan, HCD is required to identify impediments to fair housing which includes examining demographics, housing and market conditions and practices, potentially discriminatory practices, infrastructure deficiencies and needs.

For smaller communities HCD prepares the Consolidated plan. Larger communities prepare individual plans which also contain significant information about the current conditions in the areas. HCD's website can be found at www.housing.hcd.ca.gov/.

F. LAFCO INFORMATION RESOURCES

Some LAFCOs maintain data on service providers, and files of previous LAFCO proposals and related research and analysis documents. These may include, but are not limited to, inventories, profiles or directories of local service providers, staff reports, and supporting documents for previous government reorganization actions, such as formations, incorporation, consolidations, and SOI Plans, Amendments, and Updates. Some LAFCO have compiled service provider maps for all or portions of a county.

G. CITY AND COUNTY PLANS, AND REVIEWS

Counties and cities prepare data and plans, which include growth and population projections, and maps that identify areas that are planned to urbanize within 5-20 year periods. Some counties and cities have developed Geographic Information Systems (GIS) Maps. Most cities, counties and special districts can provide copies of short and long-term infrastructure planning documents. Market land absorption studies can often be obtained from real estate associations or private developers.

It is important to discuss plans and other data sources with local planners and service providers before using them to ensure that information is still correct and usable. Plans that may be used to support and simplify the municipal service review process include:

- General Plans. - General Plans identify existing capital facilities/infrastructure, and short and long-term deficiencies or needs. Some land use jurisdictions also adopt an optional public facilities element. All land use, open space, conservation, circulation, noise, and safety elements may be checked for useful information. The California Chapter of the American Planning

Association can be contacted for information on cities and counties with public facility elements or General Plan data that have been recognized as exceptional. Their website is located at www.calapa.org/.

- Capital Improvement Plans or Program Reports. All cities, special districts, counties, and school districts are required to submit an annual capital improvement program to the local planning agency. The program must include a list of proposed projects (§65401). The local planning agency then reviews the capital improvement program for consistency with the pertinent general plan or plans (§65103 [c]). Some cities and counties prepare five (5) to seven (7) year capital improvement programs (CIP) which they update each year and submit to the appropriate planning agency. CIPs generally provide a summary of expenditures budgeted for infrastructure upgrades, acquisitions, rehabilitation, replacement, construction and maintenance.

H. MASTER SERVICES AND RESOURCE ACQUISITION PLANS, CAPITAL IMPROVEMENT PLANS AND SERVICE RELATED MAPS

Cities and special district should be able to provide copies of their adopted plans and other information resources.

I. PUBLIC INFRASTRUCTURE FINANCING PLANS AND MECHANISMS

To qualify or use certain types of financing mechanisms, such as Mello-Roos Assessment Districts, a public agency is required to prepare infrastructure maps and plans as well as growth projections. The agency generally evaluates proposed development plans or projects to determine whether they are consistent with public infrastructure financing plans.

III. PROFESSIONAL ORGANIZATIONS

Professional organizations are excellent resources for information on industry standards and Best Practices. Many produce criteria or maintain information libraries. These organizations can often provide contacts to assist with determining industry standards. The California League of Cities (www.ca.cities.org/), for example, distributes Helen Putnam awards for excellence in financial management and planning, public works and transportation, civic involvement and other categories. The recipients of those awards may be excellent information resources.

A. OTHER STATE OR FEDERAL MANDATED PLANS AND PERMITS

Public agencies are often required to obtain permits to construct or operate certain types of public facilities, such as wastewater treatment plants, and adopt plans to minimize environmental or other impacts of certain types of development. These plans and permits include data and assessments that may assist with the municipal

service review process. LAFCOs may contact other agencies to determine if they have service provider specific information or permit data that can facilitate the information gathering process.

Some agencies that might be contacted are:

- State Water Quality Control Board (www.swrcb.ca.gov) (Permits, evaluation criteria).
- Housing Authority (Demographic data, plans and budgets).
- COG and Congestion Management Agency (Regional Housing Allocation Plan, Regional Transportation Plan, Congestion Management Plan).
- County and City Water Departments (NPDES Permit).
- State Department of Conservation (www.consrv.ca.gov/dlrp/index), County (Land Conservation Contracts, important farmland maps)
- State Integrated Waste Management Board (www.ciwmb.ca.gov/local) (County Integrated Waste Management Plan, Hazardous Waste Management Plan)
- State Mining and Geology Board or State Geologist (www.consrv.ca.gov/smmm/index) (Surface Mining and Reclamation Ordinances, Seismic or geologic hazards' maps and plans).
- State Department of Water Resources (www.dpla.water.gov/cgi-bin/index), State Reclamation Board, county and city water services departments (Permits, floodplain maps, flood hazard mitigation plans).
- Coastal Commission (www.ceres.ca.gov/coastalcomm/web) (Local Coastal Element or program).
- Federal Aviation Administration (www.faa.gov), Airport Land Use Commission (Permits, Airport Land Use Plan).
- State Air Resources Board (www.arb.ca.gov), local air pollution control district (State Implementation Plan).
- U.S. Army Corps of Engineers (www.usace.army.mil/whatwedo/statelocal), State Department of Fish and Game (www.dfg.ca.gov/), local planning or public works agency (CEQA mitigation monitoring programs, and Section 404 of the Clean Water Act permits).
- State Controller's Office (www.sco.ca.gov) (annual budgets, audits, definitions and templates for accounting and budgeting practices).

B. OBTAINING COMPARABLE INFORMATION

One obstacle to service focused data compilation and review is data format. Different agencies compile and use information in different ways and for different purposes. This is especially true of budget, service level, and other fiscal

information. It is recommended that LAFCOs collaborate with CALAFCO, the CSDA, CSAC and League of Cities on the development of standard budget information formats. While this may not assist with early municipal service reviews, it should improve the process over the long term.

The State Controller divides enterprise districts into seven activities: airport, electric, harbor and port, transit, waste disposal, water utility, and hospital activities. The introduction to each year's Special District Annual Report provides summary budgets for those 7 types of districts. Non-enterprise districts are also summarized.

State budget categories can be used to produce budget templates. Exhibit 10 is a sample budget information format that can be tailored to fit specific municipal service review needs. Alternatively, it may be appropriate to ask enterprise districts to compile budget information using the state's format with additional detail for certain costs and revenue categories. It may be useful to compare data contained in State summaries with that received from enterprise special districts. Information on state formats and documents regarding cities, counties and special districts can be obtained from the State Controller's website at www.sco.ca.gov.

IV. SUMMARY

It is recommended that LAFCOs meet with agencies before information compilation begins to discuss submittal formats or opportunities to obtain descriptive information that makes budget data easier to evaluate and compare. A follow-up meeting after budget data is received is generally helpful. Where possible, stakeholders can be asked to review data, and collaborate on reasonable or appropriate comparison methods.

APPENDIX F

USE OF CONSULTANTS

At times, LAFCO may wish to secure the services of consultants or mentor LAFCOs to assist with municipal service review processing. Consultants can be useful when working under clear direction from LAFCO. Sometimes, the use of consultants is warranted because a LAFCO's workload may not permit additional time expenditures for municipal service reviews or LAFCO may desire specialized services, which cannot be provided economically in-house. In some cases, a municipal service review may be too complex for LAFCO to independently review all of the needed data or so controversial that a third party may be needed to provide a review that is perceived as more impartial.

Page 20 of the State General Plan Guidelines provides the following guidance on using a consultant:

The first step in selecting a consultant should be to send to prospective candidate firms a request for qualifications (RFQ) and a description of the consultants' expected role. The RFQ will help narrow the search for qualified consultants. After evaluating the responses, the agency should send a request for proposal (RFP) to the three to five firms, which seem to be the Best Match. Responding to an RFP is costly for consultants, so the RFP should only be sent to those firms, which the agency would consider hiring. The firms with the top responses to the RFP can be interviewed to select the firm best suited to agency's needs, work program, and budget.

LAFCO may wish to advertise the RFP on its own or CALAFCO's website or in the appropriate trade publication. Executive Officers may also communicate with other LAFCOs through CALAFCO's website (<http://www.calafco.org/>) in order to secure model RFQs, RFPs, contracts or scopes of work that have been used by other LAFCOs. LAFCOs can use pertinent SRG outline sections as a template for developing scopes of work.

APPENDIX G

FUNDING OPTIONS

Prior to January 2001, county governments funded LAFCOs. The CKH Act now apportions funding responsibilities among cities, counties and special districts that choose to be represented on LAFCOs. Although this change increases LAFCO's potential funding resources, it does not set limits for funding or require that special districts participate on LAFCOs. As a result, LAFCOs will need to develop funding strategies and budget the funds necessary to implement municipal service review requirements. It is recommended that LAFCOs develop appropriate funding policies and procedures and include them in their written procedures to ensure consistency and fairness.

There are several municipal service review funding approaches that LAFCOs could consider: They include:

- **Incentives for special district representation on LAFCOs.** LAFCOs could adopt policies requiring LAFCOs to assume responsibility for funding all municipal service reviews only if special districts participate on LAFCOs and a negotiated funding plan is developed. In this approach, LAFCOs would not require the agencies with SOIs to separately fund the municipal service reviews that are a necessary component of SOI actions. Instead, LAFCOs would work with cities and special districts to develop a funding strategy, which could include (1) joint grant or funding applications, (2) reduced rates for fee-based services requested by represented agencies, (3) negotiations among private project proponents and citizens groups for shared funding, or (4) a combination of the other approaches listed in this section. The objectives would be to enhance special districts' LAFCO involvement, and make the municipal service review process as affordable to all agencies as possible including those with very limited funding resources.
- **Integration with General Plan Budgets and Processes.** If a General Plan is in process, LAFCOs would work with planning staff to scope and design the General Plan update process in a manner that facilitates some municipal service reviews. General Plan public facilities' discussions would be designed to include information required for municipal service reviews in a format useful to the development of written municipal service review determinations. To ensure objectivity, LAFCO would reserve the right to independently verify or confirm General Plan information. The advantage of this approach is that it eliminates duplication of effort and makes General Plan technical experts available to LAFCO.
- **Distribute costs among reviewed agencies.** Municipal service review costs would be shared by all agencies (1) with SOIs and (2) included in the municipal service review studies. Costs could be allocated based on size of districts, size

of budgets, sources of revenue or other options with consideration of ability to pay and as negotiated by LAFCO. Agencies could lobby agencies included in the review but exempted from CKH Act SOI requirements, such as Joint Powers Authorities or metropolitan water districts, to contribute a fair share because their service users ultimately benefit from the reviews.

- **Augment LAFCO's budget to include funding for all municipal service reviews.** LAFCOs would assume responsibility for 100% of municipal service review costs. Costs would be spread among all special districts, cities and the county based on the negotiated LAFCO funding mechanism.
- **Negotiate on a case-by-case basis.** LAFCO would develop a cost estimate, review specific circumstances and negotiate a plan to share funding costs. The negotiated plan could include strategies for agencies under review to loan technical staff, compile information, donate the use of office space and conference rooms, or provide other resources which may reduce LAFCO's costs. LAFCOs could consider crediting donations of staff time as in lieu processing fees.
- **Develop different funding strategies for staged reviews.** Various review stages could be funded differently. A Stage 1 review could be funded by the LAFCO. Service providers could fund Stage 2 and 3 reviews especially if it appeared that alternative government structure options were under consideration. Another option would apply to reviews that are not staged.
- **Incentives for self-initiation.** LAFCO would develop incentives for entities to share municipal service review costs. For example, any agency requesting a review and agreeing to assist in the funding could be entitled to priority processing and funding of pending proposals or needed SOI amendments or updates. Service providers that have initiated service studies, SOI updates, or consolidations and are cooperatively compiling information could receive a credit. Alternatively, service providers could scope the project, develop a timeline, and provide preliminary information and a funding match. The product could be submitted to LAFCO for costing and for public and other agency review. In case LAFCO or other service providers disagree with the approach and/or cost, they could reserve the right to withdraw the proposed study.
- **Project proponents pay.** Public and private proponents of pending proposals that cannot be processed without the municipal service review bear reasonable processing costs.

APPENDIX H

COMMUNITY SERVICES DISTRICT PROFILE - EXAMPLE

| | | | |
|--|---|---|---------------------------|
| District: El Dorado Hills Community Services District | | | |
| Address: 1021 Harvard Way, El Dorado Hills, CA 95762 | | | |
| Meeting Schedule: Monthly - Second Thursday, 7:30 p.m. | | | |
| CONTACT | Wayne A. Lowery | TITLE | General Manager |
| PHONE | 916 / 933-6624 | FAX | 916 / 933-6359 |
| ALT PHONE | | E-MAIL | edhcsd@eldoradohillsd.org |
| BOARD OF DIRECTORS | | TITLE | TERM OF OFFICE |
| Ann M. Murray | | President | 12/96 - 12/2000 |
| Brett McFadden | | Vice President | 12/98 - 12/2002 |
| Constance Hasting | | Director | 12/98 - 12/2002 |
| F. J. Leslie | | Director | 12/96 - 12/200- |
| Tony DiGaetano | | Director | 12/98 - 12/2002 |
| DISTRICT STAFF | | | |
| | | FORMATION INFORMATION | SOI |
| | | | Resolution #: 83-04 |
| NAME | TITLE | LAFCO | Date: 4/7/83 |
| Wayne A. Lowery | General Manager | Resolution #: Boundary Commission Report | |
| | | Date Adopted: 2/5/62 | MAPPING |
| | | CONDUCTING AUTHORITY | GIS Date: 5/28/98 |
| | | Resolution #: 98-62 | Other: |
| | | Date Adopted: 5/21/62 | |
| | | EFFECTIVE FORMATION DATE: Unknown | |
| Robert Thurbon | Legal Counsel | Recorded: | |
| Major Facilities / Stations | | | |
| Yes | | | |
| Purpose | | Area Served | |
| 1. Enabling Legislation: Gov. Code Sections 61000-61936 | | 1. Area Size: 22.5 +/- square miles | |
| 2. Empowered Services: Water, Fire, Parks, Recreation, Sewer, Garbage, Lighting, Landscaping, Mosquito Abatement, Police, Library, Roads and Bridges, Cable Television, Electricity, CC&R Enforcement. | | 2. Supv. Dist. | |
| 3. Provided Services: Parks and recreation, CC&R enforcement, street lighting and landscape, solid waste management, cable television services | | 3. Reg. Voters: 10,592 | |
| | | 4. Estimated Population: 17,200 | |
| | | 5. Location Description: Located west of Cameron Park to the Sacramento County line in the El Dorado Hills Area | |
| Financial Information | | Administrative Policies | |
| Assessments/Fees: | Per Parcel: \$10 (CC&R Enforcement) | Master Plan: | Yes |
| Other Fee Schedules: | Light/Landscaping - Call District for Assessments | Policies & Procedures Adopted: | Yes |
| 1998-99 Budget: | \$1,120,861 | By-laws Adopted: | No |
| Appropriation (GANN) Limit: | \$1,980,759 | Encroachment Permit Process: | N/A |
| ISO Rating (for Fire Providers) | | | |
| NOTES: Supervisorial Districts I and IV | | | |

APPENDIX I

CITY PROFILE - EXAMPLE

CONTACT PERSON: David Mora, City Manager

ADDRESS: 200 Lincoln Avenue Phone: 831 / 758-7201
 Salinas, CA 93901 FAX: 831 / 758-7368

DATE OF AGENCY FORMATION: March 4, 1874

ENABLING LEGISLATION: City Charter; Government Code Section 34450

GOVERNING BODY: Seven (7) member Council elected at large; four (4) year terms;
 Mayor two (2) year term

MEMBERSHIP: Anna Caballero, Mayor **TERM EXPIRES:** November, 2002
 Ernesto Gonzales November, 2004
 Roberto Ocampo November, 2002
 Janet Barnes November, 2002
 Jyl Lutes November, 2002
 Jan Collins November, 2002
 Glorta de la Rosa November, 2004

COMPENSATION: Mayor - \$800/month; Council Members - \$600/month

PUBLIC MEETINGS: Generally meets 1st, 2nd and 3rd Tuesdays at 4:00 p.m. and 7:30 p.m. in City Council Chambers Rotunda

SERVICES PROVIDED: Non-contractual: police, fire, library, recreation and parks, community center, public works including street maintenance and sweeping, building inspection, sewage collection, library service, comprehensive planning and land use control.
 Contractual: First aid and ambulance service, solid waste disposal, and rural fire service

AREA SERVED/ POPULATION: 18.5 square miles
 151,060

STAFFING: 595 employees

| | Actual 1997-98 | Actual 1998-99 | Actual 1999-00 | Budget 2000-01 | Budget 2001-02 |
|-----------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| EXPENDITURES | 45,543,578 | 49,283,477 | 49,148,889 | 53,906,300 | 61,412,700 |
| CAPITAL/FIXED ASSETS: | 398,952 | 652,598 | 474,848 | 307,600 | 531,300 |
| PROPERTY TAX: | 6,886,697 | 7,334,259 | 7,827,998 | 7,721,000 | 8,291,000 |
| USER FEES: | | | | | |

APPENDIX J

SPECIAL DISTRICT POWERS COMPARISON CHART

PUBLIC UTILITY DISTRICTS

Principal Act: *Public Utilities Code, §§155001-18055*

| POWERS/FUNCTIONS/SERVICES | Donner Summit PUD | Truckee Donner PUD |
|---|-------------------|--------------------|
| Acquire, construct, own, operate, control, or use works for supplying district inhabitants with: | | |
| 1. Light | | |
| 2. Power | | ✓ |
| 3. Heat | | |
| 4. Water | ✓ | ✓ |
| 5. Transportation | | |
| 6. Telephone service | | |
| 7. Other means of communication | | |
| 8. Means for disposition of garbage or refuse matter | | |
| 9. Means for disposition of sewage | ✓ | |
| Acquire, construct, own, complete, use, and operate: | | |
| 10. Fire department: [†] | | |
| 10.1 Fire protection | ✓ | |
| 10.2 Rescue | ✓ | |
| 10.3 Emergency medical services | ✓ | |
| 10.4 Hazardous material emergency response | ✓* | |
| 10.5 Ambulance services | ✓ | |
| 11. Street lighting system | | |
| 12. Public parks & playgrounds, golf courses, public swimming pools, public recreation buildings | | |
| 13. Buildings to be used for public purposes | | |
| 14. Works to provide for drainage of roads, streets and public places (e.g., curbs, gutters, and sidewalks) | | |
| 15. Pavement of streets | | |

[†] §16463.5 (a) of the Public Utilities Code provides: "A district may exercise any of the powers, functions, and duties which are vested in, or imposed upon, a fire protection district pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health & Safety Code."

* Hazardous Materials First Response—Operational Level (Defensive Mode), required of all fire protection districts.

Active powers for each district are indicated by check marks. Exercise of any other power requires prior approval by LAFCO.

Courtesy of Nevada LAFCO

APPENDIX K

SOI STATUS LOG - EXAMPLE

| District | Ref. No. | Type or Action | Acreage | Date | Type of Service and Miscellaneous Information |
|---|---------------------|-----------------------|--|---------|---|
| Alpine Fire Protection District | 5183-9 | Larger than | Dist. = 19 sq. miles Add'l - unknown | 4-4-83 | <i>Fire Protection.</i> Adopted in conjunction with East County Fire Protection Agencies Spheres of Influence Study and "Formation of the Rural FPD" (DF82-2). Additional territory located north, east, and south of District boundary. |
| | ◆ | Add to sphere | 2± sq. miles | 11-5-84 | <i>Resolution of McCain/Viewside Special Study Area:</i> Some territory also added to spheres for Lakeside FPD and Crest FPD (now part of East County FPD). |
| Alpine Sanitation District | 5183-24 | Larger than | Dist = 616 acres Add'l = unknown | 11-7-83 | <i>Sewer Service.</i> Four (4) additional areas are included in the sphere: three (3) are residential communities, located along the District's southern boundary at the western corner, center and eastern corner that are served by private septic systems; the fourth is adjacent to the District's non-contiguous territory located north and west of the main portion of the District, and designated for commercial and industrial development. All sphere territory is contained within the Country Town boundary. |
| | SA86-2 (see DA85-1) | Add to Dist. & sphere | 238.32 acres | 2-3-86 | " <i>Lively Annexation</i> " (DA85-1): TM to develop 333-unit mobile home park. |
| Bonita-Sunnyside Fire Protection District | 5184-7 | Larger than | Dist. = 7.5± sq. miles Add'l = 7.5± sq. miles | 7-1-85 | <i>Fire Protection:</i> Sphere essentially coterminous on west; additional territory is primarily located east of current District boundary. |

APPENDIX L

MULTI-COUNTY LAFCO REVIEW

LAFCO should consult with other affected LAFCOs when scoping a proposed municipal service review. An affected LAFCO is a LAFCO for a county other than the principal county that is conducting the municipal service review. This is especially important for municipal service reviews which may lead to the consideration of proposals that have the potential to cause significant environmental, fiscal or economic impacts on the other county.

A. DEVELOPMENT OF MUNICIPAL SERVICE REVIEW BOUNDARIES CAN TRIGGER MULTI-LAFCO REVIEWS

- Municipal service reviews may frequently involve more than one LAFCO because the CKH Act states, "the commission shall include in the area designated for municipal service review the county, the region, the sub-region or other geographic area as is appropriate for an analysis of the service or services to be reviewed..." To comply with this directive, LAFCO may need to develop service study area boundaries which cross county lines. Some examples of cases where LAFCOs may encounter cross-jurisdictional issues include:
 - When service or study areas are located in more than one county;
 - When multi-county special districts or multi-county joint powers authorities (JPAs) are involved in providing the service under review; and
 - When expected recommendations or determinations may lead to actions that significantly impact more than one county.

B. COORDINATION OF MULTIPLE-LAFCO REVIEWS

Municipal service reviews affecting multiple counties and multiple LAFCOs could be ineffective if LAFCOs do not develop processes for coordinating them. LAFCOs should work cooperatively to develop functional agreements and conduct joint municipal service reviews when appropriate.

A sample LAFCO Joint Powers Agreement to conduct cross-county municipal service reviews is in the attached exhibit². The following are examples of reviews that may be facilitated through joint agency agreements.

Example 1: LAFCO A is developing a municipal service review study of reclamation districts, levee maintenance and other districts that provide flood control planning

² Nevada and Placer County LAFCOs' joint powers agreement for government organizations and reorganizations was used in the development of the exhibit.

and implementation services and for which it approved SOIs in 1986. During a stakeholder meeting, LAFCO A learns that two of the affected reclamation districts belong to a JPA. The JPA is assessing the districts' residents for projects to strengthen the levees owned and maintained by the districts, and is constructing them. The JPA serves two counties, and residents from both of those counties pay the assessments. LAFCO A needs to contact LAFCO B and involve that LAFCO in the municipal service review process.

Example 2: LAFCO A is developing a municipal service review study of fire and emergency service districts on the western edge of County A. While conducting initial research, LAFCO A learns that Fire District A has a contract to serve a 1,000-acre development on the eastern edge of County B. District A is providing first response to several thousand additional acres in County B with approximately 11,000 dwelling units. None of the fire service providers in County B intend to serve those residences, and County B's General Plan states that it will contract with District A for additional services needed in the eastern county. District A is funded solely through property taxes, and permit fees. Residents in County B are paying for Fire District B's services. LAFCO A needs to contact LAFCO B and involve that LAFCO in the municipal service review process.

Example 3: LAFCO A is developing a municipal service review study of water supply services. The study boundary has been drawn to include all districts receiving surface water supplies from Reservoir A. Some districts share distribution facilities; some do not. Study boundaries include two districts in County B, and one cross-county district that serve Counties B and C. LAFCO A needs to contact LAFCOs B and C and involve those LAFCOs in the municipal service review process.

C. JOINT POWERS AGREEMENTS

LAFCOs should work together to develop a plan for managing cross-county municipal service reviews. One approach is to enter into a joint powers agreement that could be applied to the subject review as well as any other cross-county reviews that are identified. LAFCOs do not need to create a separate agency to implement a Joint Powers Agreement. The agreement only has to provide for joint exercise of certain powers common to each LAFCO. LAFCOs can set specific timeframes for the duration of the agreement or define methods for termination by either party.

After evaluating Nevada/Placer and Alameda/Contra Costa LAFCOs' Joint Powers Agreement processes for reorganization proposals that cross-county boundaries, the Commission on Local Governance commended the joint agreement approach with the following statement:

These agreements allow an expedited determination of which LAFCO will assume jurisdiction over a proposal and may thereby avert unnecessary hearings or delays. Perhaps as important, they facilitate dialogue among adjoining LAFCOs, thereby providing more comprehensive guidance to

applicants, ensuring consistency in the decision-making process of participating LAFCOs, and developing a regional perspective on issues (Growth Within Bounds, page 79).

Joint power agreements should be considered because they may provide the following additional benefits:

- Cooperation and shared decision making efforts may reduce municipal service review processing time and costs, and enhance information gathering and municipal service review funding plans;
- It offers opportunities to identify beneficial strategies to avoid adverse environmental, economic and social impacts;
- Duplication of efforts is avoided and more efficient use of government resources is effected;
- Fewer scoping and consultation meetings are required, and stakeholder, public review and public hearing processes are streamlined;
- Plans that encourage collaboration are more likely to attract grant or private funding resources. (§56378 specifically permits a Commission to request or accept financial or other assistance from another agency when conducting studies.)

Once LAFCO decides a cross-county municipal service review may be appropriate, OPR recommends early consultations begin with all relevant LAFCOs. Even if it is decided later not to undertake a joint review, at a minimum, LAFCO can share information and technical expertise gained in the municipal service review process.

D. DETERMINING THE LEAD LAFCO

If LAFCOs decide to proceed with a joint review, or agreement to conduct a joint review, they will need to determine which LAFCO should lead the municipal service review. The CKH Act (§56066 and §56388) currently contains guidance for determining which LAFCO should assume the principal role for an organization or reorganization. While this section does not specifically apply to municipal service reviews, it does include guidance for determining which LAFCO could serve as the Lead LAFCO for a municipal service review.

Government Code §56066 defines the term, "Principal County," as "the county having all or the greatest portion of the entire assessed value, as shown on the latest equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed."

The CKH Act also provides a means for delegating the lead role when a change of organization or reorganization is proposed. Section 56388 provides that the commission of the principal county can vest jurisdiction in another LAFCO subject to the agreement of the LAFCO assuming jurisdiction. For municipal service reviews,

LAFCOs may choose their own options based on experience, desire to lead or other factors. Options for determining roles should be included in the joint powers agreement where applicable.

E. STEPS FOR CONDUCTING A JOINT REVIEW

The following steps may be used to conduct a joint LAFCO review. **Step 1.** When a municipal service review is undertaken which involves (1) a service area that is located in, or affects, more than one county, and/or (2) involves multi-county special districts or joint powers authorities, the Lead LAFCO should initiate municipal service review design processes for the review.

Step 2. The Lead LAFCO notifies, and consults with, any affected or potentially Responsible LAFCOs. The intent is to determine whether a joint review is needed, and if so, identify a strategy for conducting it.

Step 3. Once it is determined that a joint municipal service review should be conducted, the Lead and Responsible LAFCOs should negotiate a funding plan which (1) provides for funding by a single or combination of service providers, private entities, state, federal or local funding resources, (2) assigns each LAFCO responsibility for funding in proportion to the percentage of the service area included in the municipal service review, (3) splits equally the cost of operation of the Joint Commission and any fees received to reimburse those costs; (3) requires funding by the LAFCO, city, county, special district or private entity that desires to conduct the review; or a combination of funding strategies consistent with applicable Government Codes³.

Step 4. The Lead LAFCO should be assigned to serve as municipal service review manager and be responsible for administrative and technical support for the project, subject to the funding plan developed in Step 3. A Responsible LAFCO may assume the Lead LAFCO role subject to the agreement of the Executive Officers, the individual Commissions, or a Joint Commission if one is formed (see attached exhibit). The latter arrangement may be preferable if the Responsible LAFCO is more experienced than the Lead LAFCO, or is already conducting a similar review in another part of its county.

Step 5. The Lead LAFCO will work with the Responsible LAFCO to determine and define the technical support to be provided by the Responsible LAFCO, and any contractor assistance, if applicable.

Step 6. The municipal service review management, staff support and funding plans should be reviewed, modified and approved by each Commission before the municipal service review is initiated.

³ Subsection 9 includes some possible funding options.

Step 7. All phases of the joint review should be conducted.

Step 8. Municipal service reviews should be considered and written determinations rendered by the Joint Powers Authority.

EXHIBIT

JOINT POWERS AGREEMENT FOR THE CONDUCT OF MUNICIPAL SERVICE REVIEWS TEMPLATE

Resolution No: _____

JOINT POWERS AGREEMENT

For the
Conduct of Municipal service reviews

Between _____ and _____.

WHEREAS, the _____ Local Agency Formation Commission ("_____ LAFCO") and the _____ Local Agency Formation Commission ("_____ LAFCO"), hereafter referred to as the "Commissions", are public agencies of the State of California, and are authorized, pursuant to Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (Government Code §565000 et sequitur), to enter into joint powers agreements to exercise powers common to said agencies; and

WHEREAS, §56375 (q) specifically permits LAFCOs of adjoining counties to enter into joint arrangements for the purpose of determining procedures for the considerations of municipal service reviews that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county; and

WHEREAS, §56430 requires that LAFCOs conduct municipal service reviews prior to, or in conjunction with, consideration of actions to establish a Sphere of Influence (SOI) as defined in §56076, and in accordance with §56425 or §56426.5, or update an SOI pursuant to §56425; and

WHEREAS, as part of such reviews, LAFCOs must make written determinations regarding government structure options, including the advantages and disadvantages of consolidation or reorganization of service providers; and

WHEREAS, some required municipal service reviews may include service areas that cross county boundaries, or services provided by agencies that cross county boundaries or multiple service providers located in different counties; and

WHEREAS, the Commissions recognize that decisions based on municipal service reviews and made by each affected LAFCO may have the potential to cause significant environmental, economic or fiscal impact on the other's county; and

WHEREAS, cooperation and shared decision making efforts may serve to lessen or avoid such impacts; and

WHEREAS, the subject counties possess multi-county special districts and that jurisdiction over change of organization proposals for such districts, as defined in §56069, normally resides in the "principal county" of such district, even where the change occurs wholly in the other county; and

WHEREAS, municipal service reviews are not considered proposals, pursuant to §56069, but include recommendations or determinations that may encourage proposals, or are precursors to actions that are considered proposals; and

WHEREAS, §56378 specifically permits a Commission to request or accept financial or other assistance from another agency when conducting studies; and

WHEREAS, the two Commissions desire to jointly design, conduct and consider municipal service reviews to ensure effective evaluation of issues affecting all counties and all service providers; and

WHEREAS, the two Commissions desire to conduct reviews that avoid duplication of efforts and maximize efficient use of government resources;

WHEREAS, the two Commissions desire to ensure greater cooperation among the Commissions and affected service providers in actions that have effects in both counties;

NOW, THEREFORE, be it resolved that _____ LAFCO and _____ LAFCO, in consideration of the mutual promises, covenants and conditions contained herein, agree as follows:

1. Definitions.

Certain terms used in this agreement shall have the meanings as provided in this section. All other terms shall have the meaning as provided in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (§56000 et seq. of the Government Code), if applicable:

(a) "Affected County" - The county in which the service providers or territory evaluated in the municipal service review is located.

(b) "Lead LAFCO" - The LAFCO with primary responsibility for conducting a municipal service review affecting more than one county.

(c) "Principal LAFCO for Municipal Service Reviews" - The LAFCO with the lead responsibility for a municipal service review. Lead responsibility can be determined pursuant to the CKH definition of a Principal LAFCO as it applies to government organization or reorganization actions, by negotiation, or by agreement among two or more LAFCOs.

(d) "Responsible LAFCO" - The LAFCO other than the Lead LAFCO that may be impacted by recommendations, determinations or subsequent proposals elicited during a municipal service review being initiated or considered by the Lead LAFCO.

2. Agreed Notice and Consultation on All Municipal Service Reviews That Involve or May Impact More than One County.

(a) The Lead LAFCO shall notify the Responsible LAFCO of any municipal service review being considered by the Lead LAFCO which includes: (1) a service area that includes a Responsible LAFCO's county; (2) involves multi-county special districts or joint powers authorities; or (3) has the potential to significantly impact the county of the Responsible LAFCO. This notice requirement applies to all municipal service reviews that affect more than one county, not just those involving multi-county districts.

(b) A Responsible LAFCO will inform a Lead LAFCO of any circumstances which elicit a priority status for municipal service reviews that it believes should be initiated by that LAFCO. The Commissions will provide a reasonable opportunity for the other LAFCOs to respond to such notice.

(c) All LAFCOs will consult with affected LAFCOs when scoping a proposed municipal service review.

(d) Municipal service reviews, with the potential for significant impact on another county, are reviews that may lead to the consideration of proposals that have the potential to generate significant environmental, fiscal or economic impacts on the other county.

3. Treatment of Municipal Service Reviews.

(b) Where a municipal service review is proposed which involves (1) a service area that is located in more than one county, (2) involves multi-county special districts or joint powers authorities, or (3) has the potential to significantly impact more than one county, the project shall be initiated by the Lead LAFCO.

(c) The Lead and Responsible LAFCOs shall negotiate a funding plan which (1) provides for funding by a single or combination of service providers, private entities, state, federal or local funding resources, (2) assigns each LAFCO responsibility for funding in proportion to the percentage of the service area included in the municipal service review, (3) splits equally the cost of operation of the Joint Commission and any fees received to reimburse for those costs; (3) requires funding by the LAFCO that desires to conduct the review; or (4) a combination of funding strategies consistent with local Ordinances and applicable Government Codes.

(c) The Lead LAFCO shall serve as project manager and be responsible for administrative, technical and clerical support for the project, subject to the funding plan developed in (b) above.

(d) The Lead LAFCO will work with the Responsible LAFCO to determine and define the technical support to be provided by the Responsible LAFCO, and any contractor assistance if applicable.

(e) A Responsible LAFCO may assume the Lead LAFCO role subject to the agreement of the Executive Officers, or if specifically designated Lead Agency by the Joint Commission.

(f) The project management, staff support and funding plans shall be reviewed, modified and approved by each Commission before the municipal service review is initiated.

(g) Municipal service reviews shall be considered and written determinations rendered by the Joint Commission.

4. Operation of the Joint Commission.

(a) The Joint Commission shall be composed of the Commissioners of the LAFCOs subject to this Agreement. Alternates may substitute for their Commissioners on the Joint Commission in the same manner as for regular commission meetings.

(b) Four (4) commissioners from each county must be present to form a quorum, and action of the Joint Commission shall be by majority vote of those present, regardless of county of origin. A tie vote shall be a negative vote on the action. A tie vote may be broken by a second vote.

(c) The Chairman of the Lead LAFCO shall serve as the Chairman of the Joint Commission, and the Joint Commission shall normally meet at the time, date and place specified for regular meetings by the Lead LAFCO, unless otherwise determined.

(d) The Executive Officers shall jointly develop staff reports and provide support functions for the Joint Commission pursuant to 3(e). Legal Counsel for the Commissions shall jointly provide legal advice, unless the Joint Commission agrees to use only one of the Counsels.

(e) Except as specifically provided herein, or required by its joint character, the Joint Commission shall operate in the same manner as a regular LAFCO, and have all of the powers that either LAFCO could exercise individually.

5. No Separate Agency Created.

The parties do not intend to create a separate agency by this Joint Powers Agreement, but to merely provide for joint exercise of certain powers common to each LAFCO.

6. Accounting for Funds; Property.

No separate accounts or property are contemplated as part of this JPA. Each Commission shall be provided with monthly statements of any costs to be shared for their review and approval.

7. Term.

(a) This JPA shall remain in force and effect until terminated by either party by resolution, upon six (6) months prior written notice.

(b) Any municipal service reviews in process at time of termination shall continue to be subject to the terms of this JPA until LAFCO action is completed, but this JPA shall have no effect on municipal service reviews initiated after the date of termination.

B. Amendment.

This agreement may be amended by subsequent agreement of the parties.

This agreement is executed by the undersigned officers pursuant to authority granted by resolution of their respective Commissions:

Local Agency Formation
Commission

Dated: _____, 200_

_____, Chair

Local Agency Formation
Commission

Dated: _____, 200_

_____, Chair

APPROVED AS TO FORM:

_____, Counsel
LAFCO

_____, Counsel
LAFCO



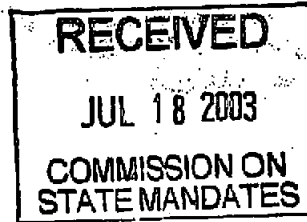
DEPARTMENT OF
FINANCE

EXHIBIT B

GRAY

915 L STREET ■ SACRAMENTO, CA ■ 95814-9706 ■ WWW.DOF.CA.GOV

July 18, 2003



Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms Higashi:

As requested in your letter of June 19, 2003, the Department of Finance (Finance) has reviewed the test claim submitted on behalf of the Sacramento Metropolitan Fire District (claimant) asking the Commission to determine whether specified costs incurred under the authority of Chapter 439, Statutes of 1991; Chapter 761, Statutes of 2000; Chapter 493, Statutes of 2002; and the Office of Planning and Research's (OPR's) Municipal Services Review Guidelines, are reimbursable State mandated costs (Claim No. CSM-02-TC-23, "Local Agency Formation Commission (LAFCO)). The claimant asserts that the following activities are reimbursable State mandates:

- Contributing a portion of the Sacramento LAFCO's annual budget.
- Paying the LAFCO for processing the claimant's component of the LAFCO's municipal services review.
- Preparing municipal services review information as required by the LAFCO.

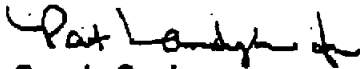
As a result of our review, we have concluded that the statute may have resulted in costs mandated by the State. If the Commission reaches the same conclusion at its hearing on the matter, the nature and extent of the specific activities required can be addressed in the parameters and guidelines which will then have to be developed for the program. However, we note the following:

- A special district may lawfully decline to sit as a member of its LAFCO.
- Although LAFCO independent special district election committee membership is required by law, special districts are not required to participate in the committee's activities; many are members in name only.
- LAFCOs have existing statutory fee authority that may be used to cover their operating costs. To the extent that LAFCOs elect to make use of this authority, LAFCO members would be relieved of the need to contribute toward the LAFCO's annual budget.
- LAFCOs have had statutory authority to require information of local agencies since 1965.
- OPR's municipal service review guidelines and appendices do not carry the force of law.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your June 19, 2003, letter have been provided with copies of this letter via either United States Mail or, in the case of other State agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Matt Paulin, Principal Program Budget Analyst at (916) 322-2263 or Keith Gmeinder, State Mandates Claims Coordinator for Finance, at (916) 445-8913.

Sincerely,



Connie Squires
Program Budget Manager

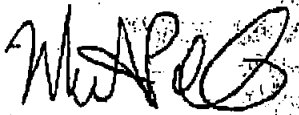
Attachments

Attachment A

**DECLARATION OF MATT PAULIN
DEPARTMENT OF FINANCE
CLAIM NO. CSM-02-TC-23**

- 1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
- 2. We concur that excerpts from Chapter 439, Statutes of 1991; Chapter 761, Statutes of 2000; and Chapter 498, Statutes of 2002 relevant to this claim are accurately quoted in the test claim submitted by claimant and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.



7/17/03

Matt Paulin
Principal Program Budget Analyst
Sacramento, CA

Date

PROOF OF SERVICE

Test Claim Name: Local Agency Formation Commission (LAFCO)
 Test Claim Number: CSM-02-TC-23

I, the undersigned, declare as follows:

I, Meredith Campbell, am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 8th Floor, Sacramento, CA 95814.

On July 18, 2003, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and non-state agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 8th Floor, for interagency Mail Service, addressed as follows:

A-16
 Ms. Paula Higashi, Executive Director
 Commission on State Mandates
 980 Ninth Street, Suite 300
 Sacramento, CA 95814

B-8
 State Controller's Office
 Division of Accounting & Reporting
 Attention: Michael Havey
 3301 C Street, Room 500
 Sacramento, CA 95818

B-29
 Legislative Analyst's Office
 Attention: Marianne O'Malley
 925 L Street, Suite 1000
 Sacramento, CA 95814

Sacramento Metropolitan Fire District
 Mr. George B. Appel, Deputy Chief
 2101 Hurley Way
 Sacramento, CA 95825

A-08
 Mr. Tal Finney
 Office of Planning and Research
 1400 Tenth Street, Suite 150
 Sacramento, CA 95814

Ms. Pamela Stone
 Maximus, Inc.
 4320 Auburn Blvd., Suite 3000
 Sacramento, CA 95841

Mr. Paul Minney
 Spector, Middleton, Young & Minney, LLP
 7 Park Center Drive
 Sacramento, CA 95825

Mr. Keith B. Petersen
 SixTen & Associates
 5252 Balboa Avenue, Suite 807
 San Diego, CA 92117

Mr. David Wellhouse
 David Wellhouse & Associates, Inc.
 9175 Klefer Blvd., Suite 121
 Sacramento, CA 95826

Ms. Harmeet Barkschat
 Mandate Resource Services
 5325 Elkhorn Blvd. #307
 Sacramento, CA 95842

Mr. Steve Smith
Mandated Cost Systems, Inc.
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

Ms. Annette Chinn
Cost Recovery Systems
705-2 East Bidwell Street, #294
Folsom, CA 95630

Mr. Leonard Kaye, Esq.
County of Los Angeles
Auditor Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012

Ms. Cindy Sounce
Centration, Inc.
12150 Tributary Point Drive, Suite 140
Gold River, CA 95670

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 18, 2003 at Sacramento, California.


Meredith Campbell

RESPONSE TO DEPARTMENT OF FINANCE

By Claimant,

Sacramento Metropolitan Fire District
Local Agency Formation Commission (LAFCO)

Chapter 439, Statutes of 1991

Chapter 761, Statutes of 2000

Chapter 493, Statutes of 2002

LAFCO Municipal Services Review Guidelines

LAFCO Municipal Services Review Guidelines Appendices

CSM-02-TC-23

RECEIVED

SEP 25 2003

COMMISSION ON
STATE MANDATES

The Sacramento Metropolitan Fire District hereby responds to the Department of Finance's comments to its test claim as follows:

The Sacramento Metropolitan Fire District agrees with the Department of Finance that the statute resulted in costs mandated by the state. However, the claimant takes issue with the assertions of the Department of Finance concerning the following:

- A special district may lawfully decline to sit as a member of its LAFCO
- Although LAFCO independent special district election committee membership is required by law, special districts are not required to participate in the committee's activities; many are members in name only
- LAFCOs have existing statutory fee authority that may be used to cover their operating costs. To the extent that LAFCO's elect to make use of this authority, LAFCO members would be relieved of the need to contribute toward the LAFCO's annual budget
- LAFCO's have had statutory authority to require information of local agencies since 1965.
- OPR's municipal service review guidelines and appendices do not carry the force of law

Each of the foregoing "notations" will be discussed, *infra*.

1. Participation by a Special District in LAFCO

The special districts located in Sacramento County are in a special circumstance: by statute, they are required to participate in LAFCO. In other counties, special districts can determine whether or not they wish to participate and be a member of LAFCO; special districts in Sacramento have no such option.

Chapter 439, Statutes of 1991 mandated that two members of LAFCO be elected by the special districts via the independent special district selection committee, which is also mandated to select an alternate to serve. Thus, not only if elected must the special

district representative serve, but all special districts are required to participate in the independent special district selection committee.

To date, the Sacramento Metropolitan Fire District has not been called upon to be a member of LAFCO, although there is a possibility that the district will be called upon to be the alternate member when elections are next held.

However, just because someone is elected does not mean, as the Department of Finance would have one believe, that one does not have to serve. The statute, first of all, speaks in mandatory, not discretionary terms.

Secondly, the argument that the special district member would not have to participate is ludicrous. First of all, it is analogous to the requirements of Government Code, Section 17553, which provides for the participation of the Department of Finance in matters before the Commission on State Mandates. Surely Finance does not have to participate, yet if it were not to participate, not only would its input not be known, but factors detrimentally affecting the state's budget could occur without its knowledge or participation. So too is true with regard to the participation of special districts in LAFCO.

Furthermore, the Department of Finance notes that the LAFCO has the ability to impose statutory fee authority. Without participation of special districts, the LAFCO's special statutory fee authority could be used adversely to the interests of the LAFCO.

Thus, participation in the LAFCO is statutorily mandated for those special districts within Sacramento County. For other counties, there is different legislation pertaining to the composition of the LAFCO, which allows discretion in whether special districts will participate. There is no such discretion in Sacramento County.

2. LAFCO Has Statutory Fee Authority

As noted within the test claim, prior to the enactment of Chapter 761, Statutes of 2000, the total financial requirements of the LAFCO were met by the county wherein the LAFCO was located. The only difference was that if a developer wished to submit a request for a change, or if an agency requested a change, fees were charged the requesting party to cover the costs of the application. With the test claim legislation, this is no longer true.

Now, with the new test claim legislation, if there is a special district member of the LAFCO, the LAFCO assesses charges for its operation against all special districts within the LAFCO.

In the past, the only time that the claimant would have had to contribute to the operation of the LAFCO was if it wished to consolidate, or take similar action. In that event, claimant would have had to pay a fee set by LAFCO, which defrayed the cost of the application. However, now, not only would the district have to pay a fee in the event

of its desire to make an application to the LAFCO, it now also has to underwrite the operational costs of LAFCO as well.

This is another reason why it is so important to participate actively in LAFCO: without active participation, there is no guarantee that the costs of operating the LAFCO will be subject to any fiscal constraints. As noted in the test claim, LAFCO merely assembles what it wishes to have by way of operating capital for the next fiscal year, and assesses that total cost against the county, all cities and special districts within its jurisdiction. For this purpose, participation in LAFCO, to the extent the occasion presents itself, is imperative.

Furthermore, the statutory fee authority does not address the on-going operational costs, as set forth in Government Code, Section 56381. This provision specifies the manner in which the budget is to be adopted, and the fact that it is to be levied against the county, cities and independent special districts.

Accordingly, the blanket statement that there is fee authority does not address the issues presented in this test claim. The argument posited by the Department of Finance would be similar to saying that because a city or a county has statutory fee authority for some purposes, but without any specific applicability to the program in question, there is no reimbursable mandate. Accordingly, this argument must fail.

3. LAFCO's Have Statutory Authority to Request Information and the Guidelines Have No Force of Law

The Department of Finance has noted that LAFCO has had the authority to request information from local governmental entities for years prior to the enactment of the test claim legislation, and that the OPR's guidelines have no force in law. There is no conclusion drawn from these notations.

However, although LAFCO may have had the authority to request information, the scope of the information now being requested is described in detail by the specific guidelines promulgated by OPR. This goes far beyond requesting just information, but instead requires a full report in a format described by the guidelines.

In the past, had LAFCO requested information of the claimant, claimant would have submitted its annual report, which details such items as its jurisdiction, revenue, expenditures and services provided. A true and correct copy of the 1999 Annual Report is attached hereto as Exhibit 1 and incorporated herein by reference.¹ The purpose of the annual report is to provide citizens and other interested parties with a full description of the personnel and services provided. This is not, however, what is now being requested of it as a result of the OPR's guidelines.

¹ The year when Sacramento Metropolitan Fire District underwent a reorganization, the time for the preparation and publication of such an annual report was missed; thus there is one year for which there is no annual report. As other copies of annual reports for other years are in archives, this was the most recent annual report readily available.

The various LAFCOs are now requesting that detailed reports be provided along the provisions of the guidelines. No longer is mere information being requested; rather, the LAFCOs are requesting analyses and projections which require substantial staff time and consultant time. Additionally, the LAFCOs are charging those providing the report with a fee to review and process same. Although the fee is not exorbitant, the cost of obtaining and assembling the information requested exceeds the fee substantially. It is estimated that it will cost between \$15,000 and \$25,000 to assemble the information for the Sacramento county LAFCO.

Thus, what is now required is not the mere provision of information already existing and extant, but a report which includes items such as:

- List of relevant statutory and regulatory obligations.
- Copy of most recent master services plan.
- Metes and bounds legal description of the agency's boundary.
- Service area maps.
- Excerpts from various regional transportation, water, air quality, fair share housing allocation, airport land use, open space or agricultural plans or policies or other environmental plans or programs.
- Copies of regulatory and operating permits.
- Number of acres or square miles within the service area.
- Type of sphere or sphere boundaries.
- Assessed valuation.
- Estimate of population within district boundaries.
- Number of people, households, parcels or units currently receiving service, or number of service connections.
- Projected growth in service demand or planned new service demand/capacity.
- Special communities of interest or neighborhoods affected by service.
- Capital improvement plans.
- Current service capacity.
- Call volume.
- Response time.
- Annual operating budget.²

Additional information need to be provided as requested by the LAFCO, because it must prepare a written statement of its determination with respect to each of the following, pursuant to Government Code, Section 56430:

- Infrastructure needs or deficiencies.
- Growth and population projections for the affected area.
- Financing constraints and opportunities.
- Cost avoidance opportunities.

² See OPR's Guidelines, Test Claim, Exhibit 4, Page 11.

- Opportunities for rate restructuring.
- Opportunities for shared facilities.
- Government structure options, including advantages and disadvantages of consolidation, or reorganization of service providers.
- Evaluation of management efficiencies.
- Local accountability and governance.³

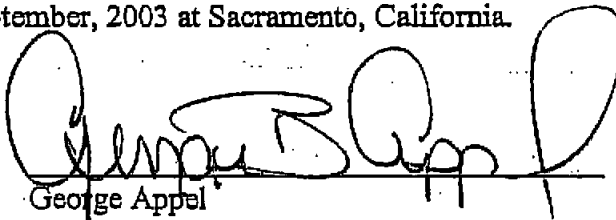
As a result, the municipal service review is not a response to a request for information; rather, it mandates that substantial information not readily located in one place be assembled and analyzed in conformance with statute and the guidelines of OPR. Just a comparison of the annual report with the type of report now required for a municipal services review indicates that there are substantial differences, and the report required by LAFCO is an entirely different matter.

Additionally, in the past, such detailed information would only be required if an agency wished to consolidate, change boundaries, or had a change in governance. This would have been an action specifically requested by the agency. However, now this information must be provided every five years, whether or not the agency requests any changes whatsoever. This is a new program and substantially higher level of service than has been provided before.

The Sacramento Metropolitan Fire District reserves the right to comment upon any additional notations or comments made by Commission staff or any state agency to the test claim.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief, and as to those items, I believe them to be true.

Executed this 22nd day of September, 2003 at Sacramento, California.

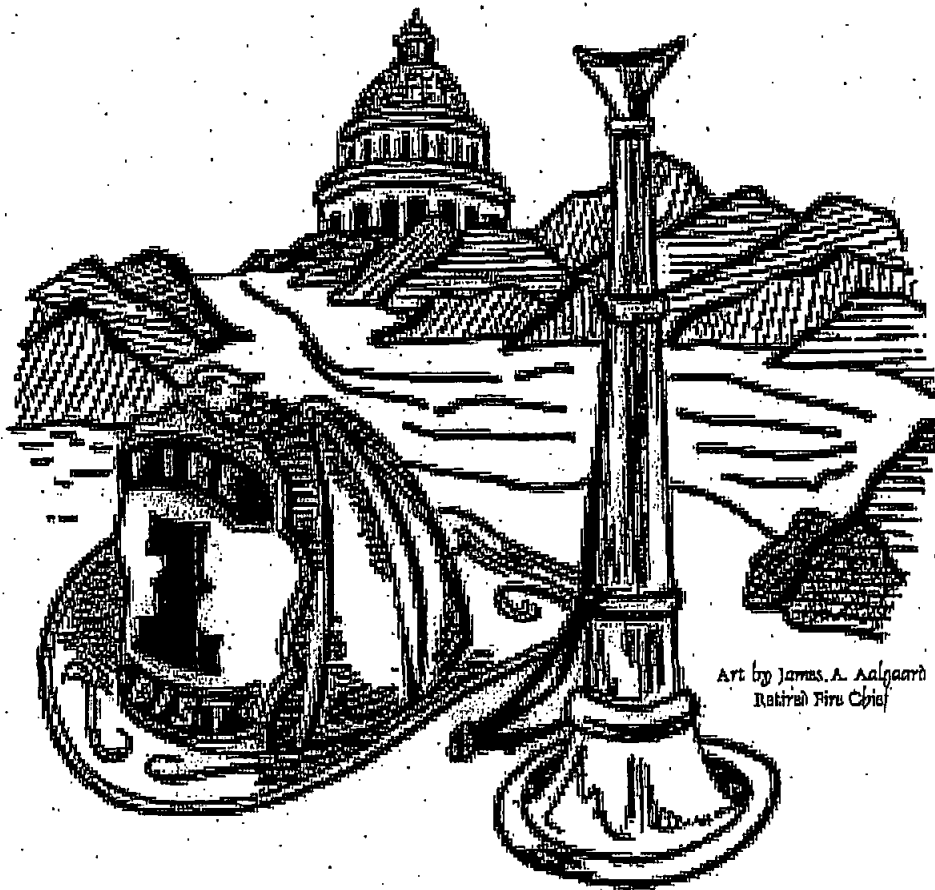


George Appel
Deputy Chief
Sacramento Metropolitan Fire Department

³ See OPR's Guidelines, Test Claim, Exhibit 4, Page 16.

American River

Fire District



1999 Annual Report

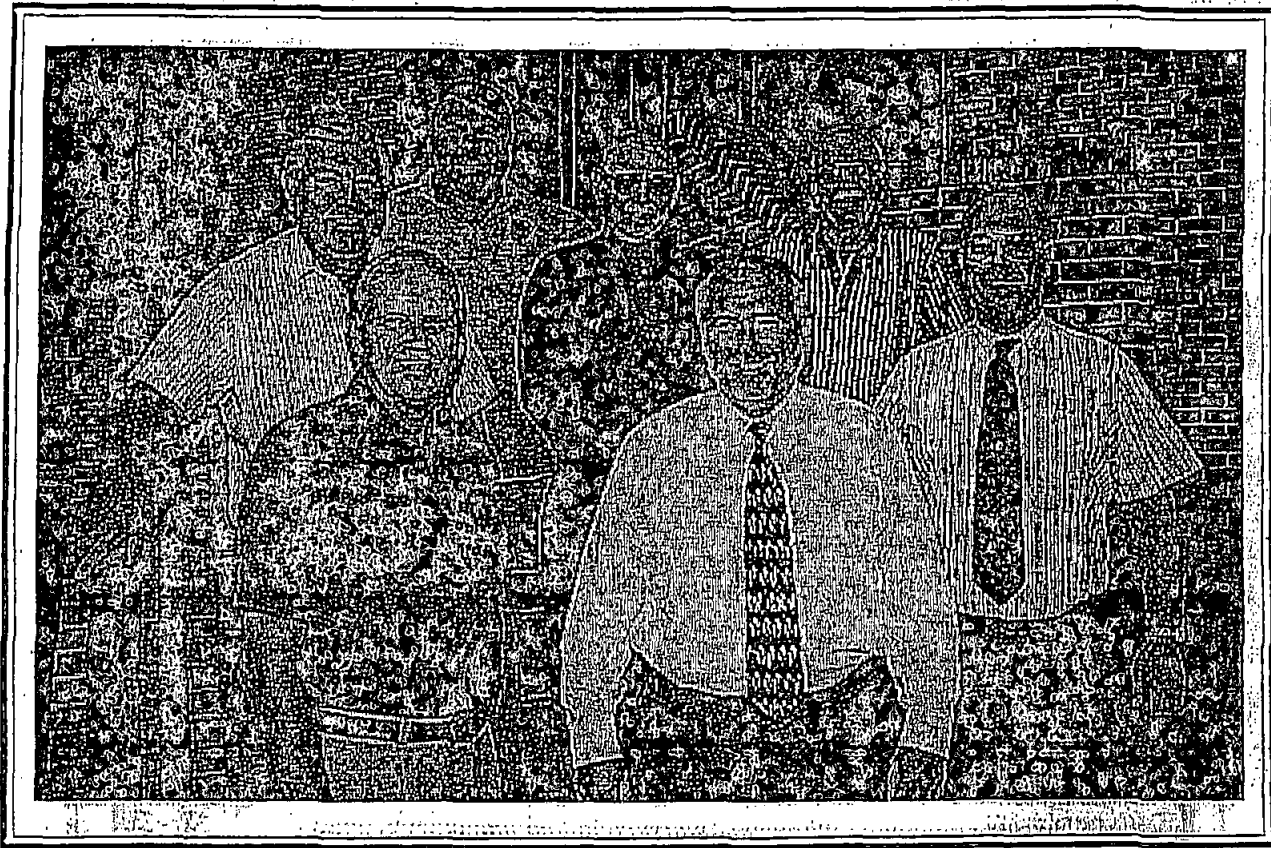
Serving the communities of Arcade - Arden - Carmichael
Elverta - Florin - Rancho Murieta - Rio Linda - Rosemont - Sloughhouse
portions of Citrus Heights - North Highlands - Fair Oaks - South Sacramento and Placer County



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| Station 51 | 43 - 44 |
| Station 53 | 45 - 47 |
| Station 54 | 48 - 49 |
| Station 55 | 50 - 52 |
| Station 58 | 53 - 54 |
| Station 59 | 55 - 57 |
| Station 101 | 58 - 59 |
| Station 102 | 60 - 61 |
| Station 103 | 62 - 63 |
| Station 105 | 64 - 65 |
| Station 106 | 66 - 70 |
| Station 107 | 71 - 72 |
| Station 108 | 73 - 74 |
| Station 109 | 75 - 77 |
| Station 110 | 78 - 79 |
| Station 111 | 80 - 82 |
| Station 112 | 83 - 84 |
| Station 116 | 85 - 86 |
| Station 117 | 87 - 88 |
| Acknowledgements | 89 |

Board of Directors



Back row: (l to r) Directors Valley, Hanson, Crooks and Stewart
Front row: (l to r) Directors Vanderveen, Horel and Hoeger

President

Charles A. Horel
Nov. 1994 - Nov. 2000

Vice President

Stephen R. Hanson
Nov. 1992 - Nov. 2000

Secretary

James R. Vanderveen
Nov. 1992 - Nov. 2000

Member

Richard Crooks
Jul. 1996 - Nov. 2000

Member

James M. Stewart
Nov. 1998 - Nov. 2000

Member

Gregory H. Hoeger
Nov. 1996 - Nov. 2000

Member

Gregory M. Valley
Nov. 1996 - Nov. 2000

Board of Directors

Committee Assignments

Executive

Charles A. Horel
Stephen R. Hanson
James R. Vanderveen

Equipment, Facilities & Finance

James R. Vanderveen - Chairman
Richard Crooks
Gregory H. Hoeger

Personnel, Policies & Legal

Stephen R. Hanson - Chairman
Charles A. Horel
James M. Stewart

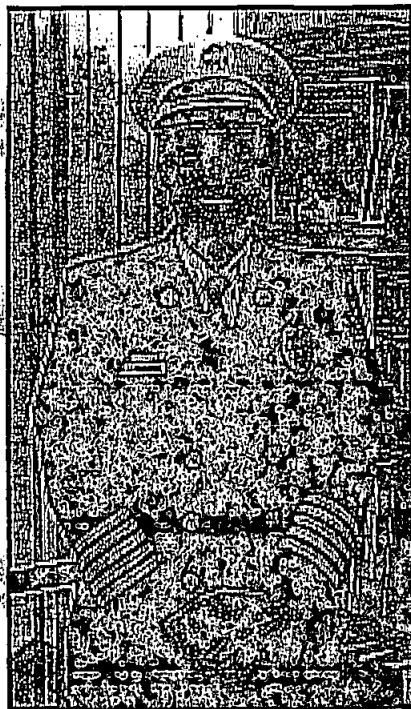
Communications Center

Gregory M. Valley - Delegate
James R. Vanderveen - Alternate

Mission Statement

To provide levels of excellence in emergency and prevention services to reduce loss of life and property damage due to fire, medical, and other emergencies in an efficient, professional and fiscally responsible manner.

American River Fire District



Fire Chief

Rick Martinez

The American River Fire District was created on August 1, 1983, when the Arden and Carmichael Fire Protection Districts consolidated. On July 1, 1986, the District expanded with the inclusion of the Arcade Fire Protection District. Further growth occurred on April 1, 1990, through the addition of the Rio Linda/Elverta Fire Protection District and again on July 1, 1990, with the merger of the Sloughouse Fire Protection District. On July 1, 1997, the Florin Fire Protection District reorganized with the American River Fire District.

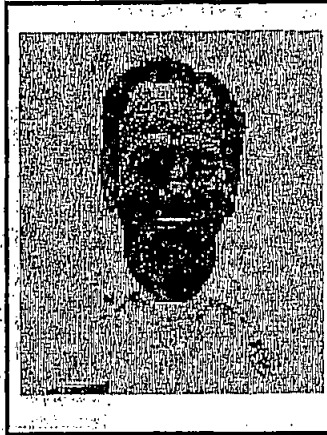
Full administrative authority is vested in the Board of Directors for the fiscal responsibility and stewardship of the District and for matters of policy. The Board of Directors consists of seven members elected at large by the citizens of the District and delegates authority to the fire chief to operate the fire department.

The District is located within the County of Sacramento and a portion within the northwestern part of the County of Placer. The Board of Directors and the personnel of the American River Fire District strive to maintain the highest level of service possible for its citizens while sustaining a cost efficient and fiscally responsible fire department.

Senior Staff



Deputy Chief
George Appel



Deputy Chief
Robert Raddigan



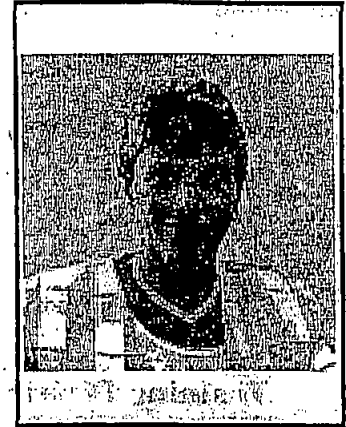
Deputy Chief
Roger Sornsen



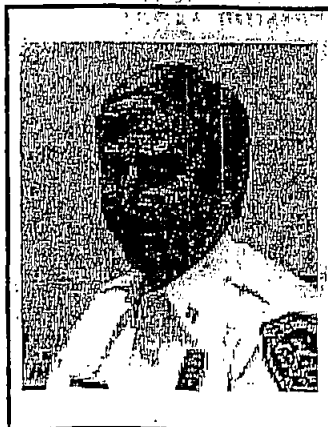
Assistant Chief
Robert Chase



Assistant Chief
Mark Cooper



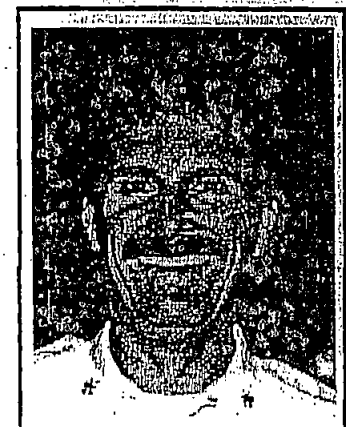
Assistant Chief
Janice Simcoe



Assistant Chief
Charles Hartley



Board Clerk/
Chief's Secretary
Barbara Safford



Assistant Chief
Dennis Plessas

Personnel

Board of Directors (7)

Administration (16)

| | |
|-------------------------------|-----|
| Fire Chief | - 1 |
| Deputy Chief | - 3 |
| Assistant Chief | - 2 |
| Board Clerk/Chief's Secretary | - 1 |
| Office Manager | - 1 |
| Accounting Technician | - 2 |
| Office Technician | - 2 |
| Systems Assistant | - 1 |
| Captain | - 2 |
| Utility Worker | - 1 |

Fire Prevention Bureau (18)

| | |
|--------------------------------|-----|
| Assistant Chief - Fire Marshal | - 1 |
| Deputy Fire Marshal | - 1 |
| Supervisor | - 3 |
| Inspector | - 6 |
| Fire Prevention Technician | - 2 |
| Fire Prevention Apprentice | - 2 |
| Office Technician | - 2 |
| Drafting Technician | - 1 |

Property Division (4)

| | |
|--------------------|-----|
| Property Manager | - 1 |
| Property Assistant | - 1 |
| Utility Worker | - 1 |
| | - 1 |

Community Services Division (3)

| | |
|--------------------------|-----|
| Assistant Chief | - 1 |
| Public Education Officer | - 1 |
| Inspector | - 1 |

Mechanics Division (6)

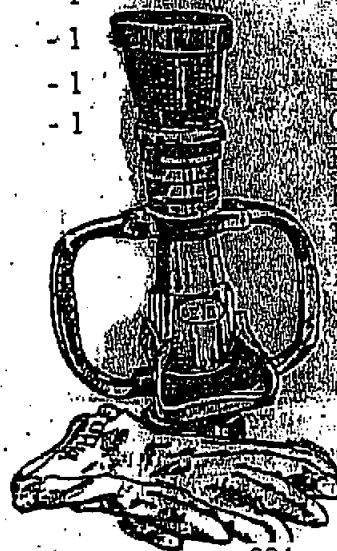
| | |
|--------------------|-----|
| Fleet Manager | - 1 |
| Mechanic | - 4 |
| Assistant Mechanic | - 1 |

Training Division (8)

| | |
|--------------------------------------|-----|
| Assistant Chief/Director of Training | - 1 |
| Training Captain | - 2 |
| Safety Officer - Captain | - 1 |
| EMS Manager | - 1 |
| Quality Improvement | - 1 |
| Office Technician | - 1 |
| Video Technician | - 1 |

Suppression (253)

| | |
|---------------------|-------|
| Battalion Chief | - 9 |
| Captain | - 60 |
| Engineer | - 60 |
| Firefighter | - 102 |
| Reserve Firefighter | - 22 |



Personnel Changes

Promotions/New Hires

| | |
|--------------------|----------------------------|
| Sherri Martucci | Accounting Technician |
| Bruce Watson | Assistant Mechanic |
| William Turner | Captain |
| Marvin Maldonado | Drafting Technician |
| Greg Mallo | Engineer |
| Bradley Schumacher | Engineer |
| Daniel Baker | Engineer |
| Mark Evans | Facilities Specialist |
| Tracy Rhodes | Fire Inspector |
| Scott Castill | Fire Prevention Technician |
| Michael Hambrick | Fire Prevention Technician |
| Flor Olivares | Office Technician |
| Kathleen Steffens | Office Technician |
| Vincent Lawrence | Utility Worker |
| Damian Barrett | Utility Worker |

Retirements

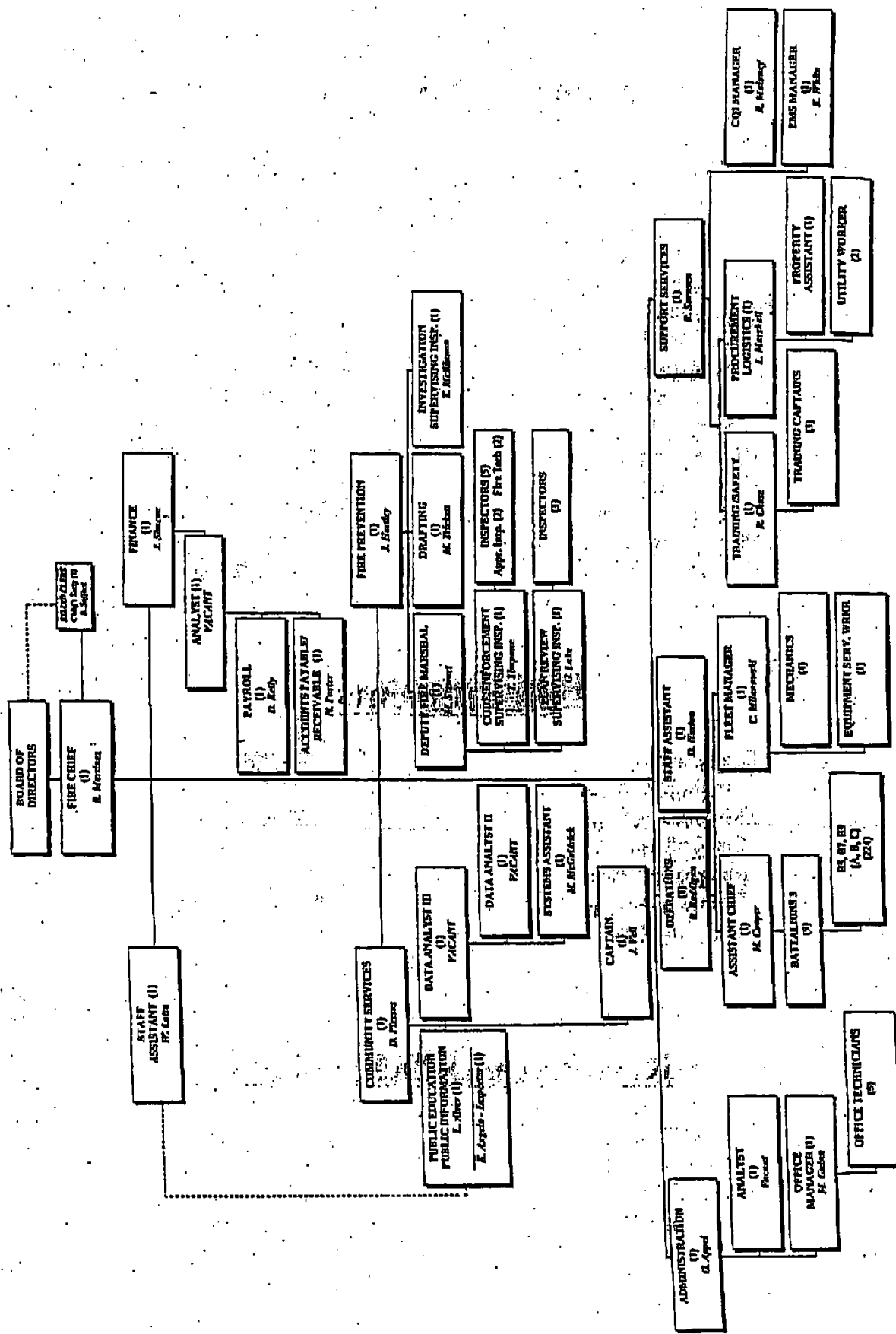
| | |
|------------------|-----------------|
| Douglas LaVallee | Engineer |
| Arnold Hansen | Captain |
| Robert Newell | Firefighter |
| Carl Lofthouse | Engineer |
| Michael Hogan | Firefighter |
| Ernest Stillman | Battalion Chief |
| Lyndel Barker | Engineer |

Resignations/Departures

| | |
|------------------|--------------------|
| Rochelle Freyman | Office Technician |
| Thomas Dodaro | Inspector |
| Michael Navarro | Logistic Assistant |
| Kevin White | EMS Manager |

Organizational Chart

AMERICAN RIVER FIRE DEPARTMENT 1998



Certificate of Appreciation

Presented To

| | | |
|------------------|--------------------------|----------|
| Arnold Hansen | Captain | 30 years |
| Robert Raddigan | Deputy Chief | 30 years |
| Martin Wallin | Engineer | 25 years |
| Lawrence Alver | Public Education Officer | 25 years |
| Charles Archer | Captain | 25 years |
| Mark Cooper | Assistant Chief | 25 years |
| Robert McGrew | Engineer | 25 years |
| Robert Powell | Engineer | 25 years |
| Roderick Shannon | Captain | 25 years |
| Charles Hartley | Assistant Chief | 25 years |
| Dean Coupe | Battalion Chief | 25 years |
| Robert Chase | Assistant Chief | 25 years |
| Kris Heil | Captain | 25 years |
| Robert Judge | Engineer | 25 years |
| Henry Ogg | Captain | 20 years |
| Rush Alexander | Engineer | 20 years |
| Michael Freyman | Captain | 20 years |
| Mark Mattox | Engineer | 20 years |

In Recognition of Dedicated Service

Certificate of Appreciation

Presented To

| | | |
|---------------------|-----------------------|----------|
| Wym Latta | Captain | 20 years |
| Brian Wall | Captain | 20 years |
| Robert Baumann | Captain | 20 years |
| Gerald McCall | Engineer | 20 years |
| Arthur Fingerle | Firefighter | 15 years |
| Dale Angelo | Captain | 15 years |
| Christopher Montoya | Firefighter | 15 years |
| Jeffrey Stephens | Firefighter | 15 years |
| Randal Smith | Captain | 15 years |
| David Parker | Engineer | 15 years |
| Ronald Rojo | Firefighter | 10 years |
| William Lobsitz | Engineer | 10 years |
| Mark Gossett | Engineer | 10 years |
| Michael Hazlett | Engineer/Paramedic | 10 years |
| Charles Means | Firefighter | 10 years |
| Anthony Descalso | Engineer | 10 years |
| Scott Cockrum | Engineer | 10 years |
| Gregory Lake | Supervising Inspector | 10 years |

In Recognition of Dedicated Service

Certificate of Appreciation

Presented To

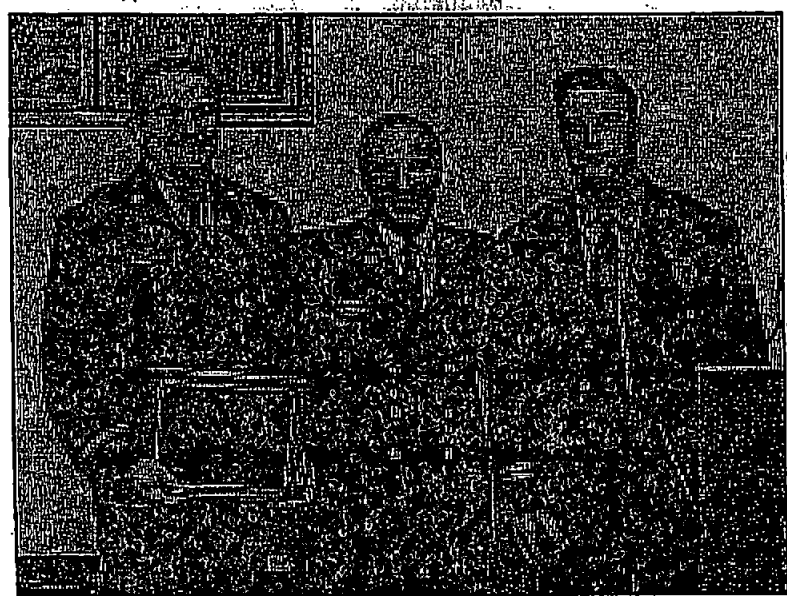
| | | |
|--------------------|----------------------------|----------|
| Steven Turner | Firefighter | 10 years |
| Fred Wudell | Firefighter | 10 years |
| Chad Anderson | Firefighter/Paramedic | 5 years |
| Donald Balm | Firefighter/Paramedic | 5 years |
| Eric Bridge | Firefighter/Paramedic | 5 years |
| Gregory Casentini | Firefighter/Paramedic | 5 years |
| Timothy Craythorn | Fire Prevention Technician | 5 years |
| Douglas Dolezal | Firefighter | 5 years |
| John Graf | Firefighter/Paramedic | 5 years |
| Jeffrey Hickman | Firefighter/Paramedic | 5 years |
| David Holman | Firefighter/Paramedic | 5 years |
| Adam Russell | Firefighter/Paramedic | 5 years |
| Bradley Schumacher | Firefighter/Paramedic | 5 years |
| Barton Weatherly | Firefighter/Paramedic | 5 years |
| Kevin Wegener | Firefighter/Paramedic | 5 years |

In Recognition of Dedicated Service

District Demographics

| | |
|------------------------------|--|
| Stations | 20 plus 1 in reserve |
| Initial Response Units | 18 Engine Co.'s 2 Truck Co.'s 4 Ambulances 2 Air Units 2 Reserve FF Engine Co.'s |
| Suppression Personnel | 253 |
| Paid - 231 | Reserves - 22 |
| Support Personnel | 42 |
| Approximate Population | 257,814 |

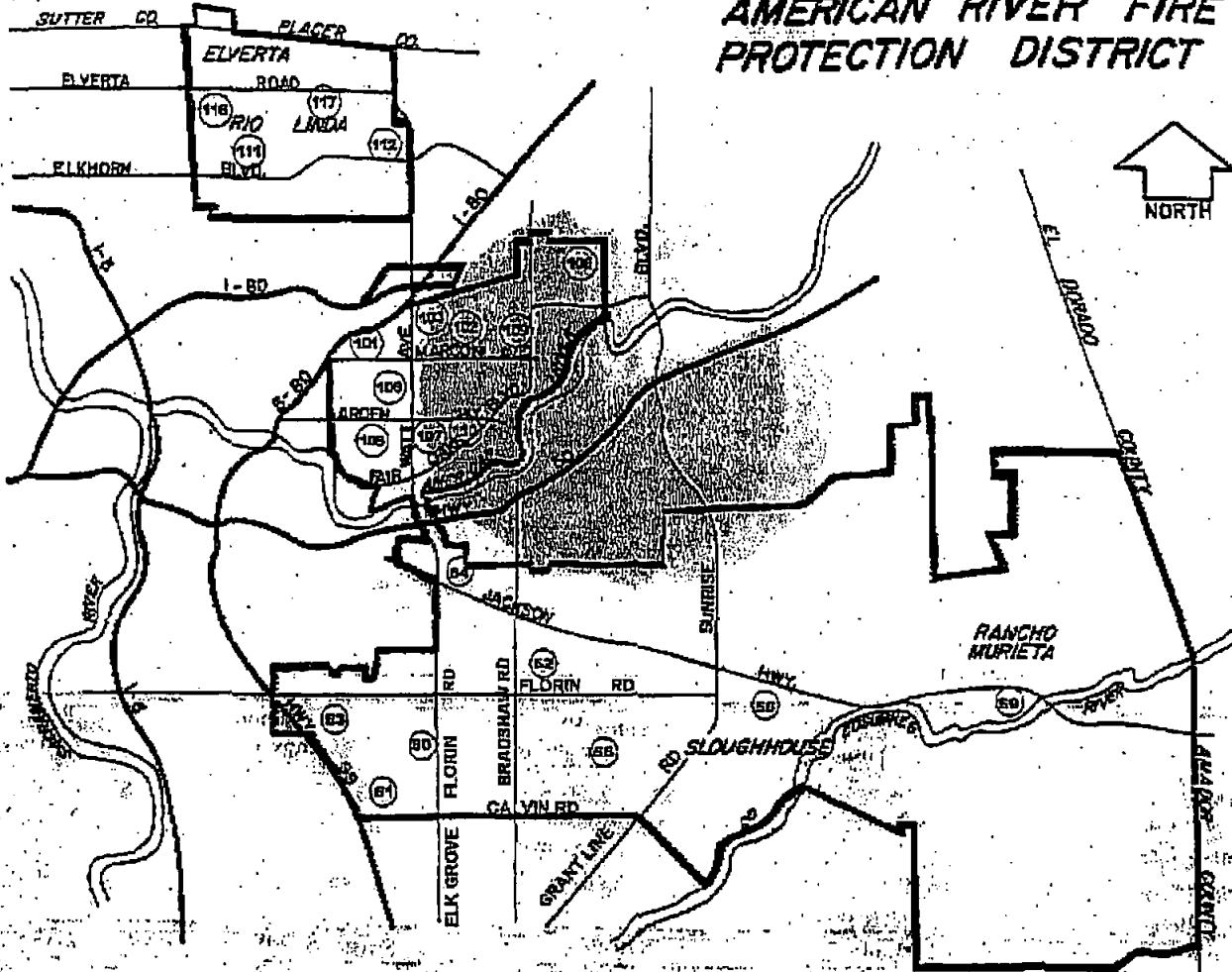
Employees of the Year



(l to r) Engineer/Paramedic Scott McKenney, Captain Walt White and Fire Chief Rick Martinez.
A ceremony was held on January 26, 2000, during a meeting of the Board of Directors to honor the 1999 Employees of the Year.

| | |
|---------------------|---|
| Area | 236.56 square miles |
| Density | 1090 per sq. mile |
| L.S.O. Rating | 3 (in areas with hydrants) 8 (in areas without hydrants) |
| Airports | Rancho Murieta & Rio Linda |

AMERICAN RIVER FIRE PROTECTION DISTRICT



Station 50
8880 Gerber Road
Sacramento, CA 95828

Station 59
7210 Murieta Drive
Rancho Murieta, CA 95683

Station 108
6701 Winding Way
Fair Oaks, CA 95628

Administrative Office
2101 Hurley Way
Sacramento, CA 95825

Station 51
8210 Meadowhaven Drive
Sacramento, CA 95828

Station 101
3000 Fulton Avenue
Sacramento, CA 95821

Station 109
5624 Robertson Avenue
Carmichael, CA 95608

Fire Prevention Office
2101 Hurley Way
Sacramento, CA 95825

Station 52 - Closed
9780 Elder Creek Road
Sacramento, CA 95829

Station 102
4501 Marconi Avenue
Sacramento, CA 95821

Station 110
1616 Mission Avenue
Carmichael, CA 95608

Training Division
8880 Gerber Road
Sacramento, CA 95828

Station 53
6722 Fleming Avenue
Sacramento, CA 95828

Station 103
3824 Walla Avenue
Sacramento, CA 95821

Station 111
6749 Front Street
Rancho Murieta, CA 95673

Logistics Division
3050 Orange Grove Avenue
North Highlands, CA 95660

Station 54
8900 Fredric Avenue
Sacramento, CA 95826

Station 105
2991 Northrup Avenue
Sacramento, CA 95864

Station 112 - Reserve FF
6801 34th Street
North Highlands, CA 95660

Fleet Management Shop
3050 Orange Grove Avenue
North Highlands, CA 95660

Station 55
7776 Excelsior Road
Sacramento, CA 95829

Station 106
42200 Park Towne Circle
Sacramento, CA 95825

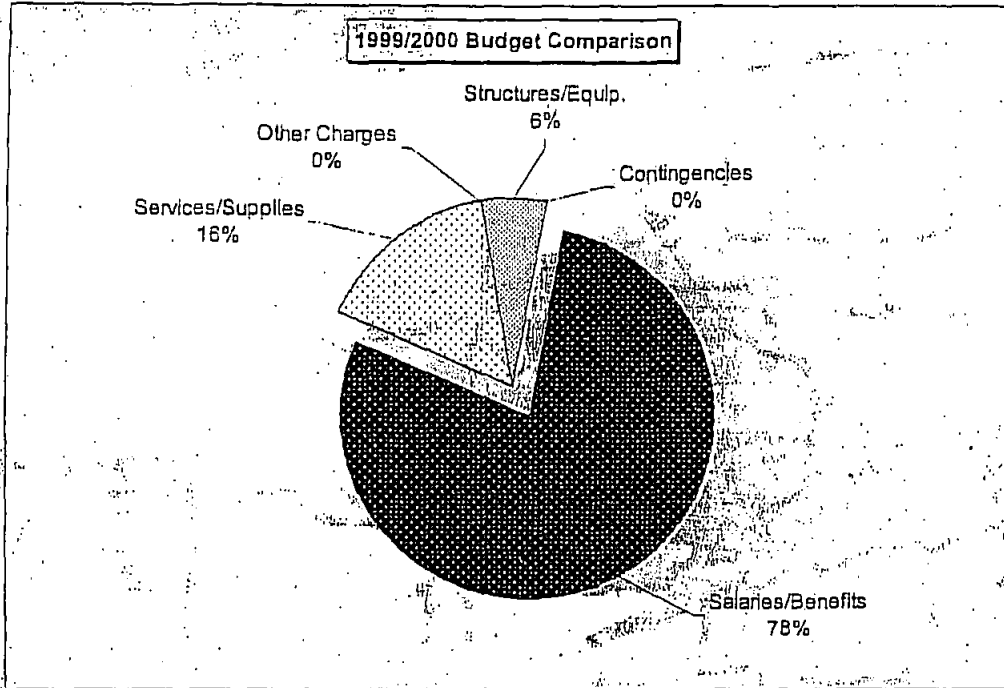
Station 116 - Reserve FF
7995 Elwyn Road
Elverta, CA 95626

Station 58
7520 Sloughhouse Road
Sloughhouse, CA 95624

Station 107
970 LaSierra Drive
Sacramento, CA 95864

Station 117
7961 Cherry Brook Drive
Elverta, CA 95626

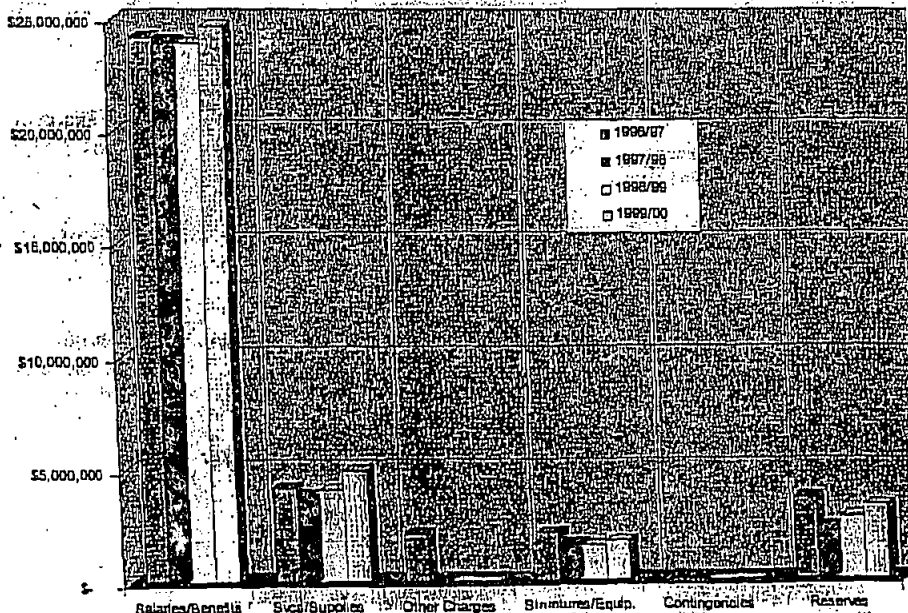
District Budget



| | Actual* 1996/97 | Actual** 1997/98 | Actual 1998/99 | Budgeted 1999/2000 |
|-------------------|---------------------|---------------------|---------------------|-----------------------|
| Salaries/Benefits | \$24,179,362 | \$24,042,033 | \$23,525,025 | \$24,675,305 |
| Svcs/Supplies | \$4,194,007 | \$3,857,860 | \$3,972,364 | \$4,951,824 |
| Other Charges | \$2,151,583 | \$4,499 | \$6,922 | \$8,600 |
| Structures/Equip. | \$2,160,785 | \$1,676,821 | \$1,582,786 | \$1,766,200 |
| Contingencies | \$80,475 | 0 | 0 | 0 |
| Total | \$32,685,737 | \$29,581,213 | \$29,087,097 | \$31,401,929 |
| Reserves | \$3,665,799 | \$2,334,698 | \$2,763,781 | \$3,340,400 |

*Florin Fire District Contract **Florin Fire District Merger

Budget Comparison



Summary of Alarms - 1999

| | |
|---------------------|---------------|
| Total Fires | 1,229 |
| Total Dollar Loss | \$8,938,918 |
| Structure Fires | 291 |
| Other Fires | 663 |
| Vehicle Fires | 275 |
| Medical Aids | 13,940 |
| Total Alarms | 25,360 |

Type and Frequency of Alarms

- 1 Fire every 7 hours
- 1 Structure Fire every 30 hours
- 1 Vehicle Fire every 31 hours
- 1 Medical Emergency every 37 minutes
- 1 Emergency in the American River Fire Dist. every 21 minutes

- ◆ One fire department emergency occurred for every 10 residents.
- ◆ One medical emergency occurred for every 18 residents.
- ◆ One fire occurred for every 210 residents.

Response = Anytime that a piece of fire apparatus is dispatched to an emergency or public assistance call

Alarm = Each emergency is considered an alarm, but can have multiple pieces of fire equipment respond.

Alarm Breakdown

Alarms For Fires

| | | | |
|-----------------------------|--------------|------|-------------|
| Residential: | | | |
| Fireworks | 0 | (0%) | |
| Residential | 209 | (1%) | |
| Commercial: | | | |
| Fireworks | 1 | (0%) | |
| Commercial | 81 | (0%) | |
| Vehicle | 275 | (1%) | |
| Vegetation: | | | |
| Fireworks | 11 | (0%) | |
| Vegetation | 361 | (1%) | |
| Dumpster | 120 | (1%) | |
| Miscellaneous/Fire Outdoors | 171 | (1%) | |
| Total Fires | 1,229 | | (5%) |

Alarms for Non-Fires

| | | | |
|--------------------------------------|---------------|-------|--------------|
| Medical: | | | |
| Cardiac | 1,578 | (6%) | |
| Respiratory Emergency | 1,837 | (7%) | |
| Trauma | 2,068 | (8%) | |
| OB/Gyn | 239 | (1%) | |
| Gastro Intestinal/Genito Urinary | 590 | (2%) | |
| Altered LOC (level of consciousness) | 2,107 | (8%) | |
| Psychiatric | 218 | (1%) | |
| Environmental | 89 | (0%) | |
| Not Classified Above | 3,923 | (15%) | |
| Violent Crime | 404 | (1%) | |
| Fireworks | 1 | (0%) | |
| Vehicle Accident: | | | |
| With Injuries | 886 | (3%) | |
| Without Injuries | 600 | (2%) | |
| Public Assistance: | | | |
| Public Assistance | 2,274 | (9%) | |
| Hazardous Materials | 33 | (0%) | |
| Bomb | 5 | (0%) | |
| Fireworks | 5 | (0%) | |
| Mistake | 1,061 | (4%) | |
| Alarm System Malfunction | 400 | (1%) | |
| False Alarm | 454 | (2%) | |
| Hazardous Materials | 37 | (0%) | |
| Returned Enroute | 1,111 | (4%) | |
| Total Non-Fires | 19,920 | | (77%) |

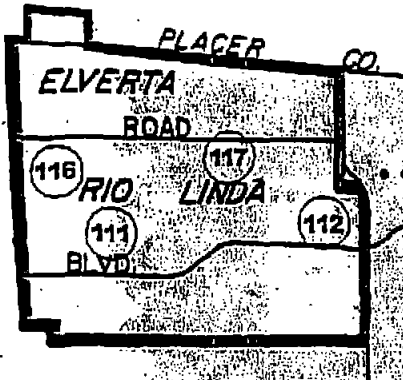
Other Types of Alarms

| | | |
|---------------|-------|-------|
| Automatic Aid | 4,599 | (18%) |
| Mutual Aid | 39 | (0%) |

Total Other Alarms **4,638** (18%)

Total Alarms **25,787**

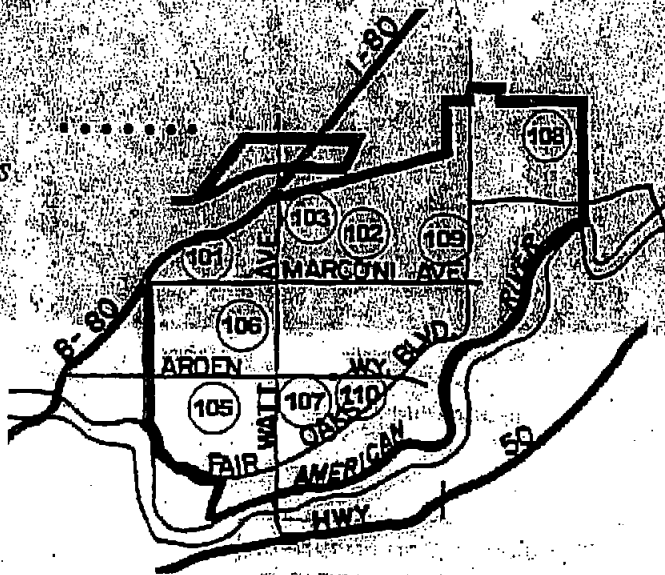
Alarm Totals By Battalion



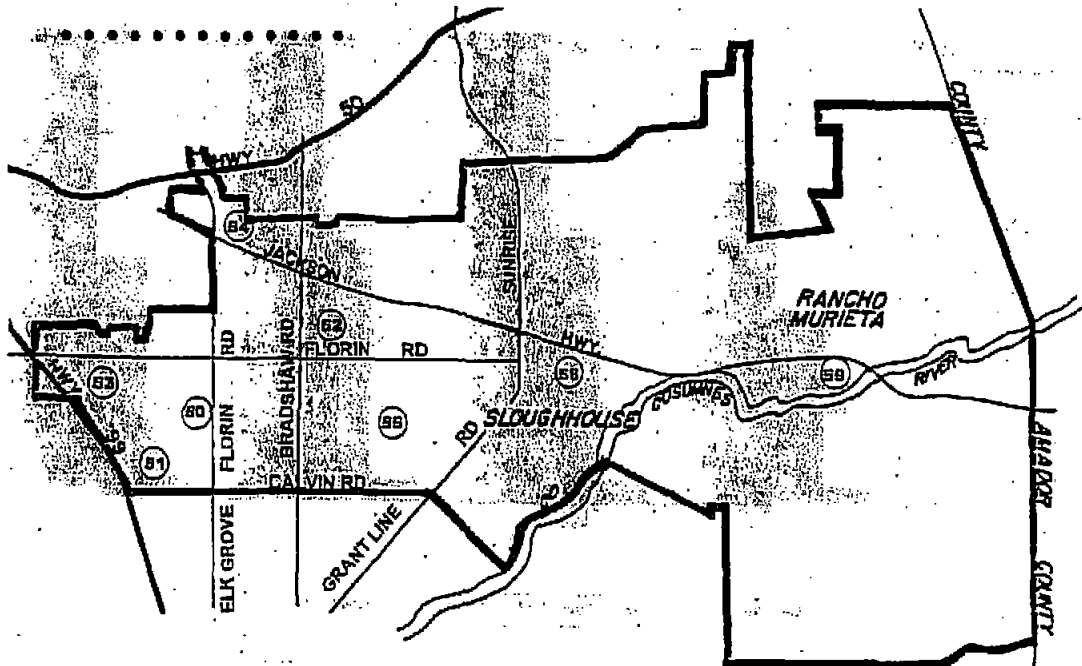
Battalion 5
2,031 Alarms

| Automatic Aid Alarms to American River by District | |
|---|-------|
| Dry Creek | 17 |
| Elk Grove | 338 |
| Folsom | 1 |
| Sacramento City | 2,002 |
| Sacramento County | 1,108 |
| Wilton | 25 |
| Galt | 2 |
| McClellan | 137 |
| MISO | 99 |

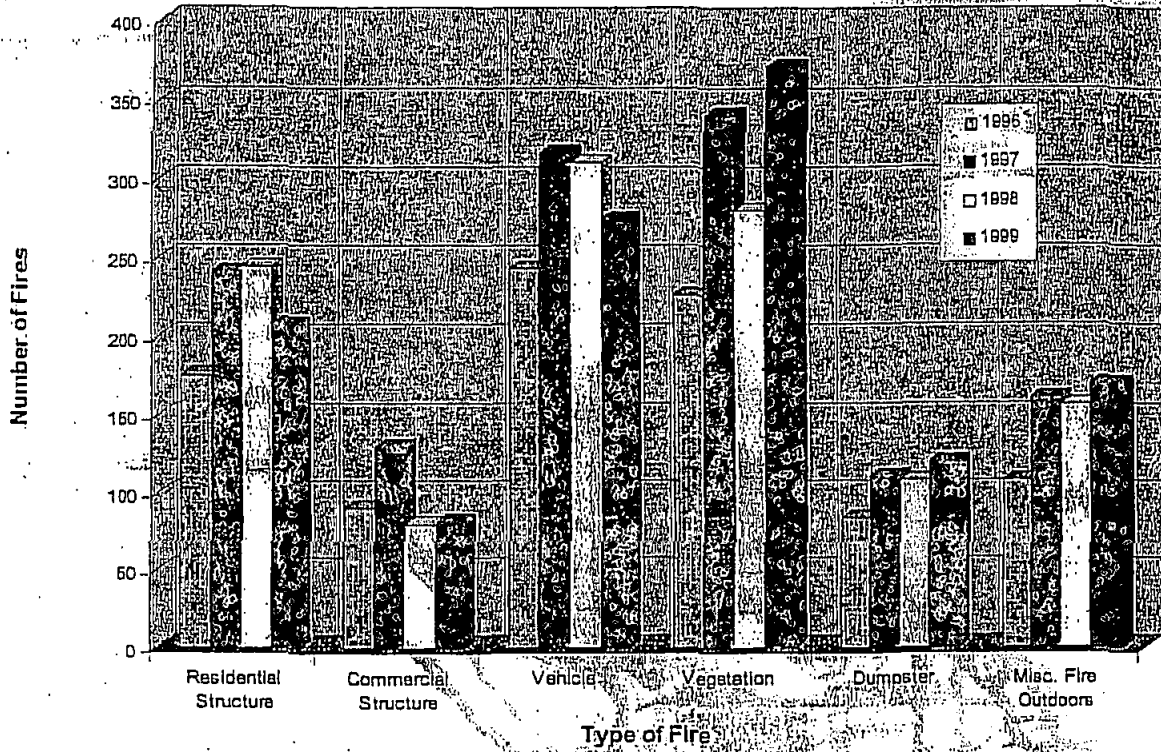
Battalion 7
14,025 Alarms



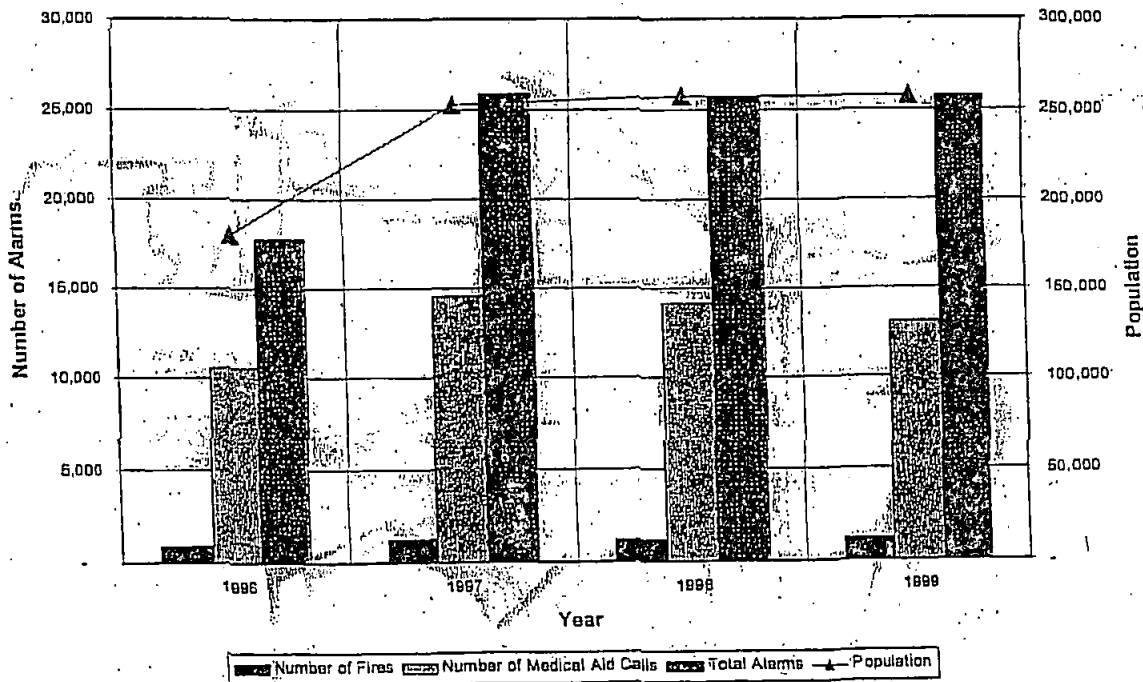
Battalion 9
6,002 Alarms



Five Year Fire History



Alarm/Population Comparison



Note: 1996 Statistics DO NOT include Florin Fire District

Fire Injury/Death Breakdown

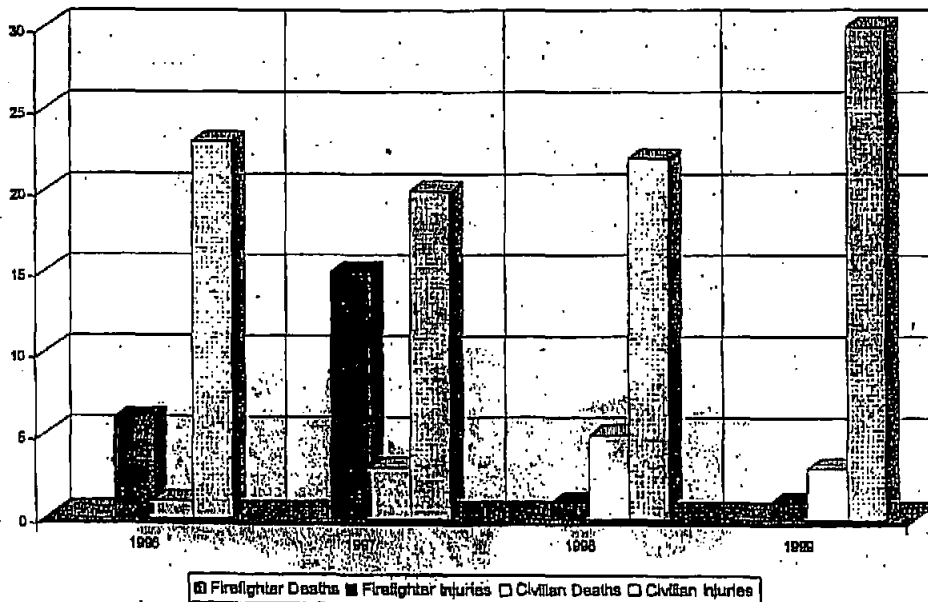
Injuries/Deaths by General Property Use

| | |
|---|------------------------------|
| Residential, 1 or 2 Family | 3 civ. death / 6 civ. injury |
| Residential, multi family | 2 civ injury |
| Sales use | 1 civ. injury |
| Business, office use | 2 civ. injury |
| Farm, agricultural use | 1 civ injury |
| Mining, quarrying | 1 civ. injury |
| Industrial, manufacturing use | 1 civ. injury |
| Storage, warehouse use | 5 civ injury |
| Motor vehicle | 8 civ. injury |
| Property with no apparent current use | 3 civ. injury / 1 FF injury |

Injuries/Deaths by Cause of Fire

| | |
|--|--|
| Undetermined or not reported | 2 civ death / 15 civ. inj. / 1 FF injury |
| Arson | 8 civ. injury |
| Reckless - failure to use ordinary care | 1 civ. injury |
| Reckless - throwing or placing something that may cause a fire | 3 civ. injury |
| Heat source placed too close to combustibles | 1 civ. injury |
| Mechanical failure | 1 civ. death |
| Other electrical failure | 1 civ. injury |
| Failure to use ordinary care | 1 civ. injury |

Fire Deaths and Injuries



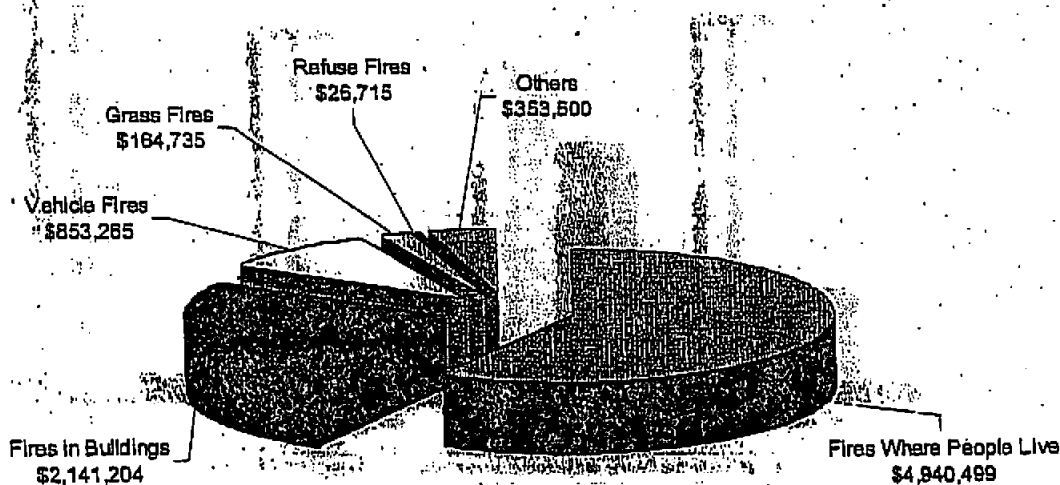
Note: 1996 Statistics DO NOT include Florin Fire District

Fire Loss

Type

| Description | Number | Property Loss | Content Loss | Average Loss |
|-------------------------------------|--------|---------------|--------------|--------------|
| One or two family residences | 282 | \$2,062,930 | \$823,369 | \$10,235 |
| Vehicles | 237 | \$824,835 | \$28,430 | \$3,600 |
| Wildland (grass) | 136 | \$159,035 | \$5,700 | \$1,211 |
| Apartments, condominiums | 126 | \$1,088,885 | \$331,715 | \$11,275 |
| Property with no apparent use | 126 | \$225,200 | \$700 | \$1,793 |
| Sales Use | 56 | \$83,568 | \$27,850 | \$1,990 |
| Refuse Disposal | 38 | \$26,715 | \$0 | \$703 |
| Schools K-12 grade | 31 | \$19,270 | \$17,705 | \$1,193 |
| Public Recreation Use | 31 | \$275,050 | \$500,200 | \$25,008 |
| Business, office use | 21 | \$83,100 | \$58,100 | \$6,724 |
| Storage, warehouse | 20 | \$81,250 | \$68,200 | \$7,473 |
| Farm, agricultural use | 17 | \$102,650 | \$138,500 | \$14,185 |
| Restaurant, drinking establishments | 15 | \$29,031 | \$13,600 | \$2,842 |
| Service use (products) | 14 | \$3,750 | \$3,030 | \$484 |
| Property use not classified | 11 | \$3,350 | \$1,300 | \$423 |
| Use undetermined | 9 | \$71,250 | \$1,500 | \$8,083 |
| Mobile home | 9 | \$92,700 | \$35,700 | \$14,267 |
| Railroad use | 8 | \$400 | \$0 | \$50 |
| Property undergoing change | 7 | \$34,200 | \$0 | \$4,886 |
| Other | 5 | \$10,100 | \$5,000 | \$3,020 |
| Industrial, manufacturing use | 5 | \$85,000 | \$200,000 | \$57,000 |
| Religious Use | 4 | \$190,100 | \$160,700 | \$87,700 |
| Nursing care | 2 | \$700 | \$100 | \$400 |
| Power, energy production | 2 | \$500 | \$0 | \$250 |
| Medical care | 1 | \$500 | \$0 | \$500 |
| Business with residential use | 1 | \$252,000 | \$252,000 | \$504,000 |
| Clubs | 1 | \$50 | \$0 | \$50 |
| Residential Board and Care | 1 | \$200 | \$200 | \$400 |

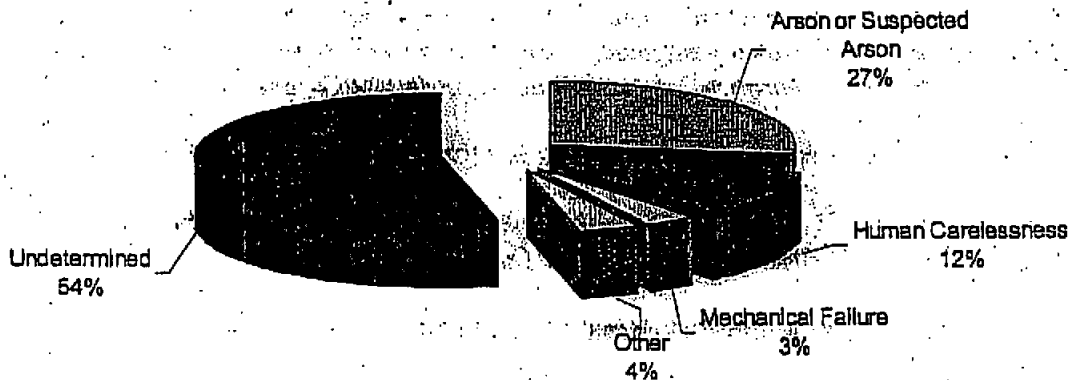
Estimated Total Dollar Loss Breakdown by TYPE



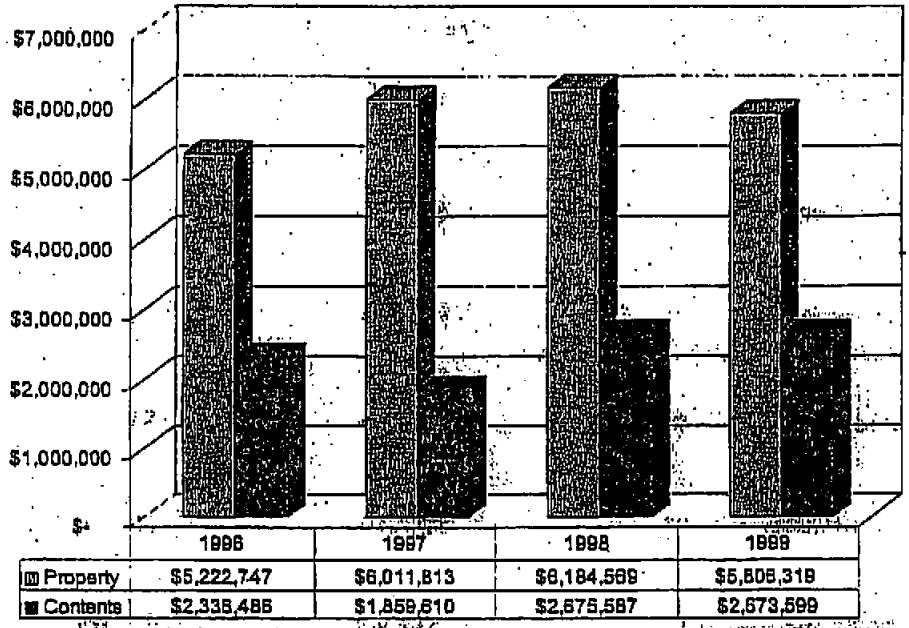
Cause

| <u>Description</u> | <u>Number</u> | <u>Property Loss</u> | <u>Content Loss</u> | <u>Average Loss</u> |
|---|---------------|----------------------|---------------------|---------------------|
| Arson or Suspected Arson (intentionally set fires) | 347 | \$1,761,990 | \$566,155 | \$6,709 |
| Reckless, Careless or Negligent (person failed to use care) | 112 | \$151,474 | \$105,440 | \$2,294 |
| Misuse of Heat of Ignition (example, misuse of smoking material, children playing w/ matches, etc) | 76 | \$354,640 | \$258,910 | \$8,073 |
| Misuse of Material Ignited (gas spilled,) | 10 | \$87,100 | \$35,530 | \$12,263 |
| Mechanical Failure or Malfunction (electrical, etc.) | 92 | \$211,590 | \$60,539 | \$2,958 |
| Design, Const., Instal. Deficiency | 10 | \$37,300 | \$51,900 | \$8,920 |
| Operational Deficiency (pan fire, chimney fire, dryer fire, etc.) | 44 | \$19,560 | \$54,165 | \$1,676 |
| Natural Condition (lightning, high wind, earthquake, etc.) | 5 | \$0 | \$1,000 | \$200 |
| Other Ignition Factor (exposure fire, rekindled, etc.) | 41 | \$127,000 | \$58,800 | \$4,532 |
| Undetermined (ignition factor undetermined or not reported) | 479 | \$3,055,665 | \$1,481,160 | \$9,471 |

Estimated Total Dollar Loss Breakdown by CAUSE



Fire Loss Comparison



Major Fires, Injuries and Fatalities

| <u>Date</u> | <u>Location</u> | <u>Type</u> | <u>Damage</u> | <u>Injuries</u> |
|-------------|------------------------------|-----------------------|---------------|-----------------|
| 1-27-99 | 7225 10th Street - Rio Linda | Residential Structure | \$10,000 | 1 death |

Victim, adult female, died days later at the hospital as a result of the fire. Cause of the fire was a juvenile playing with a lighter.

| | | | | |
|---------|------------------------------|-----------------------|----------|---------|
| 5-31-99 | 3220 Watt Avenue, #45 - Sac. | Residential Structure | \$15,000 | 1 death |
|---------|------------------------------|-----------------------|----------|---------|

Fire was investigated by American River Fire District. Cause of fire was undetermined. Victim was an adult female.

| | | | | |
|--------|------------------------|----------------------|-----------|--|
| 7-2-99 | 2322 Butano Dr. - Sac. | Commercial Structure | \$225,000 | |
|--------|------------------------|----------------------|-----------|--|

Arrived to find fire in a commercial building with multiple businesses with what appeared to be incendiary sets. Fire was investigated jointly by American River Fire District and Bureau of Alcohol, Tobacco and Firearms. Case is still active through ATF and FBI.

| | | | | |
|--------|--------------------------------|----------------------|-----------|--|
| 6-1-99 | 7539 Power Inn Rd., Sacramento | Commercial Structure | \$252,000 | |
|--------|--------------------------------|----------------------|-----------|--|

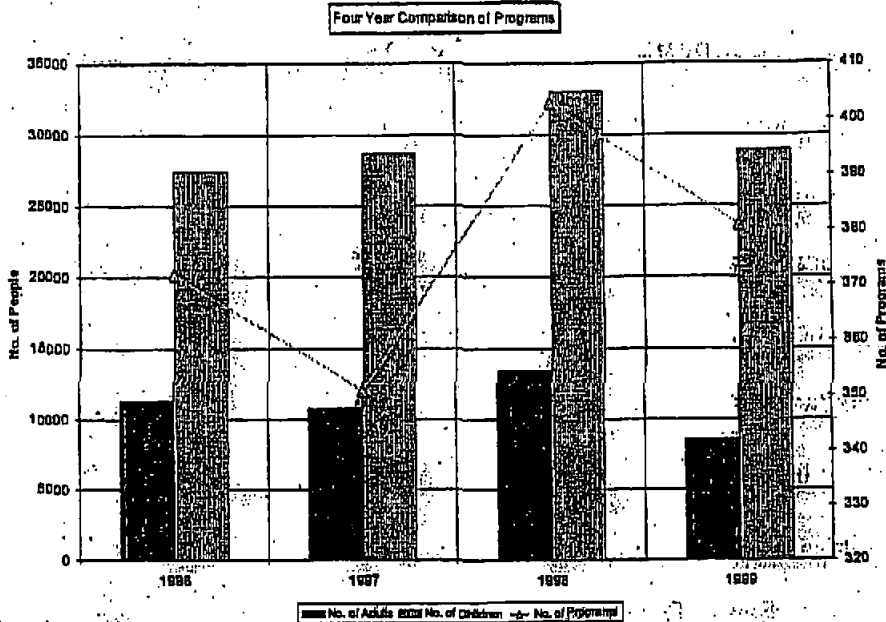
Arrived to find fire in a commercial building with multiple businesses. Fire was investigated by American River Fire District. Cause of the fire was undetermined.

| | | | | |
|---------|----------------------------------|-----------------------|-----------|--|
| 6-30-99 | 6332 Puerto Dr. - Rancho Murieta | Residential Structure | \$300,000 | |
|---------|----------------------------------|-----------------------|-----------|--|

Arrived to find a fully involved residential structure. Fire was investigated by American River Fire District. Cause of the fire was undetermined.

Public Education Section

| | |
|------------------------------------|--------|
| Number of Programs Presented | 381 |
| Number of Children | 28,949 |
| Number of Adults | 8,644 |
| Total Number of People | 37,593 |



Special Equipment Use

| | Number | Total People |
|----------------------|--------|--------------|
| Pluggie | 119 | 12,385 |
| Mini Pumper | 60 | 2,774 |
| Old Betsy | 1 | 900 |
| Pub Ed Trailer | 48 | 5,579 |
| Engine/Truck Company | 68 | 8,704 |

Type of Program

| Type of Program | Number | Total People |
|--------------------------------|--------|--------------|
| Preschool | 50 | 1,744 |
| Elementary School | 198 | 16,883 |
| Middle School | 7 | 328 |
| High School | 9 | 354 |
| Fire Extinguisher | 23 | 615 |
| Adult | 29 | 1,172 |
| Community Events | 65 | 16,497 |
| Juvenile Firesetters Evaluated | | 30 |

Fire Prevention Bureau

2101 Hurley Way, Sacramento

Code Enforcement Section

Fire Inspections

| <u>Type of Occupancy</u> | <u>Initial Inspections</u> | <u>Reinspections</u> |
|-----------------------------------|----------------------------|----------------------|
| A - Assembly | 83 | 149 |
| B - Business | 69 | 104 |
| E - Educational | 225 | 206 |
| F - Fabrication | 1 | 0 |
| H - Hazardous | 18 | 22 |
| I - Institutional | 50 | 41 |
| M - Mercantile | 49 | 39 |
| R-1 - Multi-Family Dwellings | 101 | 225 |
| R-2 - Residential Care Facilities | 171 | 190 |
| R-3 - Single Family Dwellings | 1 | 2 |
| S - Storage | 17 | 25 |
| Other (misc. inspections) | 18 | 5 |
| Knox | 180 | 0 |
| Assist Engine Company | 60 | 14 |
| Follow-up from Engine Company | 73 | 66 |
| Weed Abatement | 1,246 | 0 |
| Compliants | 125 | 57 |

**3,624 Fire and Life Safety Inspections
by Bureau Personnel**

Fire Prevention Bureau - Cont.

Citation Program

| | |
|--------------------------------------|-----|
| Administrative Reviews | 26 |
| Citations Issued | 219 |
| Non-Compliance (weed abatement)..... | 0 |

Fireworks Safety Program

| | |
|----------------------------|-----|
| Fireworks Stands: | |
| July | 99 |
| December | 35 |
| Inspections Required | 219 |
| Public Display Shows | 4 |

Special Projects

- ◆ Worked on several financing plans for new developments.
- ◆ Coordinated fire district responses to neighborhood sweeps through nuisance response team.
- ◆ Expansion of over-the-counter plan reviews.
- ◆ Provided inspection and standby personnel for public display of fireworks.
- ◆ Assisted County of Sacramento with McClellan Air Force Base for future base closure and re-use.

Fire Investigations

Fire Prevention personnel conducted a total of 245 investigations in 1999.

| | |
|-------------------|----|
| Residential Fires | 70 |
| Commercial Fires | 51 |
| Vehicle Fires | 21 |
| Grass Fires | 23 |
| Bombing/Fireworks | 25 |
| Other | 55 |

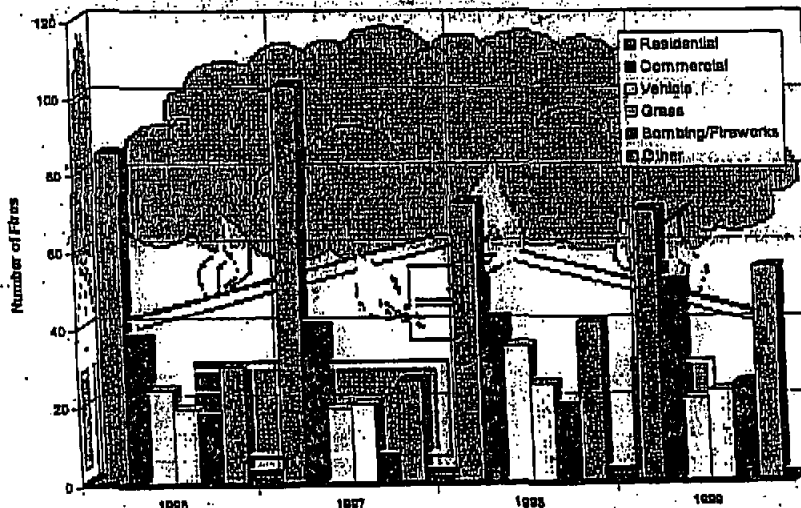
Total number of deaths investigated 10

Total arrests and citations 109

| | |
|--------------------|----|
| Adult Arrests | 27 |
| Juvenile Arrests | 49 |
| Adult Citations | 5 |
| Juvenile Citations | 28 |

| | |
|--|-----|
| Arson Fires | 128 |
| Outstanding Warrants | 0 |
| Arrests Pending | 1 |
| Convictions | 106 |
| Acquittals | 0 |
| Dismissals | 0 |
| Cases pending court proceedings at end of 1999 | 1 |

Investigations by type of Fire



Note: 1996 Statistics DO NOT include Florin Fire District
1999 Annual Report

Plan Review Section

| | 1996 | 1997 | 1998 | 1999 |
|--|------------|--------------|--------------|--------------|
| Plans Reviewed | | | | |
| Construction | | 934 | 939 | 1,168 |
| Fire Suppression | | 137 | 169 | 192 |
| Fuel Tanks/Propane Tanks | 25 | 40 | 52 | 40 |
| Fire Alarm Systems | 16 | 30 | 54 | 44 |
| All Others (arch., civils, tenant improv., etc.) | 453 | | | |
| TOTALS | 494 | 1,141 | 1,214 | 1,444 |

Automatic Sprinkler Systems Installed

| | | | | |
|-------------------------------|-----------|-----------|-----------|-----------|
| Commercial Occupancies | 8 | 17 | 42 | 42 |
| Residential Occupancies | 7 | 19 | 23 | 37 |
| TOTALS | 15 | 36 | 65 | 79 |

Required Fire Hydrants

| | | | | |
|------|----|----|-----|----|
| 1996 | 19 | 53 | 225 | 74 |
|------|----|----|-----|----|

New Apartment Units

| | | | | |
|------|---|---|-----|---|
| 1996 | 0 | 0 | 112 | 0 |
|------|---|---|-----|---|

New Single Family Dwellings

| | | | | |
|------|----|-----|-----|----|
| 1996 | 75 | 235 | 109 | 63 |
|------|----|-----|-----|----|

Construction Inspections

| | | | | |
|------|-----|-----|-------|-------|
| 1996 | 624 | 835 | 1,406 | 1,504 |
|------|-----|-----|-------|-------|

System Inspections

| | | | | |
|------|-----|-----|-----|-----|
| 1996 | 280 | 242 | 601 | 590 |
|------|-----|-----|-----|-----|

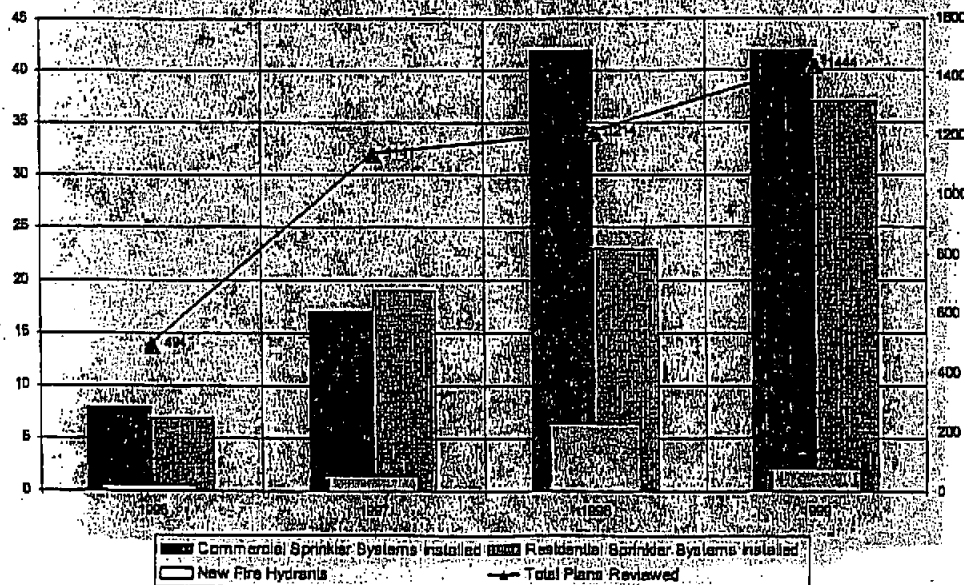
Client Meetings

| | | | | |
|------|-----|-----|-----|---|
| 1996 | 354 | 468 | 492 | 0 |
|------|-----|-----|-----|---|

Knox Inspections Performed

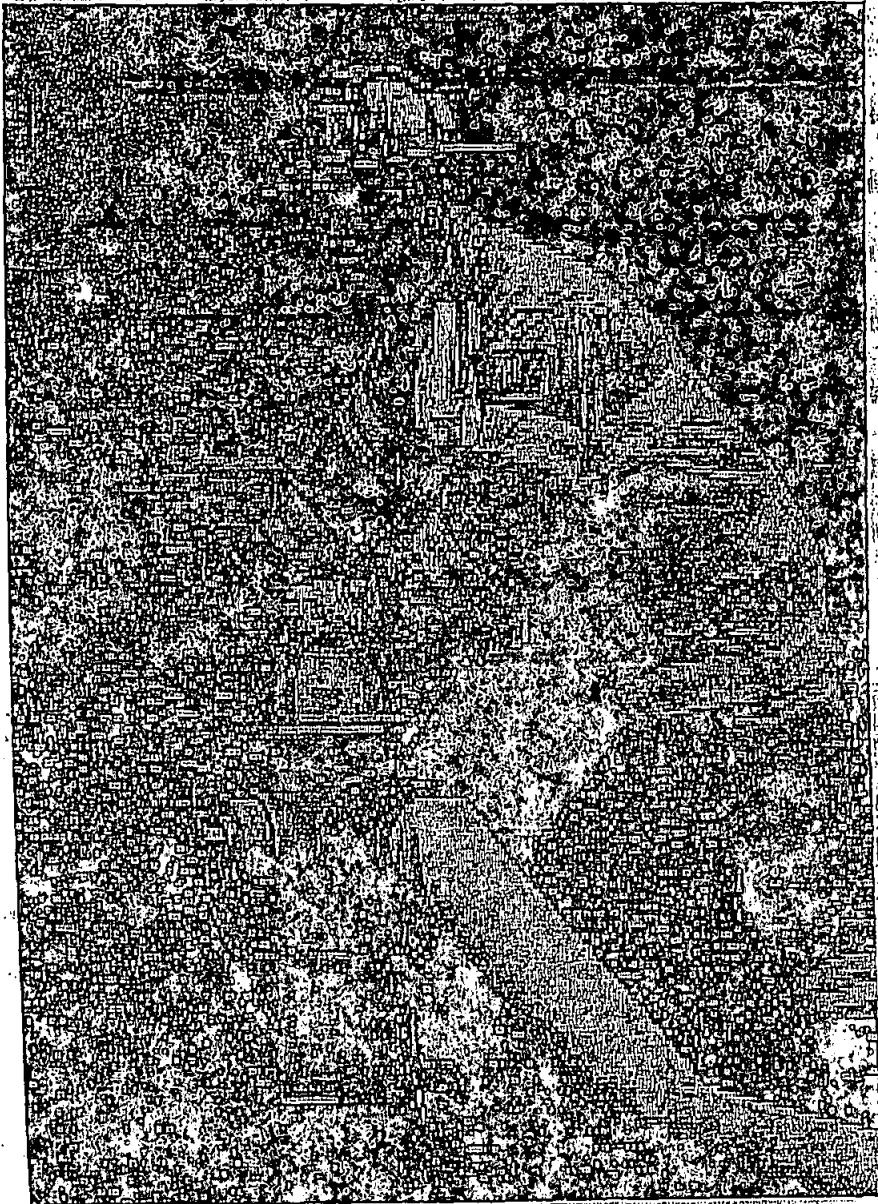
| | | | | |
|------|---|---|-----|-----|
| 1996 | 0 | 0 | 397 | 613 |
|------|---|---|-----|-----|

Plan Review Primary Activity - 1999



Drafting Section

- Completed numerous special projects which included the following:
 - * Mergér Maps
 - * Director Division Maps
 - * Organization Charts
 - * Station Relocation Maps
 - * McClellan/Sacramento County Map Pages
- Maintained updates for engine company mapbooks, station wallmaps and water facility maps:
- Developing new mapbooks and wall maps for Battalion 5, 7 and Rancho Murieta.



MISSION STATEMENT

(Regional Fire and Rescue Training Authority)

Provide excellence in training and education for the development of knowledge, skills, and abilities to meet the challenge of today and tomorrow in the most effective, efficient, and innovative manner.

Training and education are the most important ingredients to provide quality service. The finest equipment in the world will do little good if the basic principles of safe, effective, efficient operations are not understood. A well-trained team can work miracles with minimum equipment. Knowledge and familiarity are the keys to successful operations.

The Training Division, operating as a subdivision of Support Services, continues to be dynamic and fluid in its operations as it endeavors to respond to the needs of department personnel by updating its method of delivery methodology and curriculum. These changes have been brought about in an effort to meet the ever changing mandated training requirements of federal, state, and local needs, as well as meeting the ongoing changes of an expanding and progressive Fire District.

The Training Division presently has a full time staff consisting of:

- ◆ One Chief Officer - Director of Training
- ◆ Two Captains - Training Officers
- ◆ One part-time Office Technician - Clerical Support
- ◆ One part-time Video Technician - Videographer

The American River Fire District Training Division is a participating member of a Regional Fire and Rescue Training Authority and a Joint Powers Authority (JPA) comprised of four member agencies: California Office of Emergency Services Fire and Rescue Branch, American River Fire District, Sacramento County Fire Protection District and Sacramento Fire Department. One of the major goals of the JPA is to develop and manage a Regional Training Facility on approximately 40 acres of property committed by the United States Air Force to the JPA as part of the re-utilization of McClellan Air Force Base due to its closure.

The Training Division is the main coordinating body for the following activities:

- ◆ Mandated Training
- ◆ Speciality Training
- ◆ Training Records Management
- ◆ New Programs and Equipment Training
- ◆ Regional Training Exercises
- ◆ Skills Drills
- ◆ Joint Apprentice Committee Program Management
- ◆ Portions of Promotional Exams
- ◆ Volunteer Training
- ◆ Academy Training
- ◆ Maintaining Affiliation with Outside Training Associations

Training Division - Cont.

Specialized Training for District Personnel

Responding to an ever-increasing scope of responsibility in the Fire Service the Training Division offered additional training opportunities to personnel beyond the normal schedule.

1. Swift Water Rescue Technician (SRT) I and II classes
2. Inflatable Rescue Boat (IRB) training
3. Disaster preparation drills at the Federal Building, Kaiser Hospital, Light Rail, Sacramento International Airport and various convalescent hospital facilities within the Fire District
4. CDF wildland ground school (spring exercise) for State Response Areas (SRA)
5. Hazardous Materials Training and Flammable Liquid Tank Farm exercises (Sac Co. Fire Dist. sponsored)
6. Weapons of Mass Destruction (basic program and "train the trainer") sponsored by FEMA and NFA

Key Training Programs

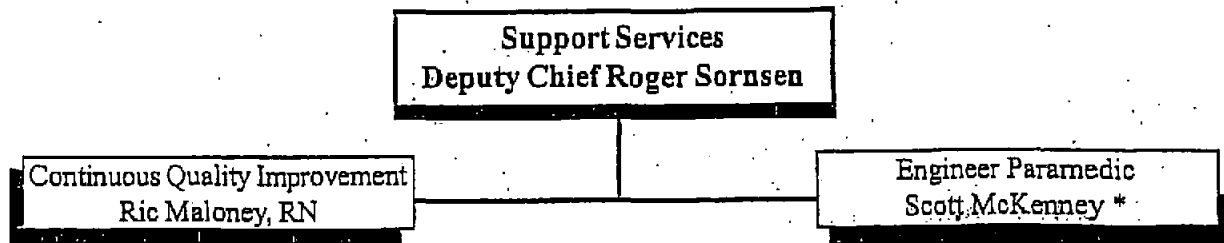
- Live fire training in acquired structures
- Firefighter rescue and survival training
- Physical fitness program (American River College)
- Emergency Medical Service (basic level EMT-1 and EMT-P) (American River College)
- Fire Camp
- Firefighter Combat Challenge Team

Emergency Response

Training Division personnel are used to provide support for services during large-scale emergencies such as wildland fires, flood season, and great alarms by providing staff for the Emergency Operations Center (EOC) and Fire Operations Center (FOC). Additionally, the Division's members regularly respond to greater alarm incidents to fill command staff positions including: Accountability Officer, Public Information Officer, Safety Officer, Division Group Supervisor.

Training Division Goals

1. To continue to integrate the training of American River Fire District with Sacramento County Fire Protection District, advancing the Sacramento Metropolitan Fire District reorganization.
2. To extend skills drills, fitness program and EMS certification program across the new organization.
3. To increasingly support the District's members by providing personal development opportunities and materials.
4. To continue to develop and enhance the Regional Training Joint Powers Authority program.
5. To improve our Insurance Services Office, Inc. (ISO) rating to a 2 for metro/urban areas.
6. Develop two Self-Contained Breathing Apparatus (SCBA) competency courses, based on actual firefighter entanglements. Conduct training exercises for all suppression personnel.
7. Bring all suppression personnel in compliance with 310-1, out of county response requirements per the five party agreement involving the Office of Emergency Services (OES), the Bureau of Land Management (BLM), United States Forest Service, California Department of Forestry (CDF) and the National Parks Service.



* Denotes temporary assignment

Mission Statement:

Assure EMS delivery that is safe, competent and consistent prehospital medical care in an efficient, professional and fiscally responsible manner.

Continuous Quality Improvement (CQI):

The American River Fire District reviews 100% of all patient care reports generated by District paramedics. This committee is made up of two paramedics from each shift and the CQI Manager. The review of EMS service is to help promote better service delivery of EMS in a non-punitive environment.

Activities:

- ◆ All Advanced Life Support Ambulances and Engines passed inspection by the Sacramento County Emergency Medical Services Agency.
- ◆ AMR continued to provide transportation service in Battalions 5 and 7. The compliance of the private ambulance responses increased from 90% to 96% within the District.
- ◆ The District is committed to computerized Patient Care Reports but has temporarily discontinued the usage of the EMS Solutions 2000 software that was used the last three years. The District is currently looking for an improved software and hardware system to meet the needs of the District.
- ◆ Inspected ALS units for compliance with State and Local EMS Agency regulations including medications, inventory and proper disposal of infectious waste.
- ◆ The EMS Division implemented a new EMS Training Program in *partnership* with American River College. This program uses the community college resources to help facilitate training. This EMS Training Program utilizes District personnel hired by the College to deliver standardized EMS curriculum and verifiable skills testing while line personnel are on duty. This program will emphasize team based training with EMT-1's and EMT-P's.

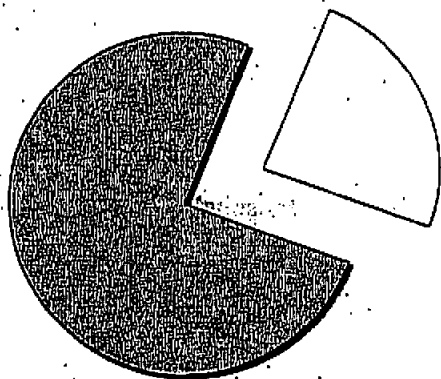
EMS Division - Cont.

Statistics

Total requests for service (EMS, Fire, etc...) in the American River Fire District in 1999 through the Fire Dispatch Center was 24,415. Of the requests for service, 18,434 were for medical assistance. Fire District Paramedics or AMR Paramedics transported 13,239 of these requests for service to an emergency department. These numbers indicate that the majority of calls in the District are EMS related.

Total Calls Dispatched in District in 1999

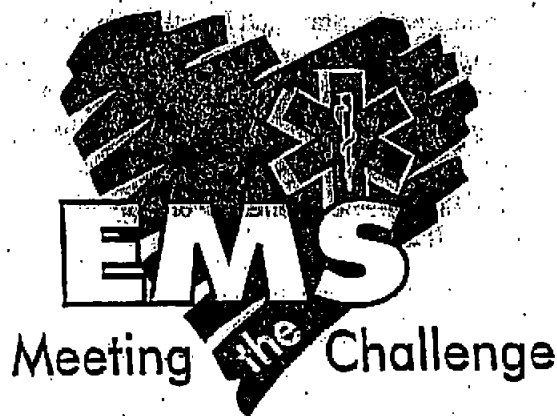
24,415



| | |
|-----------|--------|
| EMS | 18,434 |
| Fire/Misc | 5,205 |

Goals for 2000

- ◆ Merge the American River Fire District EMS Division with Sacramento County Fire Protection District EMS Division.
- ◆ Enlarge the American River Fire District/American River College EMS Training Program to include Sacramento County Fire Protection District.
- ◆ Train all line personnel in the usage of Automatic External Defibrillators so that all first responding apparatus will be capable of delivering life saving defibrillation.
- ◆ Research the possibilities of a Computerized Patient Care Reporting System that can be integrated with a Computerized Fire Reporting System.



Safety Division

2101 Hurley Way, Sacramento

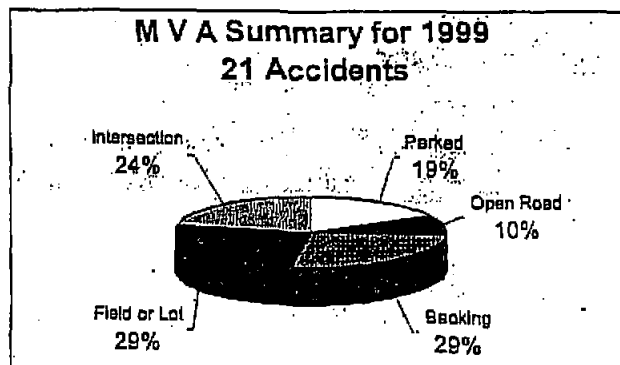
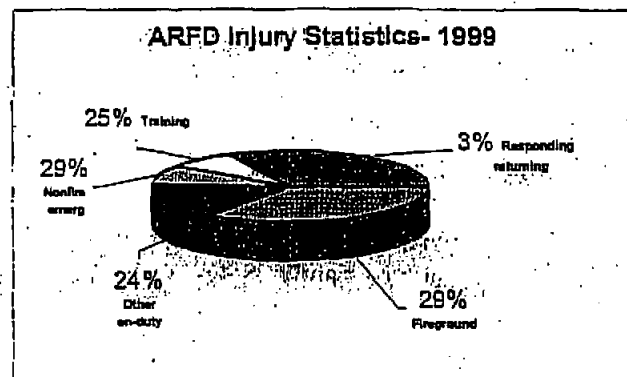
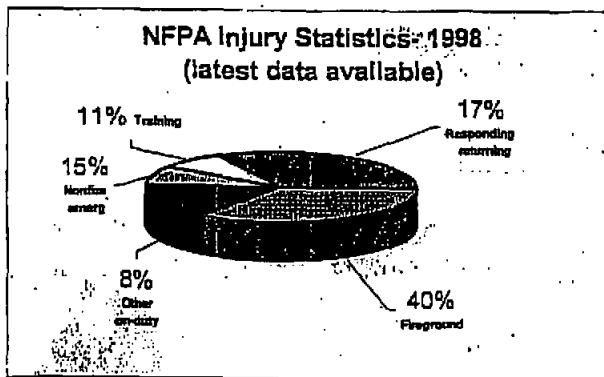
Safety Officer
Administrative Assistant

Deputy Chief Roger Sornsen
Captain Bill Daniels

In 1999, there were a total of 89 reported injuries to District personnel, resulting in a total of 105 days of restricted work activity and 525 lost workdays. A comparison between the 1997, 1998 and 1999 District injury statistics are as follows:

| | <u>1997</u> | <u>1998</u> | <u>1999</u> |
|---------------------|-------------|-------------|-------------|
| Reported Injuries | 100 | 101 | 89 |
| Restricted Workdays | 130 | 6 | 105 |
| Lost Workdays | 212 | 5 | 525 |

Listed below are two graphs that compare the NFPA and District's injury statistics, as well as a graph that summarizes the District's vehicle accidents reported in 1999.



Safety Division - Cont.

Safety Program

- ✓ Instituted a comprehensive Illness and Injury Prevention Program (IIPP)
- ✓ Instituted a Safety Committee that complements the District's safety program
- ✓ Developed policies and procedures on selection, use and replacement of protective clothing

Infectious Control Program

- ✓ Annual Tuberculosis Testing administered by Healthtech Mobile Services
- ✓ Annual flu shot program
- ✓ Tuberculosis mask-fit test (reserve firefighters)
- ✓ Administered Blood Borne Pathogen/Infectious Control Program
- ✓ Monitored bio-waste (infectious waste) program

Respirator Compliance (SCBA)

- ✓ Instituted SCBA policies and procedures for care, use, selection and maintenance
- ✓ Maintained, repaired and tested Draeger SCBA
- ✓ Performed an annual service on Draeger SCBA
- ✓ SCBA hydrostatic test - SCBA air bottles
- ✓ SCBA Mask-fit test (reserve firefighters)
- ✓ Conducted air quality test on breathing air in SCBA - quarterly test

Safety/Accident Investigations

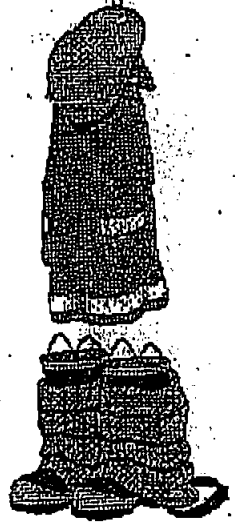
- ✓ Investigated vehicle accidents involving District vehicles and/or equipment
- ✓ Investigated injury accidents involving District personnel

Facility Safety

- ✓ Administered Facility Safety Inspection Programs
- ✓ Instituted quarterly Facility Safety Inspection Program by Company Officers

Miscellaneous Activity

- ✓ Conducted an annual turnout inspection
- ✓ Administered safety boot voucher program
- ✓ Continued testing well-water sites at Station 52, 55 and 58
- ✓ Monitored Personal Exposure Reporting System through CPF
- ✓ Responded as Incident Safety Officer to greater alarm and level II/III hazmat incidents
- ✓ Purchased and maintained safety gear and water rescue cache (basic level)



Apparatus - Mechanical Division

3050 Orange Grove Ave., North Highlands

There are currently 135 vehicles being maintained by the maintenance division along with seven vehicles from Dry Creek Fire District. The District received nine new vehicles consisting of two medics, one service truck for Facilities, one Battalion Chief vehicle and five new Crown Victorias.

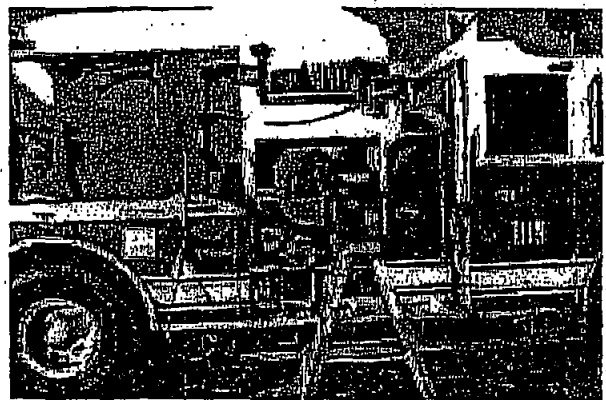
The Maintenance Division is currently staffed by one Fleet Manager, four Mechanics, one Assistant Mechanic.

The following is list of vehicles in the Department's inventory:

| | | | |
|----------------------------|-----------|---------------------------|-----------|
| Trucks | 3 | Pumpers | 27 |
| 110' Tiller | 1 | 1500 GPM | 14 |
| 105' Aerial | 1 | 1250 GPM | 11 |
| 102' Platform | 1 | 1000 GPM | 2 |
| Grass Units | 16 | Sedans | 37 |
| Duty Chief Vehicles | 4 | Water Tenders | 4 |
| Dept. Pickups | 13 | Ambulances | 6 |
| Antique Apparatus | 5 | Vans | 5 |
| Trailers | 4 | Water Rescue Units | 3 |
| Mini Pumper | 1 | MCI Vehicle | 1 |
| Boats | 2 | OES Units | 2 |
| Air Units | 2 | | |

The following is a list of the major repairs completed during the year:

- ✓ Converted three hose beds for LDH hose.
- ✓ Installed several on-board battery chargers.
- ✓ Replaced four engine motor mounts on Pierce engines.
- ✓ Rebuilt engine in Fire Engine 109
- ✓ Rebuilt four transmission output retarders.
- ✓ Rebuilt several cylinder heads on Pierce engines.
- ✓ Replaced five steering arms on Pierce engines due to a Rockwell Campaign.
- ✓ Maintained equipment for Dry Creek Fire District.



Station Activities for 1999

American River Fire District

Summary of Station Responses

| Station | Total Fires | Medical Aids | All Others | Automatic Aids | Totals | Ranking |
|---------------|--------------|---------------|--------------|----------------|---------------|---------|
| E50 | 246 | 937 | 464 | 105 | 1,752 | 10 |
| M50 | 38 | 1,481 | 258 | 269 | 2,046 | 8 |
| R50 | 105 | 656 | 303 | 61 | 1,125 | 13 |
| 51 | 183 | 628 | 335 | 361 | 1,507 | 11 |
| E53 | 184 | 1,581 | 552 | 284 | 2,601 | 3 |
| M53 | 27 | 1,558 | 311 | 1,031 | 2,927 | 1 |
| 54 | 29 | 310 | 138 | 325 | 802 | 18 |
| E55 | 65 | 115 | 96 | 64 | 340 | 23 |
| M55 | 0 | 62 | 19 | 18 | 99 | 27 |
| 58 | 73 | 194 | 109 | 16 | 392 | 22 |
| E59 | 55 | 238 | 109 | 18 | 420 | 21 |
| M59 | 3 | 220 | 59 | 14 | 296 | 24 |
| 101 | 122 | 1,380 | 463 | 261 | 2,226 | 4 |
| 102 | 106 | 669 | 314 | 26 | 1,115 | 14 |
| 103 | 114 | 1,010 | 409 | 407 | 1,940 | 9 |
| 105 | 119 | 1,100 | 597 | 246 | 2,062 | 7 |
| A106 | 8 | 9 | 5 | 7 | 29 | 28 |
| E106 | 131 | 1,200 | 717 | 15 | 2,063 | 6 |
| T106 | 140 | 245 | 435 | 194 | 1,014 | 15 |
| 107 | 54 | 277 | 186 | 35 | 552 | 20 |
| 108 | 75 | 923 | 413 | 701 | 2,112 | 5 |
| E109 | 117 | 1,795 | 766 | 19 | 2,697 | 2 |
| T109 | 78 | 295 | 246 | 29 | 648 | 19 |
| 110 | 72 | 506 | 302 | 7 | 887 | 16 |
| 111 | 71 | 765 | 328 | 46 | 1,310 | 12 |
| 112 | 50 | 73 | 58 | 5 | 216 | 26 |
| 116 | 53 | 12 | 64 | 12 | 241 | 25 |
| 117 | 160 | 388 | 202 | 96 | 841 | 17 |
| Totals | 2,778 | 18,552 | 8,258 | 4,672 | 34,260 | |

| | | | | | | |
|-----|-----|-----|-----|----|-------|----|
| B-5 | 148 | 121 | 116 | 23 | 311 | #3 |
| B-7 | 236 | 115 | 698 | 38 | 1,087 | #1 |
| B-9 | 322 | 114 | 413 | 64 | 913 | #2 |

Response = Anytime that a piece of fire apparatus is dispatched to an emergency.

Alarm = Each emergency is considered an alarm, but can have multiple pieces of fire equipment respond to it.

Alarm Frequencies

Alarm Totals by Day of Week in 1999

| | |
|-----------|-------|
| Sunday | 3,579 |
| Monday | 3,686 |
| Tuesday | 3,683 |
| Wednesday | 3,681 |
| Thursday | 3,733 |
| Friday | 3,837 |
| Saturday | 3,588 |

Trivia for 1999

Least # of Alarms in One Day, Sunday, November 28, 1999 ----- 41

Most # of Alarms in One Day, Sunday, July 4, 1999 ----- 108

Thomas Bros. Map Areas with 300+ alarms:

| | |
|---|-----|
| 278G3 - Auburn Blvd./Pasadena Ave./Sunnyvale Ave./Watt Ave. | 466 |
| 298E1 - Cottage Wy./Morse Ave./Arden Wy./Fulton Ave. | 440 |
| 337J1 - Sky Pkwy./Florin Mall/Assembly Ct./Hwy 99 | 417 |
| 278G6 - Marconi Ave./Becerra Wy./El Camino Ave./Watt Ave. | 407 |
| 338A2 - Requa Wy./Citrus Ave./Florin Creek/Florinwood Dr. | 391 |
| 279C3 - Cypress Ave./Manzanita Ave./Engle Rd./Garfield Ave. | 386 |
| 279B7 - El Camino Ave./Garfield Ave./Fair Oaks Blvd./Walnut Ave. | 346 |
| 338C3 - Skander Wy./Power Inn Rd./Elder Ck./Maple Leaf Ln. | 345 |
| 278D5 - Edison Ave./Fulton Ave./Marconi Ave./Bell St. | 339 |
| 298D1 - Cottage Wy./Fulton Ave./Arden Wy./Bell St. | 338 |
| 279C6 - Marconi Ave./Fair Oaks Blvd./El Camino Ave./Garfield Ave. | 319 |
| 298C4 - Northrop Ave./Pavilions Lane/Fair Oaks Blvd./American River Parkway | 305 |

Alarms in 1999 by Hour of Day

| | |
|---------------------|-------|
| 12:00 AM to 4:00 AM | 2,312 |
| 4:00 AM to 8:00 AM | 2,526 |
| 8:00 AM to 12:00PM | 5,165 |
| 12:00 PM to 4:00 PM | 5,940 |
| 4:00 PM to 8:00 PM | 5,722 |
| 8:00 PM to 12:00 AM | 4,122 |

(4:00 AM to 5:00 AM - 476 least # / 3:00 PM to 4:00 PM - 1,586 most #)

Station 50 - Engine

8880 Garber Road Sacramento

Alarm Responses

Engine 50

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--|--------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 46 (3%) | (+10) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 25 (1%) | (+12) |
| Vehicle | 22 (1%) | (-11) |
| Vegetation: | | |
| Fireworks | 1 | (+1) |
| Vegetation | 108 (6%) | (+33) |
| Dumpster | 15 (0%) | (-3) |
| Miscellaneous Fire Outdoors | 29 (2%) | (+6) |
| | | |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 115 (7%) | (-4) |
| Respiratory Emergency | 101 (6%) | (-5) |
| Trauma | 92 (6%) | (+7) |
| OB/Gyn | 7 (0%) | (-3) |
| Gastro Intestinal/Genito-Urinary | 40 (2%) | (+14) |
| Altered LOC (level of consciousness) | 135 (8%) | (+48) |
| Psychiatric | 24 (1%) | (+8) |
| Environmental | 7 (0%) | (-5) |
| Not Classified Above | 273 (16%) | (+50) |
| Violent Crime | 25 (1%) | (+1) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 118 (7%) | (+20) |
| Without Injuries | 72 (4%) | (-3) |
| Public Assistance: | | |
| Public Assistance | 174 (10%) | (-43) |
| Hazardous Materials | 3 (0%) | (-1) |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 81 (5%) | (-4) |
| Alarm System Malfunction | 32 (2%) | (-10) |
| False Alarm | 68 (4%) | (-24) |
| Hazardous Materials | 7 | (+4) |
| Returned Enroute | 26 (2%) | (+4) |
| | | |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 105 (6%) | (+38) |
| Mutual Aid | 1 | (+1) |
| | | |
| Total Responses | 1,752 | (+140) |

Average Responses Per Day 4.8

Station 50 - Medic

Alarm Responses

Medic 50

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 19 (1%) | (+9) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 8 (0) | (+6) |
| Vehicle | 4 (0) | (+1) |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 5 (0) | (+3) |
| Dumpster | 0 (0) | (-1) |
| Miscellaneous Fire Outdoors | 2 (0) | |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|-------|
| Medical: | | |
| Cardiac | 182 (9%) | (+2) |
| Respiratory Emergency | 172 (8%) | (-15) |
| Trauma | 181 (9%) | (+26) |
| OB/Gyn | 19 (1%) | (-11) |
| Gastro Intestinal/Genito Urinary | 67 (3%) | (+10) |
| Altered LOC (level of consciousness) | 227 (11%) | (+64) |
| Psychiatric | 31 (2%) | (-4) |
| Environmental | 13 (1%) | (-2) |
| Not Classified Above | 393 (19%) | |
| Violent Crime | 47 (2%) | (-8) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 149 (7%) | (+7) |
| Without Injuries | 73 (4%) | (-6) |
| Public Assistance: | | |
| Public Assistance | 74 (4%) | (-23) |
| Hazardous Materials | 1 (0) | (-1) |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 41 (2%) | (-8) |
| Alarm System Malfunction | 6 (0) | (+5) |
| False Alarm | 12 (1%) | (-6) |
| Hazardous Materials | 1 (0) | |
| Returned Enroute | 50 (3%) | (+15) |

Other Types of Responses

| | | |
|---------------|-----------|-------|
| Automatic Aid | 269 (13%) | (+46) |
| Mutual Aid | 0 | |

| | | |
|------------------------|--------------|---------------|
| Total Responses | 2,046 | (+109) |
|------------------------|--------------|---------------|

Average Responses Per Day 5.61

Station 50 - Rescue

Alarm Responses Rescue 50

| <u>Responses For Fires</u> | <u>1998</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 36 (3%) | (+1) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 19 (2%) | (+6) |
| Vehicle: | 21 (2%) | (-9) |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 6 (0) | |
| Dumpster | 12 (1%) | (-3) |
| Miscellaneous Fire Outdoors | 11 (1%) | (-6) |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|-------|
| Medical: | | |
| Cardiac | 73 (7%) | (-34) |
| Respiratory Emergency | 68 (6%) | (-28) |
| Trauma | 60 (6%) | (-15) |
| OB/Gyn | 4 (0) | (-6) |
| Gastro Intestinal/Genito Urinary | 24 (2%) | (+1) |
| Altered LOC (level of consciousness) | 89 (8%) | (+10) |
| Psychiatric | 12 (0%) | (-2) |
| Environmental | 4 (0%) | (-7) |
| Not Classified Above | 195 (17%) | (-19) |
| Violent Crime | 19 (2%) | (-5) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 108 (10%) | (+12) |
| Without Injuries | 61 (6%) | (-12) |
| Public Assistance: | | |
| Public Assistance | 114 (10%) | (-74) |
| Hazardous Materials | 5 (0) | (+1) |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 39 (3%) | (-20) |
| Alarm System Malfunction | 19 (2%) | (-14) |
| False Alarm | 47 (4%) | (-21) |
| Hazardous Materials | 1 (0) | (-2) |
| Returned Enroute | 17 (2%) | (+3) |

Other Types of Responses

| | | |
|---------------|---------|------|
| Automatic Aid | 61 (6%) | (+5) |
| Mutual Aid | 0 | |

| | | |
|------------------------|--------------|---------------|
| Total Responses | 1,125 | (-238) |
|------------------------|--------------|---------------|

Average Responses Per Day 3.08

Station 50 - Battalion 9

Alarm Responses Battalion 9

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 76 (8%) | (+3) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 23 (3%) | (+1) |
| Vehicle | 19 (2%) | (-1) |
| Vegetation: | | |
| Fireworks | 2 (0) | |
| Vegetation | 157 (17%) | (+35) |
| Dumpster | 11 (1%) | (-1) |
| Miscellaneous Fire Outdoors | 34 (4%) | (+10) |

Responses for Non-Fires

| | | |
|--------------------------------------|----------|-------|
| Medical: | | |
| Cardiac | 1 (0) | (-1) |
| Respiratory Emergency | 4 (0) | (-3) |
| Trauma | 12 (1%) | (-10) |
| OB/Gyn | 1 (0) | (-2) |
| Gastro Intestinal/Genito Urinary | 0 | |
| Altered LOC (level of consciousness) | 2 (0) | (-1) |
| Psychiatric | 0 | |
| Environmental | 0 | (-3) |
| Not Classified Above | 5 (1%) | (+2) |
| Violent Crime | 5 (1%) | (-5) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 84 (9%) | (+13) |
| Without Injuries | 38 (4%) | (-1) |
| Public Assistance: | | |
| Public Assistance | 96 (11%) | (-38) |
| Hazardous Materials | 9 (1%) | (+5) |
| Bomb | 1 (0) | (-1) |
| Fireworks | 1 (0) | |
| Mistake | 86 (10%) | (+2) |
| Alarm System Malfunction | 73 (8%) | (+9) |
| False Alarm | 81 (9%) | (-10) |
| Hazardous Materials | 3 (0) | (-1) |
| Returned Enroute | 22 (3%) | (+15) |

Other Types of Responses

| | | |
|---------------|---------|-------|
| Automatic Aid | 64 (7%) | (+23) |
| Mutual Aid | 3 (0%) | (+1) |

| | | |
|------------------------|------------|--------------|
| Total Responses | 913 | (+41) |
|------------------------|------------|--------------|

Average Responses Per Day 2.5

Station Tours

Number of Tours
11

Children
225

Adults
61

Public Education/Relations Activities Outside of Station

Number of Activities
6

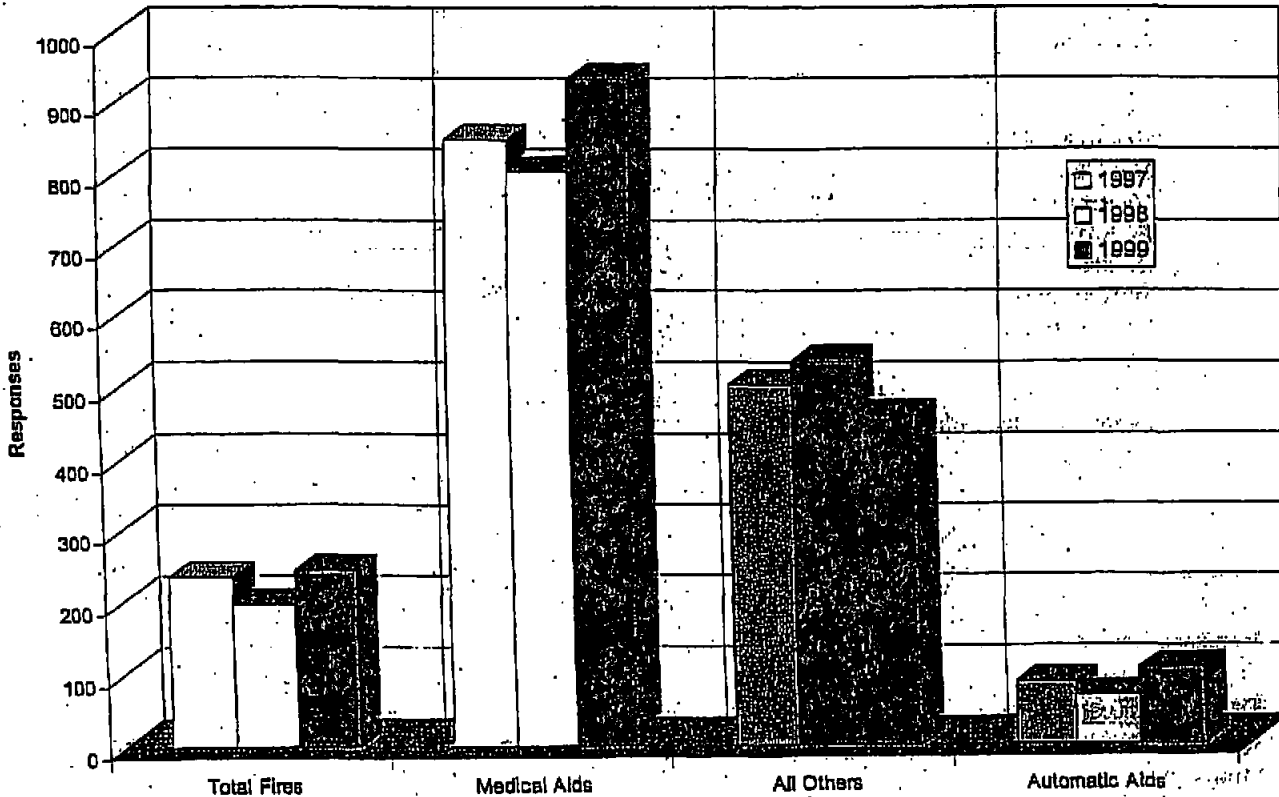
Children
175

Adults
145

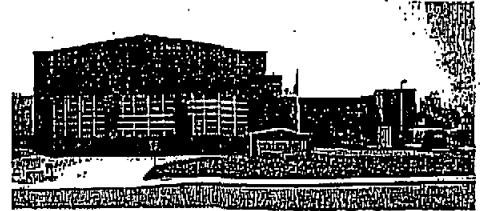
Buildings and Grounds

1. Poured concrete walkway at station entrance.
2. Base rock applied to rear of parking lot.

Engine 50 Response Comparison



Alarm Responses



| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 43 (3%) | (+7) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 22 (1%) | (+9) |
| Vehicle | 18 (1%) | (-3) |
| Vegetation: | | |
| Fireworks | 0 (0) | (-2) |
| Vegetation | 63 (4%) | (-17) |
| Dumpster | 8 (0) | (+2) |
| Miscellaneous Fire Outdoors | 29 (2%) | (+16) |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|-------|
| Medical: | | |
| Cardiac | 60 (4%) | (+17) |
| Respiratory Emergency | 82 (6%) | (+9) |
| Trauma | 83 (6%) | (+11) |
| OB/Gyn | 8 (1%) | (-6) |
| Gastro Intestinal/Genito Urinary | 23 (2%) | (-4) |
| Altered LOC (level of consciousness) | 128 (9%) | (+65) |
| Psychiatric | 11 (1%) | (-15) |
| Environmental | 4 (0) | (-2) |
| Not Classified Above | 147 (10%) | (-3) |
| Violent Crime | 22 (1%) | (-5) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 60 (4%) | (+2) |
| Without Injuries | 37 (2%) | (+1) |
| Public Assistance: | | |
| Public Assistance | 122 (8%) | (-26) |
| Hazardous Materials | 4 (0) | (-1) |
| Bomb | 0 | |
| Fireworks | 0 (0) | (-1) |
| Mistake | 101 (7%) | (+13) |
| Alarm System Malfunction | 19 (1%) | (-18) |
| False Alarm | 24 (2%) | (-41) |
| Hazardous Materials | 4 (0) | (+1) |
| Returned Enroute | 23 (2%) | (+6) |

Other Types of Responses

| | | |
|---------------|-----------|------|
| Automatic Aid | 361 (24%) | (+8) |
| Mutual Aid | 1 | (+1) |

| | | |
|------------------------|--------------|--------------|
| Total Responses | 1,507 | (+24) |
|------------------------|--------------|--------------|

Average Responses Per Day 4.13

Station 51

Station Tours

Number of Tours

Children

Adults

20

13

Public Education/Relations Activities Outside of Station

Number of Activities

Children

Adults

2

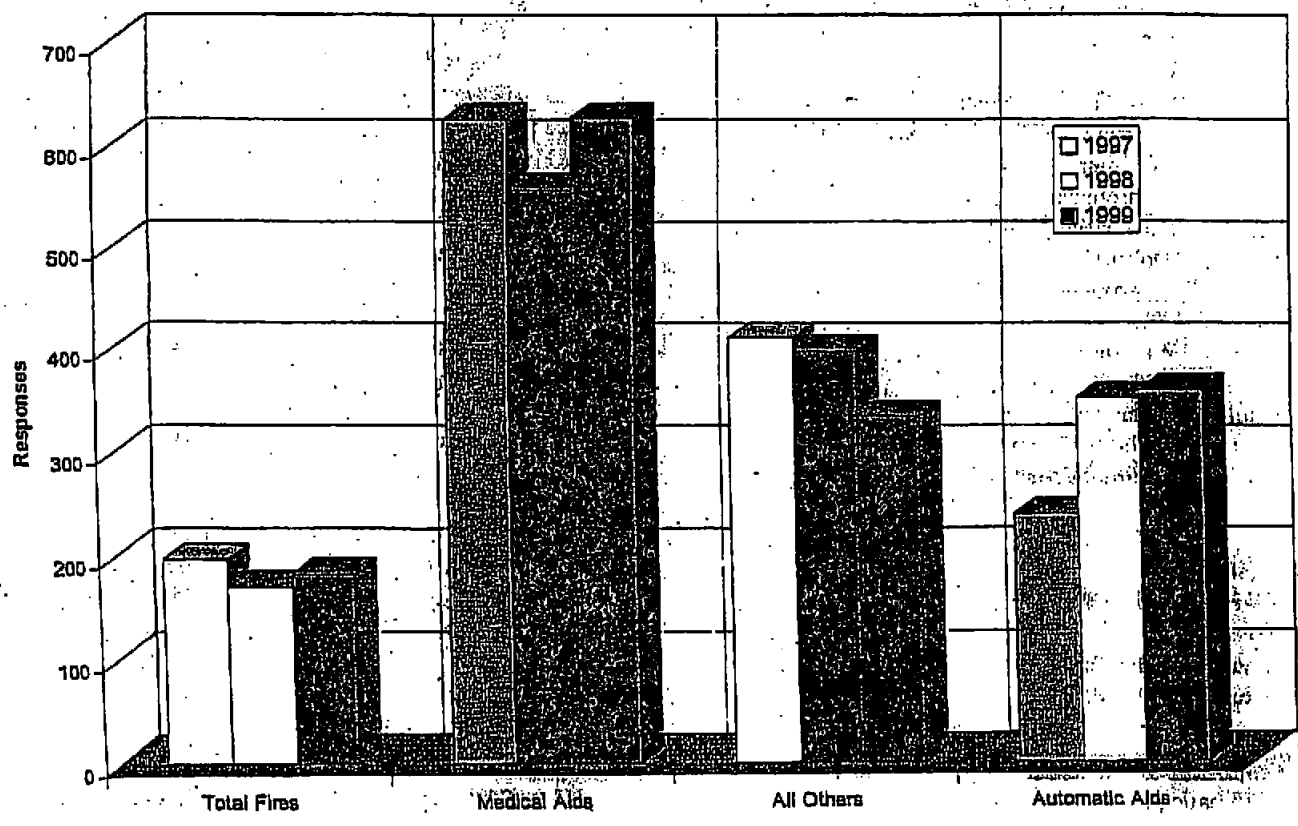
0

2

Buildings and Grounds

1. Repaired outdoor lighting.
2. Repaired sprinkler system and replaced timer.

Engine 51 Response Comparison



Station 53 - Engine

6722 Fleming Avenue, Sacramento



Alarm Responses

Engine 53

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 50 (2%) | (+5) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 20 (1%) | (+8) |
| Vehicle | 22 (1%) | (-11) |
| Vegetation: | | |
| Fireworks | 0 (0) | (-1) |
| Vegetation | 46 (2%) | (+1) |
| Dumpster | 25 (1%) | (+2) |
| Miscellaneous Fire Outdoors | 21 (1%) | (+5) |
| | | |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 164 (6%) | (+32) |
| Respiratory Emergency | 199 (7%) | (-21) |
| Trauma | 200 (7%) | (-1) |
| OB/Gyn | 37 (1%) | (-39) |
| Gastro Intestinal/Genito Urinary | 78 (3%) | (-5) |
| Altered LOC (level of consciousness) | 204 (8%) | (+12) |
| Psychiatric | 19 (1%) | (-7) |
| Environmental | 25 (1%) | (+14) |
| Not Classified Above | 494 (19%) | (+24) |
| Violent Crime | 69 (3%) | (-14) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 92 (4%) | (+10) |
| Without Injuries | 43 (2%) | (-5) |
| Public Assistance: | | |
| Public Assistance | 253 (10%) | (-36) |
| Hazardous Materials | 6 (0) | (+2) |
| Bomb | 0 (0) | (-2) |
| Fireworks | 0 (0) | (-1) |
| Mistake | 61 (3%) | (-11) |
| Alarm System Malfunction | 39 (1%) | (+1) |
| False Alarm | 57 (2%) | (-40) |
| Hazardous Materials | 6 (0) | (+1) |
| Returned Enroute | 86 (3%) | (+30) |
| | | |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 284 (11%) | (-85) |
| Mutual Aid | 1 (0%) | (-1) |

Total Responses

2,601

(-133)

Average Responses Per Day 7.13

Station 53 - Medic

Alarm Responses Medic 53

Responses For Fires

| | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 17 (0) | (-4) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 6 (0) | (-1) |
| Vehicle | 0 (0) | (-2) |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 0 (0) | (-4) |
| Dumpster | 1 (0) | (+1) |
| Miscellaneous Fire Outdoors | 3 (0) | (+2) |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|-------|
| Medical: | | |
| Cardiac | 172 (6%) | (+50) |
| Respiratory Emergency | 204 (7%) | (-3) |
| Trauma | 176 (6%) | (+4) |
| OB/Gyn | 30 (1%) | (-37) |
| Gastro Intestinal/Genito Urinary | 74 (3%) | (-6) |
| Altered LOC (level of consciousness) | 211 (7%) | (+39) |
| Psychiatric | 23 (1) | (-5) |
| Environmental | 19 (1) | (+6) |
| Not Classified Above | 478 (16%) | (+27) |
| Violent Crime | 65 (2%) | (-8) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 106 (4%) | (+9) |
| Without Injuries | 54 (2%) | (+2) |
| Public Assistance: | | |
| Public Assistance | 123 (4%) | (-18) |
| Hazardous Materials | 0 | |
| Bomb | 0 (0) | (-1) |
| Fireworks | 0 | |
| Mistake | 31 (1%) | (-2) |
| Alarm System Malfunction | 1 (0) | (-1) |
| False Alarm | 19 (1%) | (-12) |
| Hazardous Materials | 0 | (-1) |
| Returned Enroute | 75 (3%) | (+31) |

Other Types of Responses

| | | |
|---------------|-------------|--------|
| Automatic Aid | 1,031 (35%) | (-173) |
| Mutual Aid | 8 (0) | (-5) |

| | | |
|------------------------|--------------|---------------|
| Total Responses | 2,927 | (-112) |
|------------------------|--------------|---------------|

Average Responses Per Day 8.02

Average Response Time ... 0:00 min.

Station Tours

Number of Tours
0

Children
0

Adults
0

Public Education/Relations Activities Outside of Station

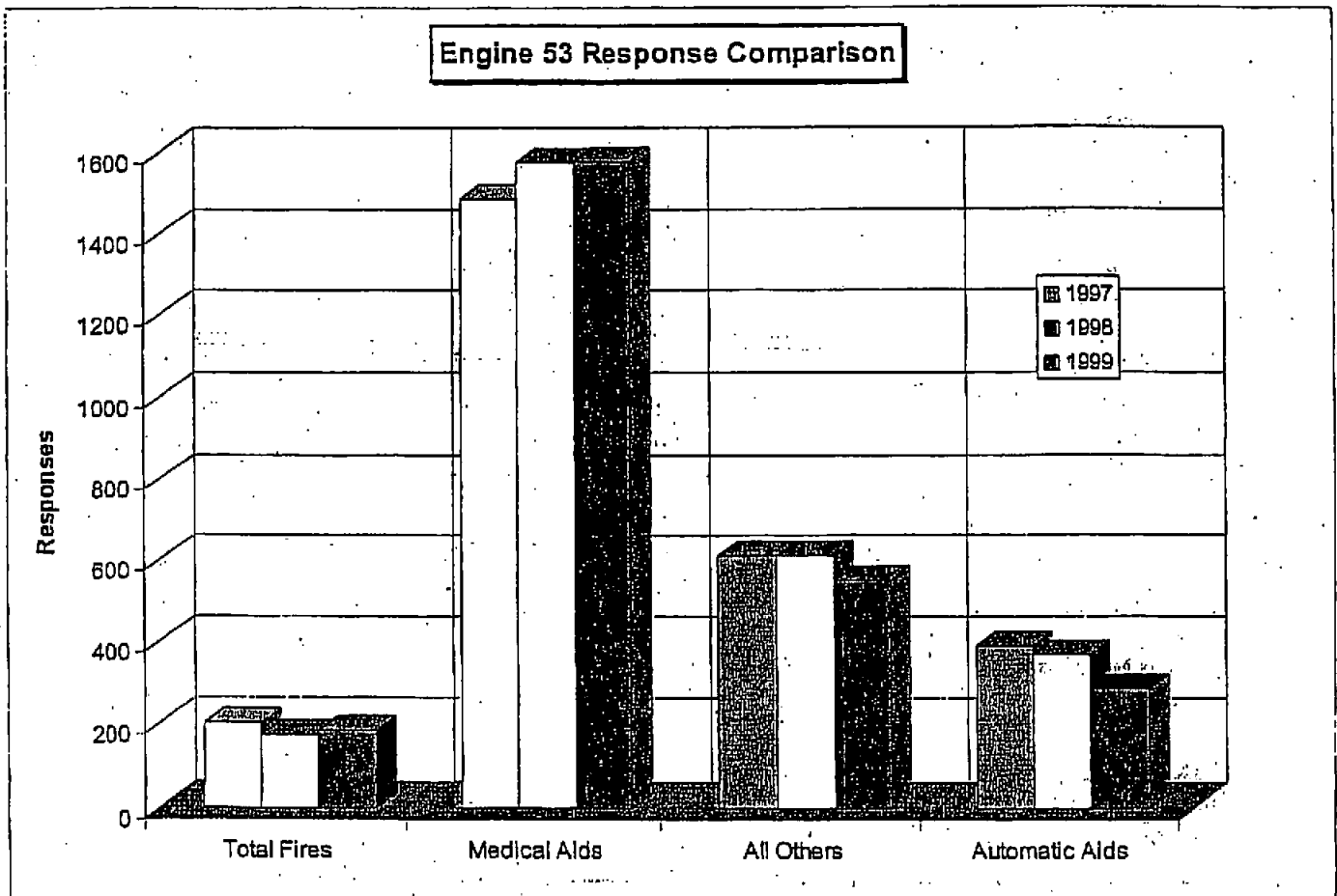
Number of Activities
1

Children
100

Adults
75

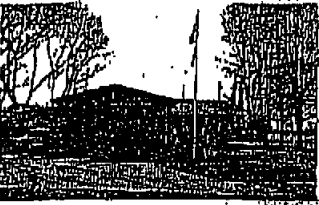
Buildings and Grounds

1. Nothing to report.



Station 54

8900 Fredric Avenue, Sacramento



Alarm Responses

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 3 (1%) | (-13) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 2 (0) | (-4) |
| Vehicle | 11 (1%) | (-10) |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 3 (0) | (-4) |
| Dumpster | 3 (0) | (-5) |
| Miscellaneous Fire Outdoors | 7 (1%) | (+2) |

| <u>Responses for Non-Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|-------------|----------------|
| Medical: | | |
| Cardiac | 38 (5%) | (-29) |
| Respiratory Emergency | 32 (4%) | (-25) |
| Trauma | 27 (3%) | (-21) |
| OB/Gyn | 7 (1%) | (+3) |
| Gastro Intestinal/Genito Urinary | 17 (2%) | (-17) |
| Altered LOC (level of consciousness) | 32 (4%) | (-18) |
| Psychiatric | 8 (1%) | (-2) |
| Environmental | 1 (0) | (-3) |
| Not Classified Above | 97 (12%) | (-12) |
| Violent Crime | 12 (2%) | (-19) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 39 (5%) | (-5) |
| Without Injuries | 25 (3%) | (-6) |
| Public Assistance: | | |
| Public Assistance | 43 (5%) | (-24) |
| Hazardous Materials | 6 (1%) | (+5) |
| Bomb | 0 | |
| Fireworks | 1 (0) | (+1) |
| Mistake | 26 (3%) | (-25) |
| Alarm System Malfunction | 9 (1%) | (-5) |
| False Alarm | 9 (1%) | (-1) |
| Hazardous Materials | 0 | (-3) |
| Returned Enroute | 16 (2%) | |

| <u>Other Types of Responses</u> | <u>1999</u> | <u>Chg +/-</u> |
|---------------------------------|-------------|----------------|
| Automatic Aid | 325 (41%) | (-84) |
| Mutual Aid | 3 (1%) | (-3) |

| | | |
|------------------------|------------|---------------|
| Total Responses | 802 | (-327) |
|------------------------|------------|---------------|

Average Responses Per Day 2.2

Station Tours

Number of Tours
0

Children
0

Adults
0

Public Education/Relations Activities Outside of Station

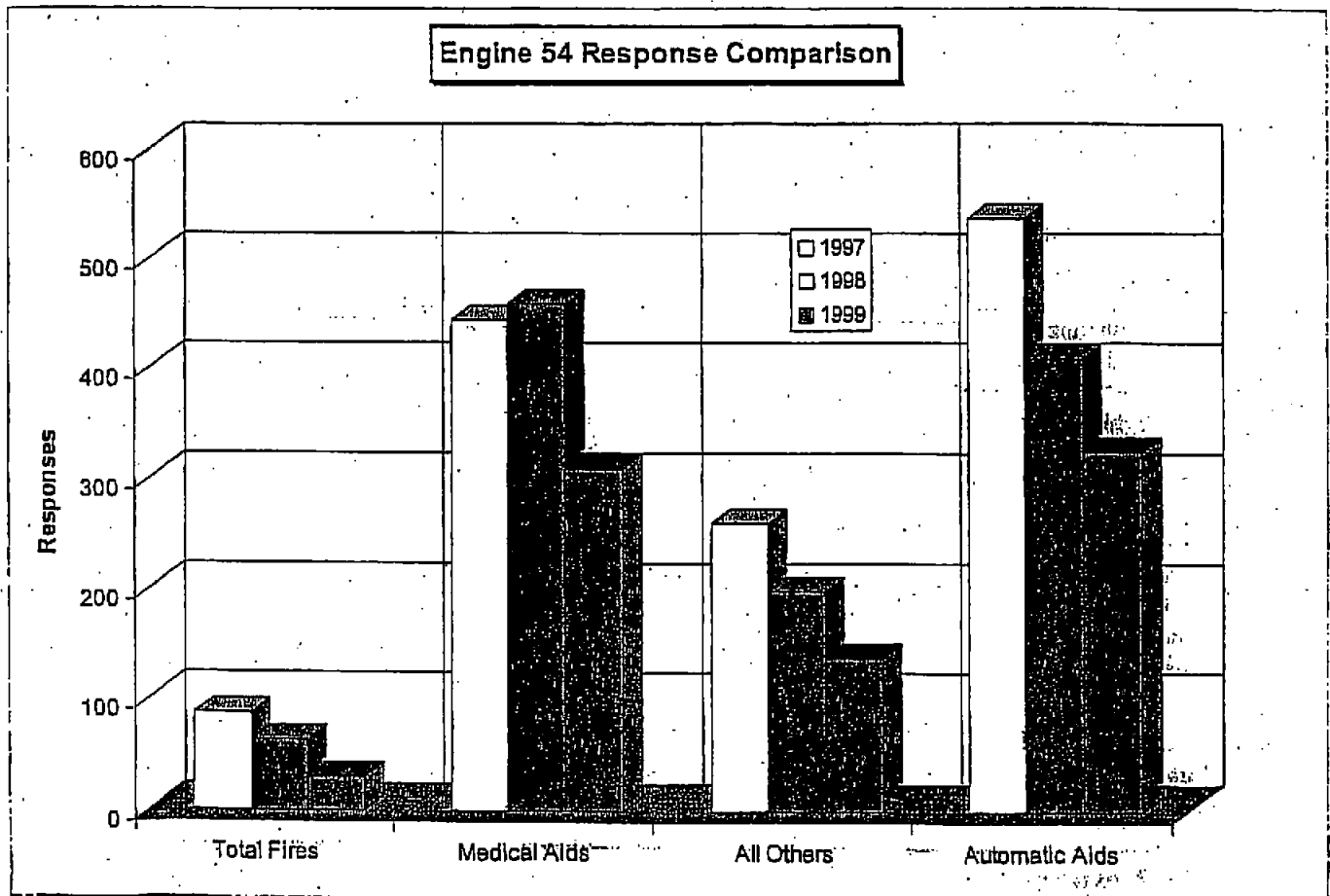
Number of Activities
3

Children
200

Adults
25

Buildings and Grounds

1. Worked with contractor to repair PlymoVent system.
2. Worked with neighbor to clear shrubs and trees from back side of property.



Station 55 - Engine

7776 Excelsior Road, Sacramento



Alarm Responses

Engine 55

Responses For Fires

| | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 8 (2%) | (-3) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 5 (1%) | (+4) |
| Vehicle | 20 (6%) | (+3) |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 25 (8%) | (+7) |
| Dumpster | 0 | |
| Miscellaneous Fire Outdoors | 7 (2%) | (+1) |

Responses for Non-Fires

| | | |
|--------------------------------------|----------|-------|
| Medical: | | |
| Cardiac | 17 (5%) | (+4) |
| Respiratory Emergency | 9 (3%) | (-3) |
| Trauma | 18 (5%) | |
| OB/Gyn | 1 (0) | |
| Gastro Intestinal/Genito Urinary | 8 (2%) | (-5) |
| Altered LOC (level of consciousness) | 10 (3%) | (-7) |
| Psychiatric | 0 | (-5) |
| Environmental | 1 (0) | (-1) |
| Not Classified Above | 20 (6%) | (+4) |
| Violent Crime | 2 (1%) | (-3) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 29 (9%) | (-8) |
| Without Injuries | 14 (4%) | (-7) |
| Public Assistance: | | |
| Public Assistance | 34 (10%) | (-9) |
| Hazardous Materials | 1 (0) | (-2) |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 14 (4%) | (-8) |
| Alarm System Malfunction | 5 (1%) | (-17) |
| False Alarm | 23 (8%) | (+1) |
| Hazardous Materials | 0 | |
| Returned Enroute | 5 (1%) | |

Other Types of Responses

| | | |
|---------------|----------|-------|
| Automatic Aid | 64 (19%) | (+19) |
| Mutual Aid | 0 | (-2) |

Total Responses

340

(-37)

Average Responses Per Day93

Alarm Responses Medic 55

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 0 | |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 0 | |
| Vehicle | 0 | |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 0 | |
| Dumpster | 0 | |
| Miscellaneous Fire Outdoors | 0 | |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 4 (4%) | (-3) |
| Respiratory Emergency | 7 (7%) | (-3) |
| Trauma | 11 (11%) | (+6) |
| OB/Gyn | 0 | (-1) |
| Gastro Intestinal/Genito Urinary | 0 | (-2) |
| Altered LOC (level of consciousness) | 11 (11%) | (+5) |
| Psychiatric | 2 (2%) | (+1) |
| Environmental | 0 | (-1) |
| Not Classified Above | 12 (12%) | (-5) |
| Violent Crime | 2 (2%) | (-1) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 13 (13%) | (-1) |
| Without Injuries | 7 (7%) | (+4) |
| Public Assistance: | | |
| Public Assistance | 7 (7%) | (+3) |
| Hazardous Materials | 0 | |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 2 (2%) | (-2) |
| Alarm System Malfunction | 0 | (0) |
| False Alarm | 1 (1%) | (+1) |
| Hazardous Materials | 0 | |
| Returned Enroute | 1 (1%) | (+1) |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 18 (19%) | (+4) |
| Mutual Aid | 1 (1%) | (0) |
| Total Responses | 99 | (+6) |

Average Responses Per Day27

Station Tours

Number of Tours
2

Children
6

Adults
3

Public Education/Relations Activities Outside of Station

Number of Activities
1

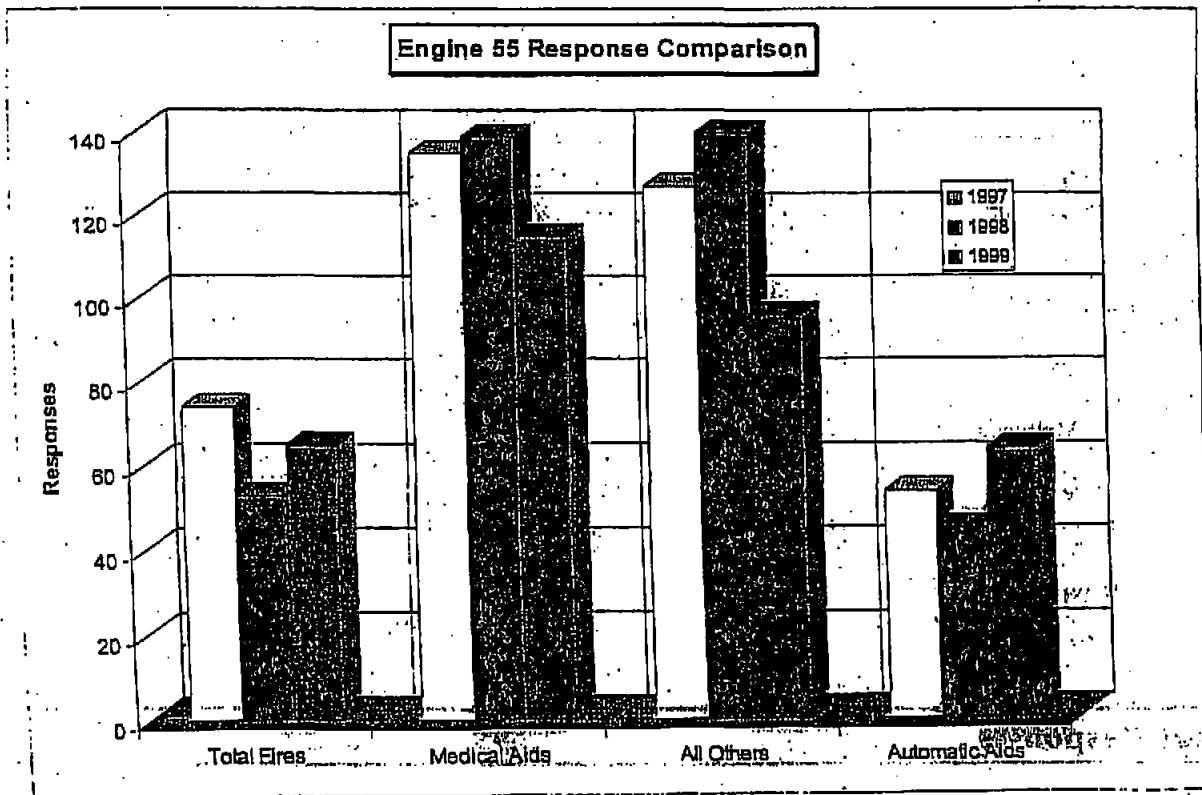
Children
50

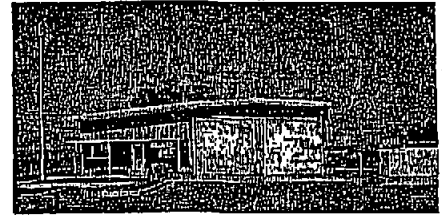
Adults
50

Buildings and Grounds

1. Painted kitchen, day room, office and entry.
2. Added irrigation system for additional trees.
3. Conduit and drop extension cords installed for auto-ejects.
4. Trimmed redwood trees and vines from north side of property.
5. Removed dead front shrubs from property.
6. "Freddie" public education message sign installed.
7. Installed new kitchen countertop and sink.
8. Installed 10,000 watt portable generator.

14 Community Meetings were held @ Station 55





Alarm Responses

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 7 (2%) | (-6) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 2 (1%) | (+2) |
| Vehicle | 18 (5%) | (+1) |
| Vegetation: | | |
| Fireworks | 1 (0) | (+1) |
| Vegetation | 40 (11%) | (+17) |
| Dumpster | 0 | |
| Miscellaneous Fire Outdoors | 5 (1%) | (-1) |
| | | |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 29 (7%) | (-10) |
| Respiratory Emergency | 14 (4%) | (-17) |
| Trauma | 38 (10%) | (-27) |
| OB/Gyn44 | 4 (1%) | (+1) |
| Gastro Intestinal/Genito Urinary | 9 (2%) | (-12) |
| Altered LOC (level of consciousness) | 33 (8%) | (-2) |
| Psychiatric | 4 (1%) | (+3) |
| Environmental | 5 (1%) | (-3) |
| Not Classified Above | 37 (9%) | (-1) |
| Violent Crime | 0 | (-3) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 21 (5%) | (-12) |
| Without Injuries | 19 (5%) | (-5) |
| Public Assistance: | | |
| Public Assistance | 39 (11%) | (-22) |
| Hazardous Materials | 0 | |
| Bomb | 1 (0) | (+1) |
| Fireworks | 1 (0) | (+1) |
| Mistake | 27 (7%) | (-6) |
| Alarm System Malfunction | 5 (1%) | (-16) |
| False Alarm | 8 (2%) | (-22) |
| Hazardous Materials | 1 (0) | |
| Returned Enroute | 7 (2%) | (+4) |
| | | |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 16 (4%) | (+11) |
| Mutual Aid | 1 (0) | (-1) |
| Total Responses | 392 | (-124) |

Average Responses Per Day1.07

Station 58

Station Tours

Number of Tours

Children

Adults

30

8

Public Education/Relations Activities Outside of Station

Number of Activities

Children

Adults

0

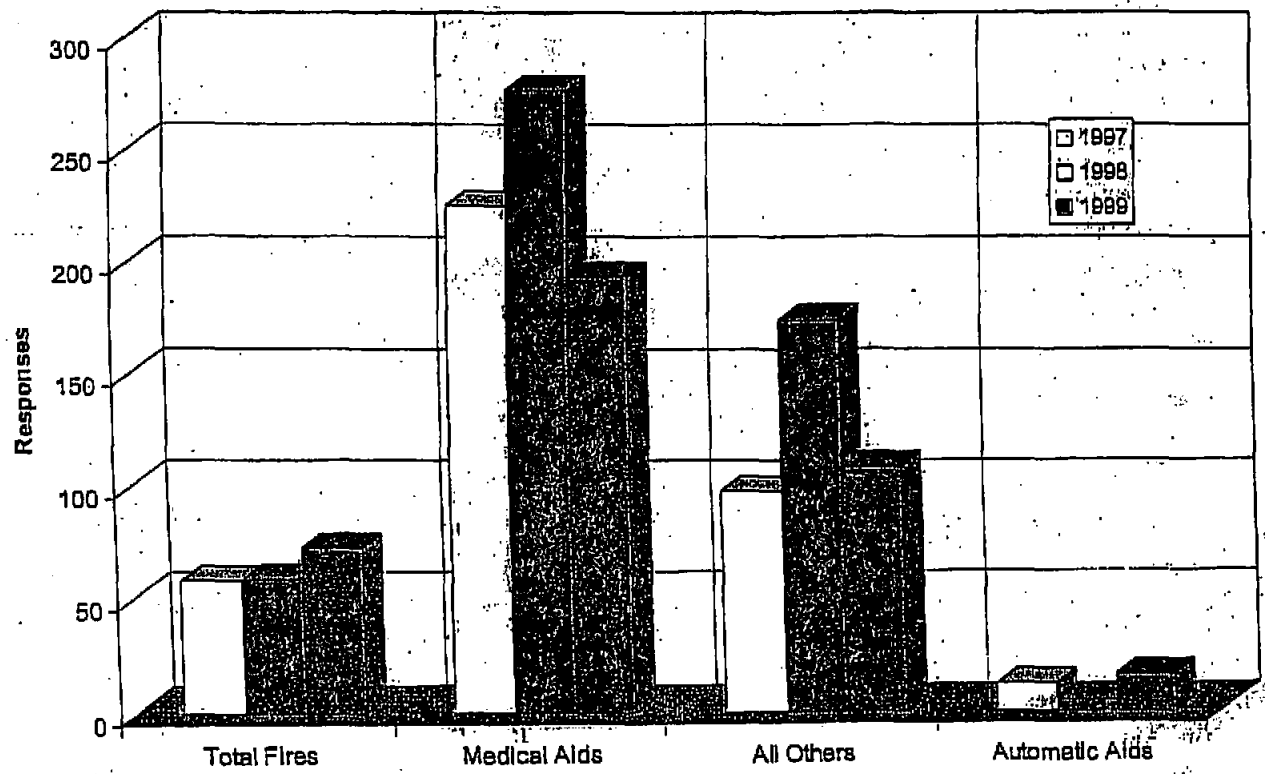
0

0

Buildings and Grounds

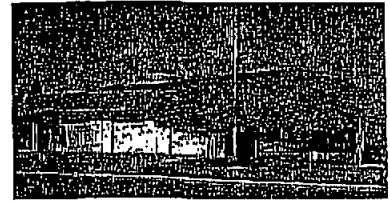
1. Nothing to report.

Engine 58 Response Comparison



Station 59 - Engine

7210 Murietta Drive, Rancho Murietta



Alarm Responses

Engine 59

Responses For Fires

| | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 4 (1%) | (-1) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 1 (0) | (+1) |
| Vehicle | 10 (2%) | (+7) |
| Vegetation: | | |
| Fireworks | 1 (0) | (+1) |
| Vegetation | 32 (8%) | (+12) |
| Dumpster | 0 | |
| Miscellaneous Fire Outdoors | 7 (2%) | (-1) |

Responses for Non-Fires

| | | |
|--------------------------------------|----------|-------|
| Medical: | | |
| Cardiac | 40 (10%) | (+11) |
| Respiratory Emergency | 18 (4%) | (-2) |
| Trauma | 51 (13%) | (-3) |
| OB/Gyn | 4 (1%) | (+1) |
| Gastro Intestinal/Genito Urinary | 11 (3%) | (-5) |
| Altered LOC (level of consciousness) | 37 (9%) | (+9) |
| Psychiatric | 5 (1%) | (+4) |
| Environmental | 9 (2%) | (+6) |
| Not Classified Above | 48 (11%) | (+17) |
| Violent Crime | 0 | (-2) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 15 (4%) | (-2) |
| Without Injuries | 14 (3%) | (0) |
| Public Assistance: | | |
| Public Assistance | 54 (13%) | (-4) |
| Hazardous Materials | 0 | |
| Bomb | 1 (0) | (+1) |
| Fireworks | 1 (0) | (+1) |
| Mistake | 20 (5%) | (-1) |
| Alarm System Malfunction | 4 (1%) | (-4) |
| False Alarm | 2 (0) | (-8) |
| Hazardous Materials | 0 | |
| Returned Enroute | 10 (2%) | (+7) |

Other Types of Responses

| | | |
|---------------|---------|-------|
| Automatic Aid | 18 (4%) | (+14) |
| Mutual Aid | 3 (1%) | (0) |

| | | |
|------------------------|------------|--------------|
| Total Responses | 420 | (+59) |
|------------------------|------------|--------------|

Average Responses Per Day 1.15

Station 59 - Medic

Alarm Responses Medic 59

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 0 | (-1) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 0 | |
| Vehicle | 2 (1%) | (+1) |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 0 | |
| Dumpster | 0 | |
| Miscellaneous Fire Outdoors | 1 (0) | (-1) |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 32 (11%) | (-7) |
| Respiratory Emergency | 16 (6%) | (-7) |
| Trauma | 50 (17%) | (-20) |
| OB/Gyn | 3 (1%) | (+1) |
| Gastro Intestinal/Genito Urinary | 11 (4%) | (-5) |
| Altered LOC (level of consciousness) | 37 (13%) | (+4) |
| Psychiatric | 4 (1%) | (+2) |
| Environmental | 7 (2%) | (+3) |
| Not Classified Above | 45 (15%) | (+4) |
| Violent Crime | 0 | (-3) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 15 (5%) | (-4) |
| Without Injuries | 13 (4%) | (-5) |
| Public Assistance: | | |
| Public Assistance | 18 (6%) | (-16) |
| Hazardous Materials | 0 | |
| Bomb | 0 | |
| Fireworks | 1 (0) | (+1) |
| Mistake | 13 (4%) | (0) |
| Alarm System Malfunction | 0 | (0) |
| False Alarm | 2 (1%) | (-3) |
| Hazardous Materials | 0 | |
| Returned Enroute | 10 (3%) | (+9) |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 14 (5%) | (+9) |
| Mutual Aid | 2 (1%) | (0) |

Total Responses

296

(-40)

Average Responses Per Day81

Station Tours

Number of Tours

7

Children

165

Adults

53

Public Education/Relations Activities Outside of Station

Number of Activities

2

Children

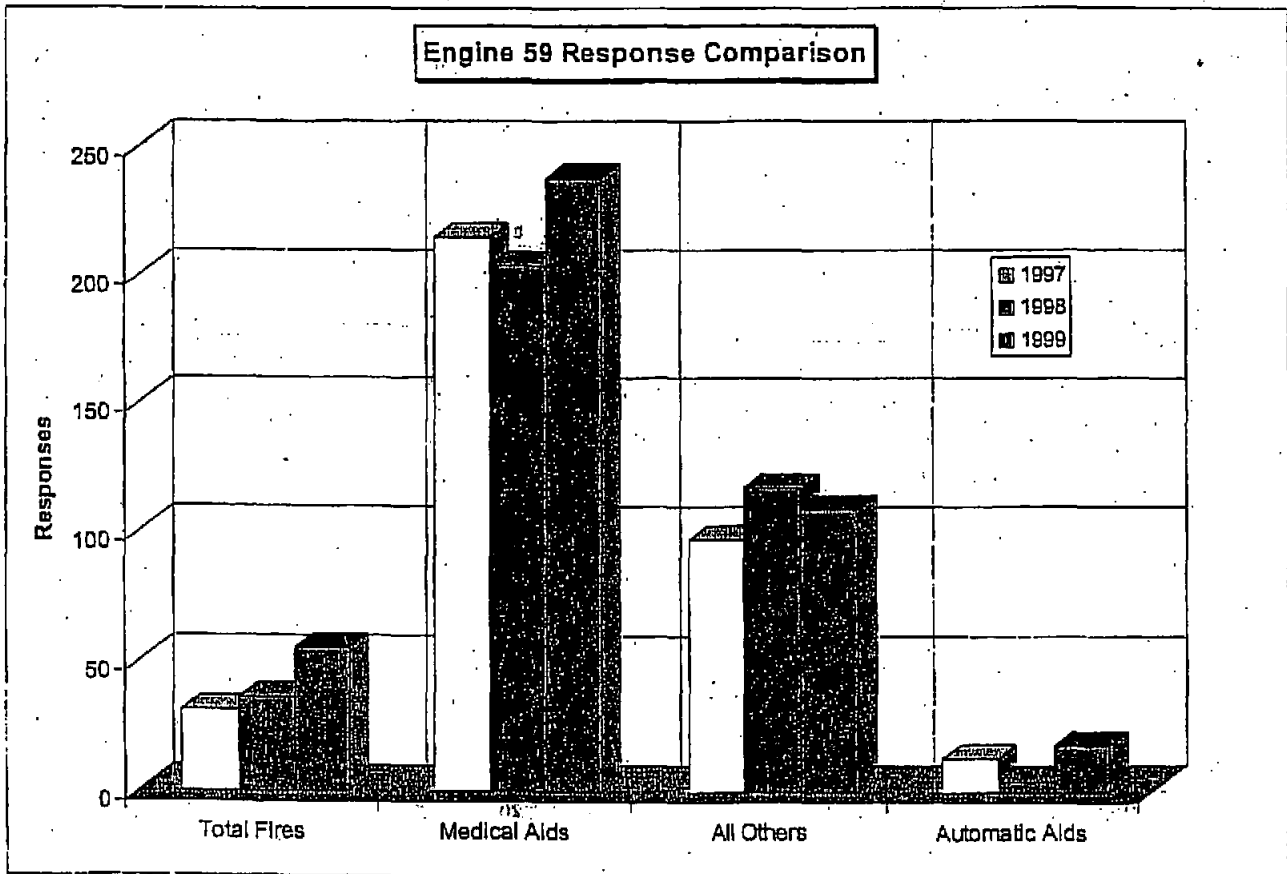
15

Adults

34

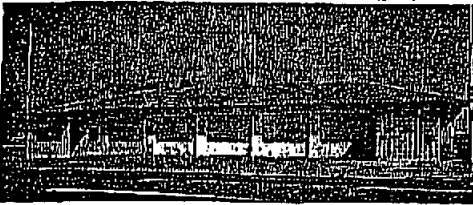
Buildings and Grounds

1. Painted inside of station.
2. Replaced rear walk-through door.



Station 101

3000 Fulton Avenue, Sacramento



Alarm Responses

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|--------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 21 (1%) | (-6) |
| Commercial: | | |
| Fireworks | 1 (0) | (+1) |
| Commercial | 21 (1%) | (-3) |
| Vehicle | 24 (1%) | (+6) |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 17 (0) | (+12) |
| Dumpster | 19 (1%) | (+12) |
| Miscellaneous Fire Outdoors | 19 (1%) | (+2) |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 119 (5%) | (-11) |
| Respiratory Emergency | 157 (7%) | (+16) |
| Trauma | 131 (6%) | (-19) |
| OB/Gyn | 15 (1%) | (-10) |
| Gastro Intestinal/Genito Urinary | 43 (2%) | (-8) |
| Altered LOC (level of consciousness) | 129 (6%) | (-27) |
| Psychiatric | 19 (1%) | (-21) |
| Environmental | 4 (0) | (-5) |
| Not Classified Above | 616 (28%) | (+139) |
| Violent Crime | 76 (3%) | (-3) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 71 (3%) | (-6) |
| Without Injuries | 53 (2%) | (+25) |
| Public Assistance: | | |
| Public Assistance | 246 (11%) | (-15) |
| Hazardous Materials | 0 | (-5) |
| Bomb | 0 | |
| Fireworks | 0 (0) | (-1) |
| Mistake | 83 (4%) | (-31) |
| Alarm System Malfunction | 19 (1%) | (-39) |
| False Alarm | 21 (1%) | (-33) |
| Hazardous Materials | 5 (0) | (+4) |
| Returned Enroute | 34 (2%) | (-4) |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 261 (12%) | (+56) |
| Mutual Aid | 1 (0) | (-1) |
| Total Responses | 2,226 | (+25) |

Average Responses Per Day 6.10

Station Tours

Number of Tours

6

Children

35

Adults

10

Public Education/Relations Activities Outside of Station

Number of Activities

10

Children

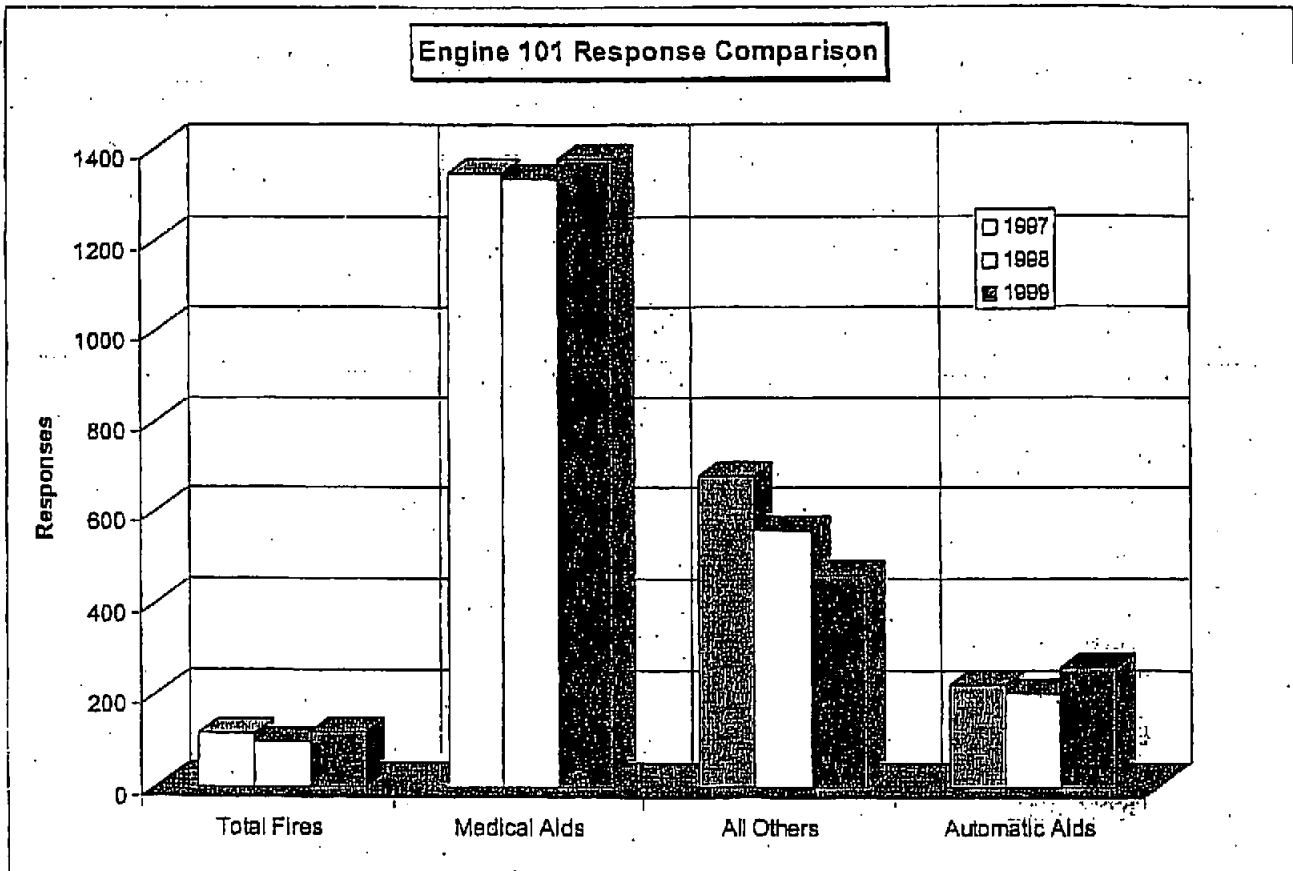
200+

Adults

200+

Buildings and Grounds

1. Nothing to report.



Station Tours

Number of Tours

7

Children

44

Adults

20

Public Education/Relations Activities Outside of Station

Number of Activities

1

Children

200+

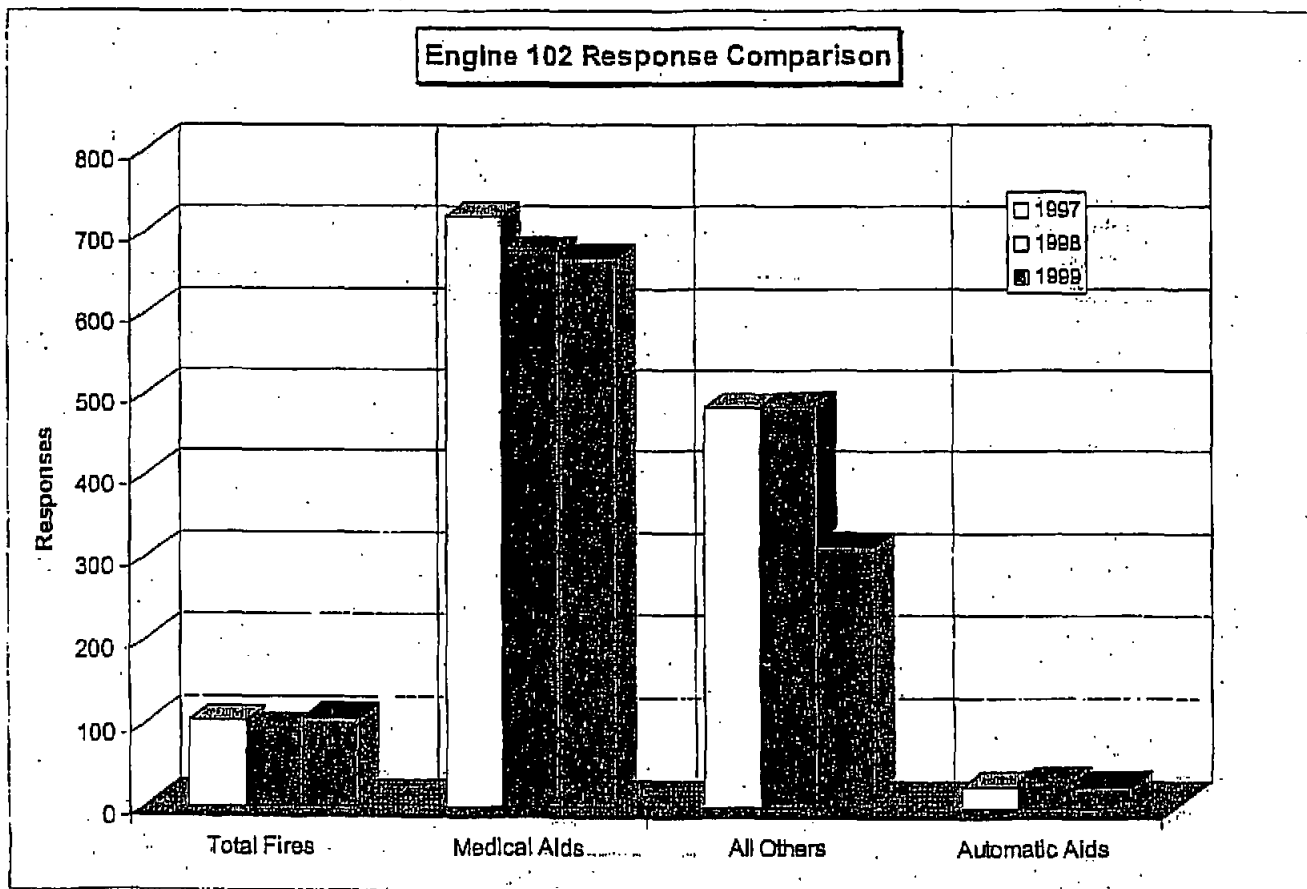
Adults

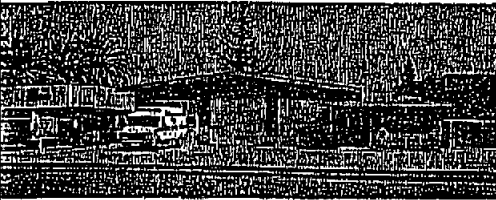
100+

Buildings and Grounds

1. Installed new faucets in bathroom and kitchen

Station 102 was closed for 29 shifts





Alarm Responses

Responses For Fires

| | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 21 (1%) | (-10) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 15 (1%) | (-2) |
| Vehicle | 20 (1%) | (-6) |
| Vegetation: | | |
| Fireworks | 1 (0) | (+1) |
| Vegetation | 25 (1%) | (+5) |
| Dumpster | 16 (1%) | (+9) |
| Miscellaneous Fire Outdoors | 16 (1%) | (+2) |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|-------|
| Medical: | | |
| Cardiac | 114 (6%) | (+1) |
| Respiratory Emergency | 126 (7%) | (+15) |
| Trauma | 164 (8%) | (+4) |
| OB/Gyn | 25 (1%) | (-7) |
| Gastro-Intestinal/Genito Urinary | 61 (3%) | (-23) |
| Altered LOC (level of consciousness) | 153 (8%) | (+3) |
| Psychiatric | 14 (1%) | (-19) |
| Environmental | 4 (0) | (-3) |
| Not Classified Above | 231 (12%) | (+40) |
| Violent Crime | 49 (3%) | (+1) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 69 (4%) | (-17) |
| Without Injuries | 39 (2%) | (+4) |
| Public Assistance: | | |
| Public Assistance | 43 (7%) | (-35) |
| Hazardous Materials | 1 (0) | (-1) |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 121 (6%) | (+16) |
| Alarm System Malfunction | 23 (1%) | (-29) |
| False Alarm | 24 (1%) | (-12) |
| Hazardous Materials | 6 (0) | (+1) |
| Returned Enroute | 50 (3%) | (-13) |

Other Types of Responses

| | | |
|---------------|-----------|-------|
| Automatic Aid | 407 (21%) | (-10) |
| Mutual Aid | 2 (0) | (+2) |

Total Responses

1,940

(-83)

Average Responses Per Day5.31

Station Tours

Number of Tours

0

Children

0

Adults

0

Public Education/Relations Activities Outside of Station

Number of Activities

0

Children

0

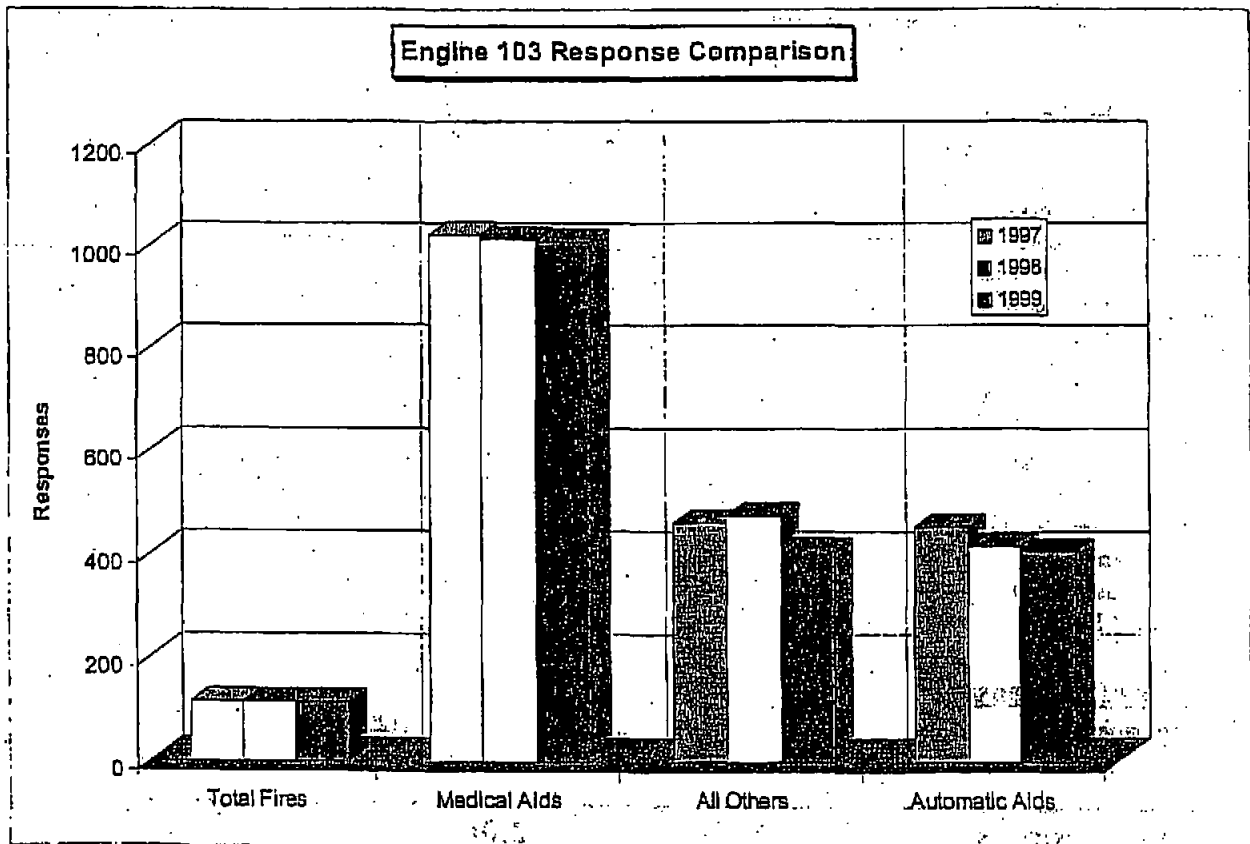
Adults

0

Buildings and Grounds

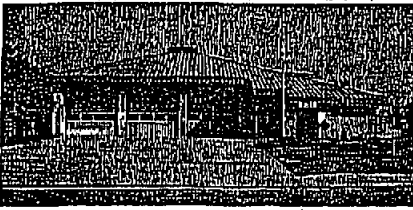
1. Installed new dishwasher.
2. T.V. repaired.
3. Apparatus door repaired.
4. Repaired or modified 53 nozzles.

Station 103 was closed for 10 shifts



Station 105

2691 Northrop Avenue, Sacramento



Alarm Responses

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|--------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 28 (1%) | (+1) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 19 (1%) | (-2) |
| Vehicle | 26 (1%) | (-1) |
| Vegetation: | | |
| Fireworks | 2 (1%) | (0) |
| Vegetation | 15 (1%) | (-2) |
| Dumpster | 17 (1%) | (-3) |
| Miscellaneous Fire Outdoors | 12 (0) | (+8) |
| | | |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 100 (5%) | (-6) |
| Respiratory Emergency | 123 (6%) | (-19) |
| Trauma | 171 (8%) | (+3) |
| OB/Gyn | 23 (1%) | (-1) |
| Gastro Intestinal/Genito Urinary | 33 (2%) | (-22) |
| Altered LOC (level of consciousness) | 186 (9%) | (+17) |
| Psychiatric | 14 (1%) | (-6) |
| Environmental | 4 (0) | (-11) |
| Not Classified Above | 329 (16%) | (-1) |
| Violent Crime | 30 (1%) | (-32) |
| Fireworks | 0 | (-1) |
| Vehicle Accident: | | |
| With Injuries | 87 (4%) | (-5) |
| Without Injuries | 52 (3%) | (+17) |
| Public Assistance: | | |
| Public Assistance | 212 (10%) | (-23) |
| Hazardous Materials | 0 (0) | (-5) |
| Bomb | 0 | |
| Fireworks | 1 (0) | (+1) |
| Mistake | 66 (3%) | (-49) |
| Alarm System Malfunction | 35 (2%) | (-38) |
| False Alarm | 36 (2%) | (-48) |
| Hazardous Materials | 0 | (-4) |
| Returned Enroute | 185 (9%) | (+78) |
| | | |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 246 (12%) | (+18) |
| Mutual Aid | 10 (0) | (+6) |
| | | |
| Total Responses | 2,062 | (-130) |

Average Responses Per Day 5.64

Station Tours

Number of Tours
10

Children
110

Adults
32

Public Education/Relations Activities Outside of Station

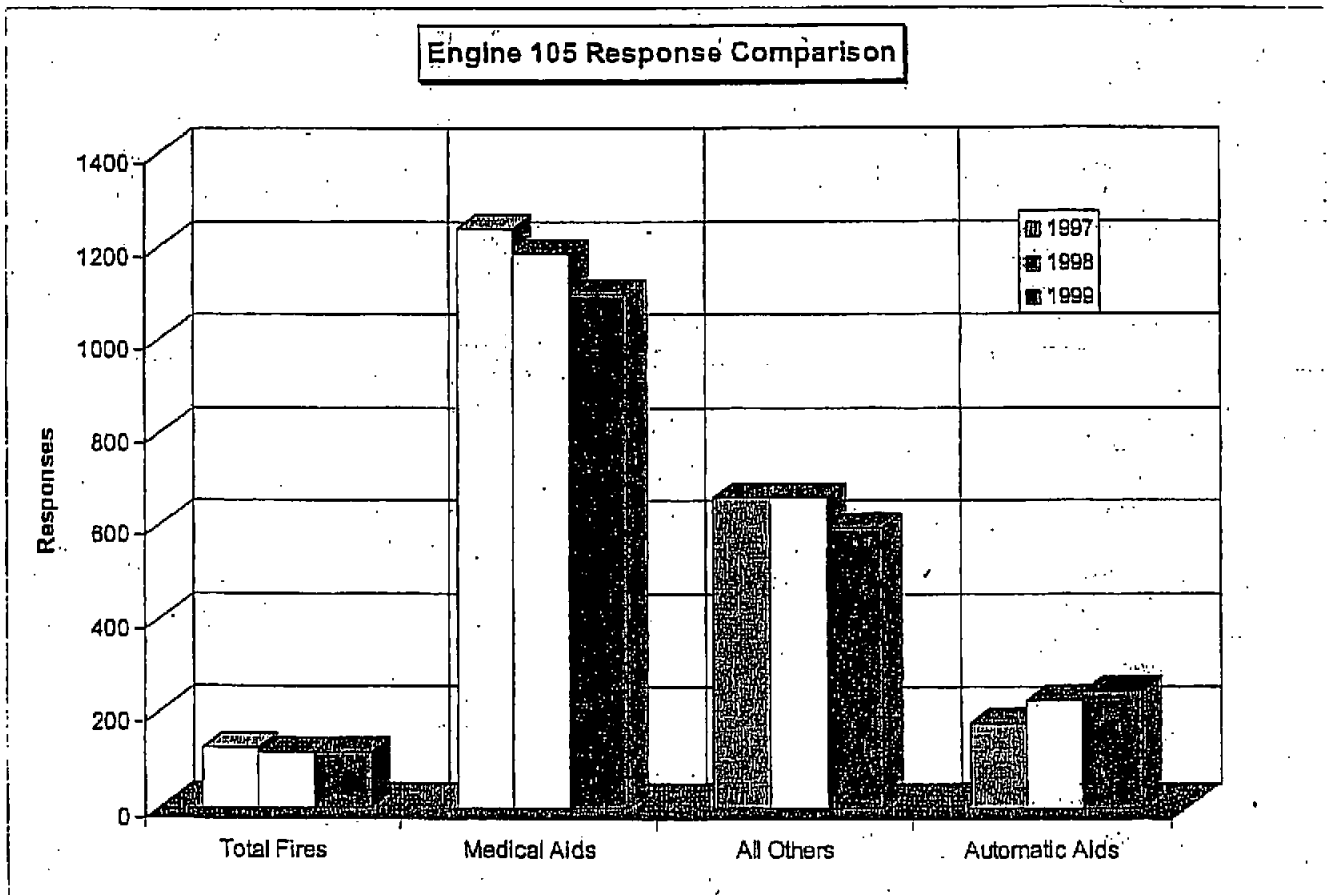
Number of Activities
1

Children
300+

Adults
50

Buildings and Grounds

1. Nothing to report.



Station 106 - Engine

2200 Park Towne Circle, Sacramento

Alarm Responses

Engine 106

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 43 (2%) | (+2) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 25 (1%) | (-7) |
| Vehicle | 21 (1%) | (-6) |
| Vegetation: | | |
| Fireworks | 1 (0) | (+1) |
| Vegetation | 10 (0) | (+4) |
| Dumpster | 14 (1%) | (+1) |
| Miscellaneous Fire Outdoors | 17 (1%) | (+10) |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|--------|
| Medical: | | |
| Cardiac | 130 (6%) | (-15) |
| Respiratory Emergency | 179 (9%) | (-32) |
| Trauma | 209 (10%) | (-2) |
| OB/Gyn | 16 (1%) | (-1) |
| Gastro Intestinal/Genito Urinary | 37 (2%) | (-18) |
| Altered LOC (level of consciousness) | 178 (9%) | (+18) |
| Psychiatric | 12 (1%) | (-8) |
| Environmental | 1 (0) | (-1) |
| Not Classified Above | 358 (17%) | (+25) |
| Violent Crime | 11 (1%) | (-24) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 69 (3%) | (0) |
| Without Injuries | 66 (3%) | (-1) |
| Public Assistance: | | |
| Public Assistance | 284 (14%) | (-14) |
| Hazardous Materials | 1 (0) | (-2) |
| Bomb | 1 (0) | |
| Fireworks | 1 (0) | (+1) |
| Mistake | 66 (3%) | (-42) |
| Alarm System Malfunction | 24 (1%) | (-66) |
| False Alarm | 96 (5%) | (-46) |
| Hazardous Materials | 4 (0) | (+3) |
| Returned Enroute | 172 (8%) | (+103) |

Other Types of Responses

| | | |
|---------------|---------|-------|
| Automatic Aid | 15 (1%) | (-32) |
| Mutual Aid | 2 (0) | (-1) |

Total Responses

2,063

(-150)

Average Responses Per Day 5.65

Station 106 - Truck

Alarm Responses Truck 106

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 60 (6%) | (-9) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 33 (4%) | (-6) |
| Vehicle | 10 (1%) | (-7) |
| Vegetation: | | |
| Fireworks | 1 (0) | +1 |
| Vegetation | 9 (1%) | +1 |
| Dumpster | 10 (1%) | +1 |
| Miscellaneous Fire Outdoors | 17 (2%) | +6 |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|--------|
| Medical: | | |
| Cardiac | 20 (2%) | (-20) |
| Respiratory Emergency | 25 (2%) | (-33) |
| Trauma | 41 (4%) | (-39) |
| OB/Gyn | 2 (0) | (+1) |
| Gastro Intestinal/Genito Urinary | 10 (1%) | (-8) |
| Altered LOC (level of consciousness) | 22 (4%) | (-19) |
| Psychiatric | 1 (0) | (-9) |
| Environmental | 0 | (-2) |
| Not Classified Above | 64 (6%) | (-16) |
| Violent Crime | 3 (0) | (-16) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 57 (6%) | (-9) |
| Without Injuries | 34 (4%) | (-4) |
| Public Assistance: | | |
| Public Assistance | 224 (22%) | (-85) |
| Hazardous Materials0 | 0 | (-5) |
| Bomb | 0 | |
| Fireworks | 1 (0) | (+1) |
| Mistake | 34 (4%) | (-86) |
| Alarm System Malfunction | 14 (1%) | (-101) |
| False Alarm | 22 (2%) | (-78) |
| Hazardous Materials | 2 (0) | (+2) |
| Returned Enroute | 104 (10%) | (+47) |

Other Types of Responses

| | | |
|---------------|-----------|-------|
| Automatic Aid | 194 (19%) | (-11) |
| Mutual Aid | 0 (0) | (-2) |

| | | |
|------------------------|--------------|---------------|
| Total Responses | 1,014 | (-505) |
|------------------------|--------------|---------------|

Average Responses Per Day 2.78

Station 106 - Air

Alarm Responses

Air 106

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 6 (21%) | (-4) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 2 (7%) | (-1) |
| Vehicle | 0 | |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 0 | |
| Dumpster | 0 | (-1) |
| Miscellaneous Fire Outdoors | 0 | |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 0 | |
| Respiratory Emergency | 1 (3%) | (0) |
| Trauma | 2 (7%) | (-4) |
| OB/Gyn | 0 | |
| Gastro Intestinal/Genito Urinary | 0 | (-1) |
| Altered LOC (level of consciousness) | 0 | |
| Psychiatric | 0 | |
| Environmental | 0 | |
| Not Classified Above | 1 (3%) | (0) |
| Violent Crime | 0 | |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 5 (18%) | (+3) |
| Without Injuries | 1 (3%) | (+1) |
| Public Assistance: | | |
| Public Assistance | 2 (7%) | (-3) |
| Hazardous Materials | 0 | |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 1 (3%) | (-1) |
| Alarm System Malfunction | 0 | |
| False Alarm | 0 | |
| Hazardous Materials | 0 | |
| Returned Enroute | 1 (3%) | (0) |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 7 (25%) | (0) |
| Mutual Aid | 0 | |

Total Responses

29

(-11)

Average Responses Per Day08

Station 106 - Battalion 7

Alarm Responses

Battalion 7

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 101 (9%) | (-18) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 41 (4%) | (-12) |
| Vehicle | 20 (2%) | (-2) |
| Vegetation: | | |
| Fireworks | 3 (0) | (+1) |
| Vegetation | 33 (3%) | (+7) |
| Dumpster | 15 (1%) | (0) |
| Miscellaneous Fire Outdoors | 23 (2%) | (+3) |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|-------|
| Medical: | | |
| Cardiac | 0 (0) | (-1) |
| Respiratory Emergency | 1 (0) | (-7) |
| Trauma | 11 (1%) | (-18) |
| OB/Gyn | 40 (4%) | (+19) |
| Gastro Intestinal/Genito Urinary | 0 (0) | (-2) |
| Altered LOC (level of consciousness) | 0 (0) | (-9) |
| Psychiatric | 0 (0) | (-1) |
| Environmental | 0 (0) | (-3) |
| Not Classified Above | 7 (1%) | (-2) |
| Violent Crime | 0 (0) | (-8) |
| Fireworks | 0 | (0) |
| Vehicle Accident: | | |
| With Injuries | 56 (5%) | (-20) |
| Without Injuries | 20 (2%) | (-3) |
| Public Assistance: | | |
| Public Assistance | 229 (21%) | (-65) |
| Hazardous Materials | 2 (0) | (-5) |
| Bomb | 2 (0) | (+1) |
| Fireworks | 1 (0) | (0) |
| Mistake | 138 (13%) | (-27) |
| Alarm System Malfunction | 129 (12%) | (-75) |
| False Alarm | 116 (11%) | (-36) |
| Hazardous Materials | 7 (1%) | (-1) |
| Returned Enroute | 54 (5%) | (+23) |

Other Types of Responses

| | | |
|---------------|---------|-------|
| Automatic Aid | 38 (3%) | (+14) |
| Mutual Aid | 0 | (0) |

Total Responses

1,087

(-247)

Average Responses Per Day 2.98

Station 106

Station Tours

Number of Tours
26

Children
364

Adults
103

Public Education/Relations Activities Outside of Station

Number of Activities
7

Children
400+

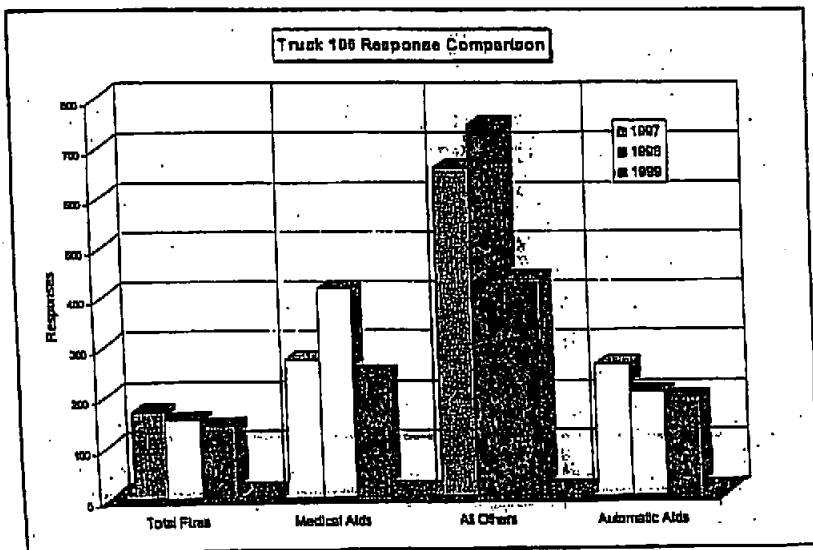
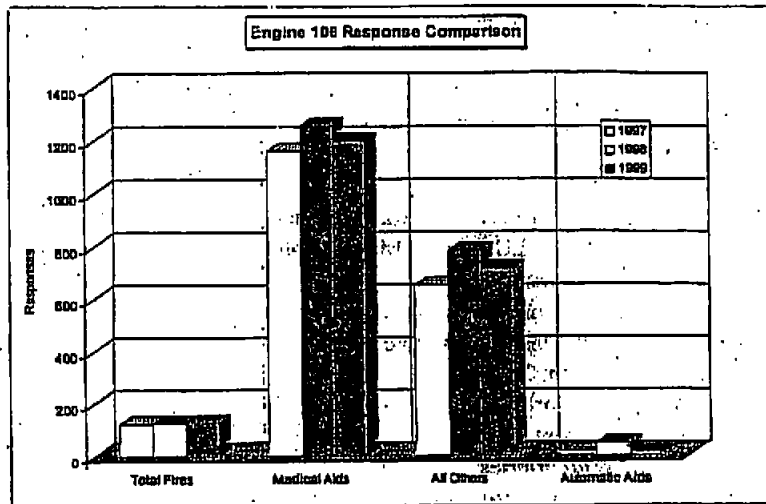
Adults
300+

Buildings and Grounds

1. Repaired front station lights.
2. Repaired roll-up doors.
3. Replaced roll-up door #1.

* Boat 106 had 11 responses for the year*

* Water Bikes 106 had 15 responses for the year*





Alarm Responses

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 19 (3%) | (-10) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 8 (1%) | (-6) |
| Vehicle | 6 (1%) | (-5) |
| Vegetation: | | |
| Fireworks | 0 | |
| Vegetation | 10 (2%) | (+3) |
| Dumpster | 8 (1%) | (+2) |
| Miscellaneous Fire Outdoors | 3 (1%) | (-4) |
| | | |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 48 (9%) | (-8) |
| Respiratory Emergency | 33 (6%) | (-19) |
| Trauma | 44 (8%) | (-56) |
| OB/Gyn | 3 (0) | (0) |
| Gastro Intestinal/Genito Urinary | 12 (2%) | (-17) |
| Altered LOC (level of consciousness) | 50 (9%) | (-14) |
| Psychiatric | 9 (2%) | (-3) |
| Environmental | 0 (0) | (-6) |
| Not Classified Above | 54 (10%) | (-13) |
| Violent Crime | 4 (1%) | (-6) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 20 (4%) | (-9) |
| Without Injuries | 10 (2%) | (-13) |
| Public Assistance: | | |
| Public Assistance | 78 (14%) | (-61) |
| Hazardous Materials | 4 (1%) | (-1) |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 36 (7%) | (-50) |
| Alarm System Malfunction | 19 (3%) | (-63) |
| False Alarm | 15 (3%) | (-35) |
| Hazardous Materials | 0 | |
| Returned Enroute | 24 (4%) | (+5) |
| | | |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 35 (6%) | (-11) |
| Mutual Aid | 0 | |
| Total Responses | 552 | (-410) |

Average Responses Per Day 1.51

Station Tours

Number of Tours

Children

Adults

7

63

19

Public Education/Relations Activities Outside of Station

Number of Activities

Children

Adults

2

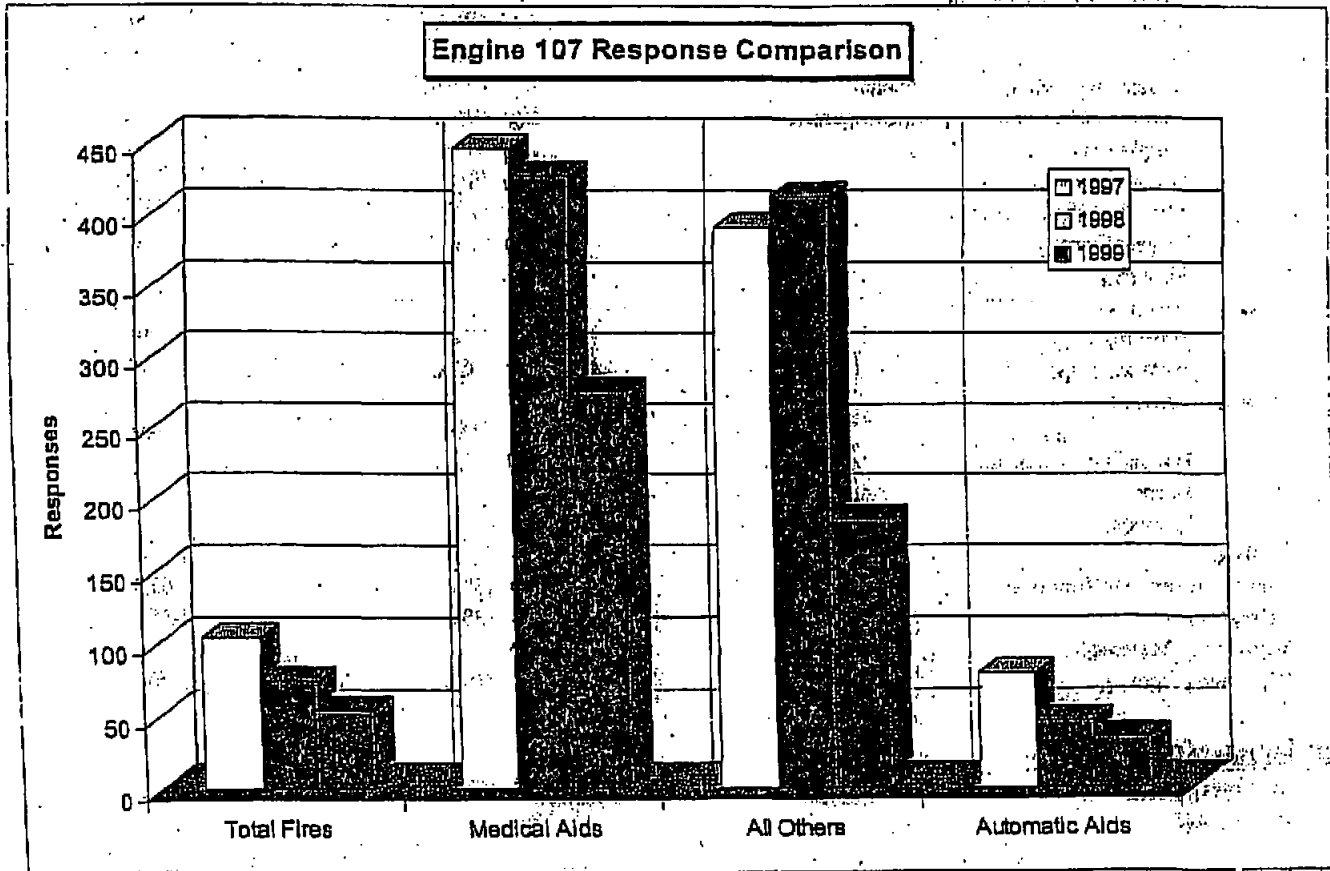
1,000+

300+

Buildings and Grounds

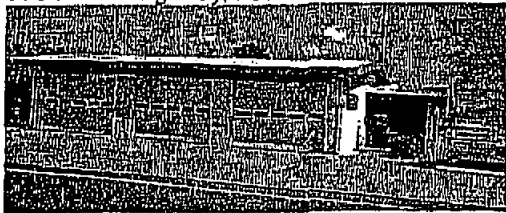
1. Nothing to report.

Engine 107 Response Comparison



Station 108

6701 Winding Way, Fair Oaks



Alarm Responses

Responses For Fires

| | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 27 (1%) | (-2) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 3 (0) | (-8) |
| Vehicle | 10 (1%) | (-5) |
| Vegetation: | | |
| Fireworks | 2 (0) | (+1) |
| Vegetation | 18 (1%) | (+9) |
| Dumpster | 7 (1%) | (-1) |
| Miscellaneous Fire Outdoors | 8 (1%) | (-3) |

Responses for Non-Fires

| | | |
|--------------------------------------|----------|-------|
| Medical: | | |
| Cardiac | 113 (5%) | (-6) |
| Respiratory Emergency | 130 (6%) | (0) |
| Trauma | 131 (6%) | (+3) |
| OB/Gyn | 16 (1%) | (+2) |
| Gastro Intestinal/Genito Urinary | 52 (2%) | (+7) |
| Altered LOC (level of consciousness) | 183 (9%) | (-8) |
| Psychiatric | 31 (1%) | (+1) |
| Environmental | 8 (1%) | (-2) |
| Not Classified Above | 189 (9%) | (+10) |
| Violent Crime | 16 (1%) | (-9) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 54 (3%) | (+5) |
| Without Injuries | 44 (2%) | (-4) |
| Public Assistance: | | |
| Public Assistance | 177 (8%) | (+4) |
| Hazardous Materials | 1 (0) | (-2) |
| Bomb | 1 (0) | (0) |
| Fireworks | 0 | |
| Mistake | 80 (4%) | (-5) |
| Alarm System Malfunction | 28 (1%) | (-22) |
| False Alarm | 26 (1%) | (-26) |
| Hazardous Materials | 1 (0) | (-6) |
| Returned Enroute | 51 (2%) | (+11) |

Other Types of Responses

| | | |
|---------------|-----------|-------|
| Automatic Aid | 701 (33%) | (+57) |
| Mutual Aid | 4 (0) | (+1) |

| | | |
|------------------------|--------------|-------------|
| Total Responses | 2,112 | (+1) |
|------------------------|--------------|-------------|

Average Responses Per Day5.79

Station 108

Station Tours

Number of Tours

14

Children

72

Adults

34

Public Education/Relations Activities Outside of Station

Number of Activities

4

Children

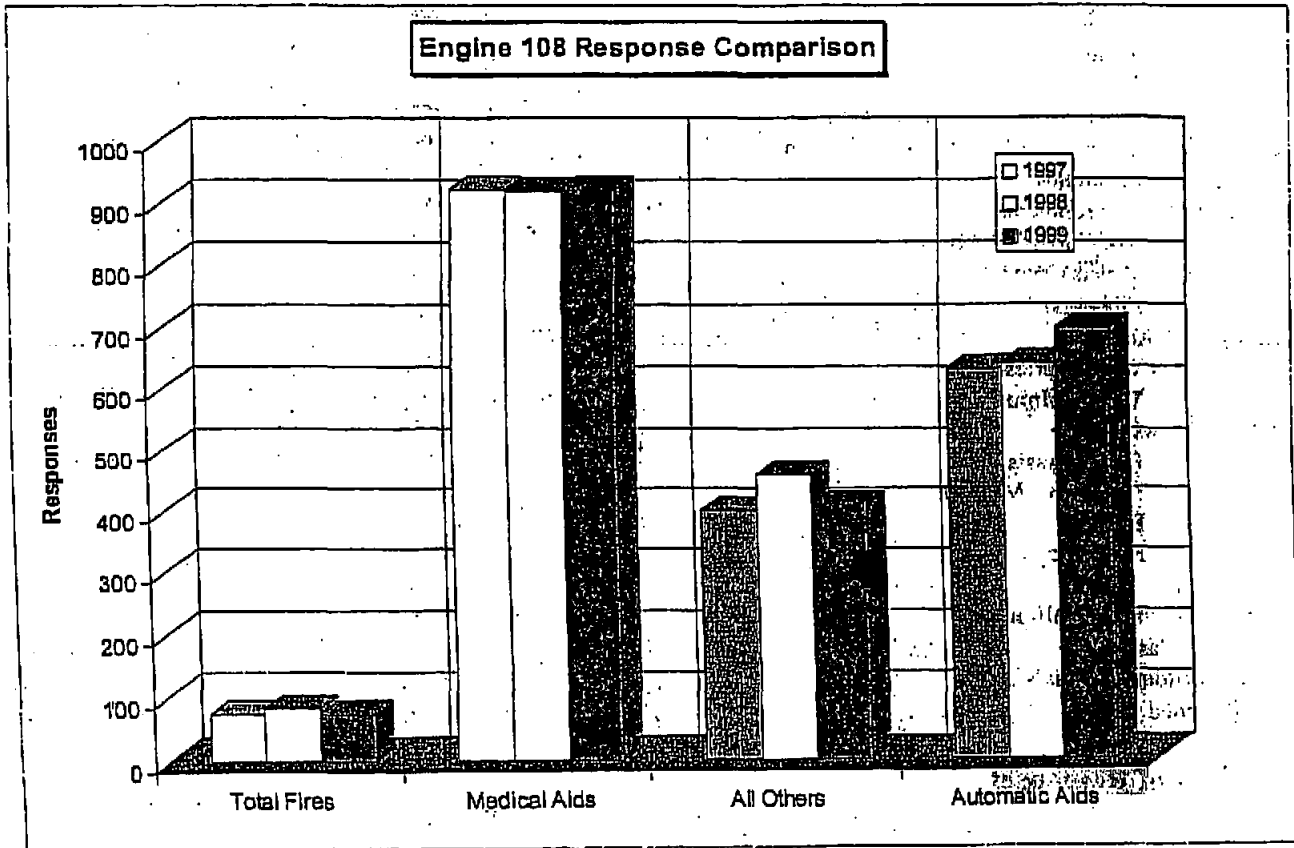
95

Adults

12

Buildings and Grounds

1. Nothing to report.



Station 109 - Truck

Alarm Responses

Truck 109

Responses For Fires

| | 1999 | Chg +/- |
|-----------------------------|---------|---------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 46 (7%) | (-13) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 10 (2%) | (-9) |
| Vehicle | 5 (1%) | (-10) |
| Vegetation: | | |
| Fireworks | 0 | (-2) |
| Vegetation | 5 (1%) | (-2) |
| Dumpster | 5 (1%) | (-1) |
| Miscellaneous Fire Outdoors | 7 (1%) | (-3) |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|--------|
| Medical: | | |
| Cardiac | 36 (6%) | (-67) |
| Respiratory Emergency | 41 (6%) | (-95) |
| Trauma | 58 (9%) | (-70) |
| OB/Gyn | 1 (0) | (-9) |
| Gastro Intestinal/Genito Urinary | 9 (1%) | (-31) |
| Altered LOC (level of consciousness) | 51 (8%) | (-92) |
| Psychiatric | 6 (1%) | (-9) |
| Environmental | 1 (0) | (-5) |
| Not Classified Above | 55 (8%) | (-123) |
| Violent Crime | 5 (1%) | (-21) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 32 (5%) | (-22) |
| Without Injuries | 24 (4%) | (-20) |
| Public Assistance: | | |
| Public Assistance | 143 (22%) | (-106) |
| Hazardous Materials | 0 | (-4) |
| Bomb | 1 (0) | (0) |
| Fireworks | 0 | |
| Mistake | 32 (5%) | (-64) |
| Alarm System Malfunction | 3 (0) | (-65) |
| False Alarm | 7 (1%) | (-37) |
| Hazardous Materials | 0 | (-2) |
| Returned Enroute | 36 (6%) | (-86) |

Other Types of Responses

| | | |
|---------------|---------|-------|
| Automatic Aid | 29 (4%) | (-24) |
| Mutual Aid | 0 | |

Total Responses

648 (-992)

Average Responses Per Day 1.78

Station Tours

Number of Tours

40

Children

550

Adults

150

Public Education/Relations Activities Outside of Station

Number of Activities

20

Children

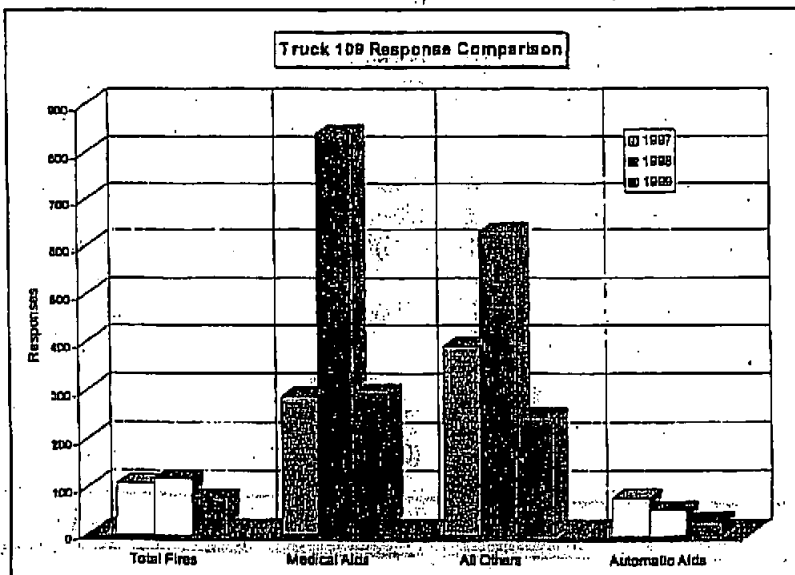
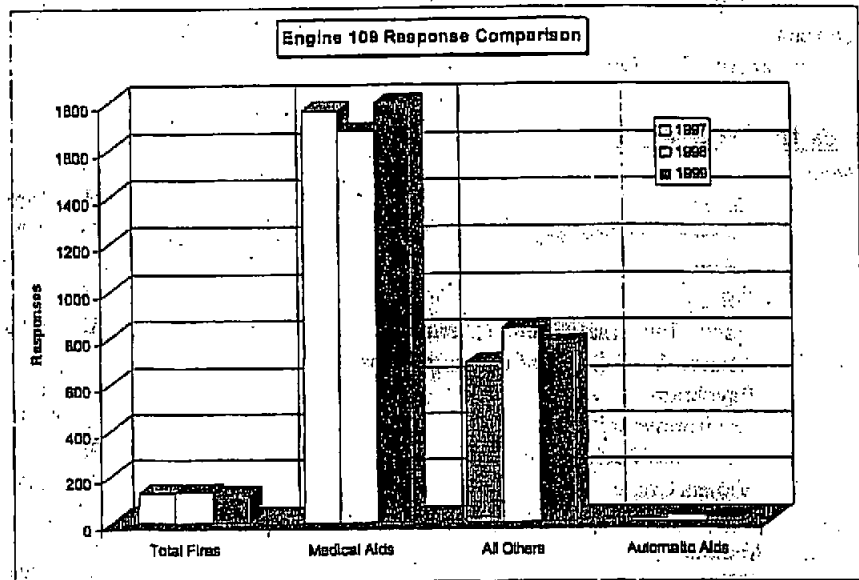
6,000

Adults

4,000

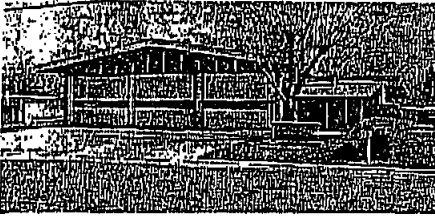
Buildings and Grounds

1. Painted shop, storage shed and out buildings.



Station 110

1616 Mission Avenue, Carmichael



Alarm Responses

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 33 (5%) | (0) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 9 (1%) | (0) |
| Vehicle | 10 (1%) | (+2) |
| Vegetation: | | |
| Fireworks | 1 (0) | (+1) |
| Vegetation | 13 (1%) | (+5) |
| Dumpster | 4 (1%) | (+1) |
| Miscellaneous Fire Outdoors | 2 | (-8) |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|-------|
| Medical: | | |
| Cardiac | 69 (8%) | (0) |
| Respiratory Emergency | 60 (7%) | (-25) |
| Trauma | 122 (14%) | (-14) |
| OB/Gyn | 0 | (-1) |
| Gastro Intestinal/Genito Urinary | 12 (1%) | (-14) |
| Altered LOC (level of consciousness) | 63 (7%) | (-37) |
| Psychiatric | 1 (0) | (-6) |
| Environmental | 3 (1%) | (+2) |
| Not-Classified Above | 138 (16%) | (+39) |
| Violent Crime | 12 (1%) | (+7) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 26 (3%) | (+14) |
| Without Injuries | 20 (2%) | (+3) |
| Public Assistance: | | |
| Public Assistance | 135 (15%) | (-18) |
| Hazardous Materials | 1 (0) | (-3) |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 65 (7%) | (-10) |
| Alarm System Malfunction | 53 (6%) | (-11) |
| False Alarm | 13 (1%) | (-10) |
| Hazardous Materials | 0 | (-1) |
| Returned Enroute | 13 (1%) | (-3) |

Other Types of Responses

| | | |
|---------------|--------|------|
| Automatic Aid | 7 (1%) | (+4) |
| Mutual Aid | 2 (0) | (+1) |

| | | |
|------------------------|------------|--------------|
| Total Responses | 887 | (-82) |
|------------------------|------------|--------------|

Average Responses Per Day 2.43

Station Tours

Number of Tours

7

Children

64

Adults

97

Public Education/Relations Activities Outside of Station

Number of Activities

0

Children

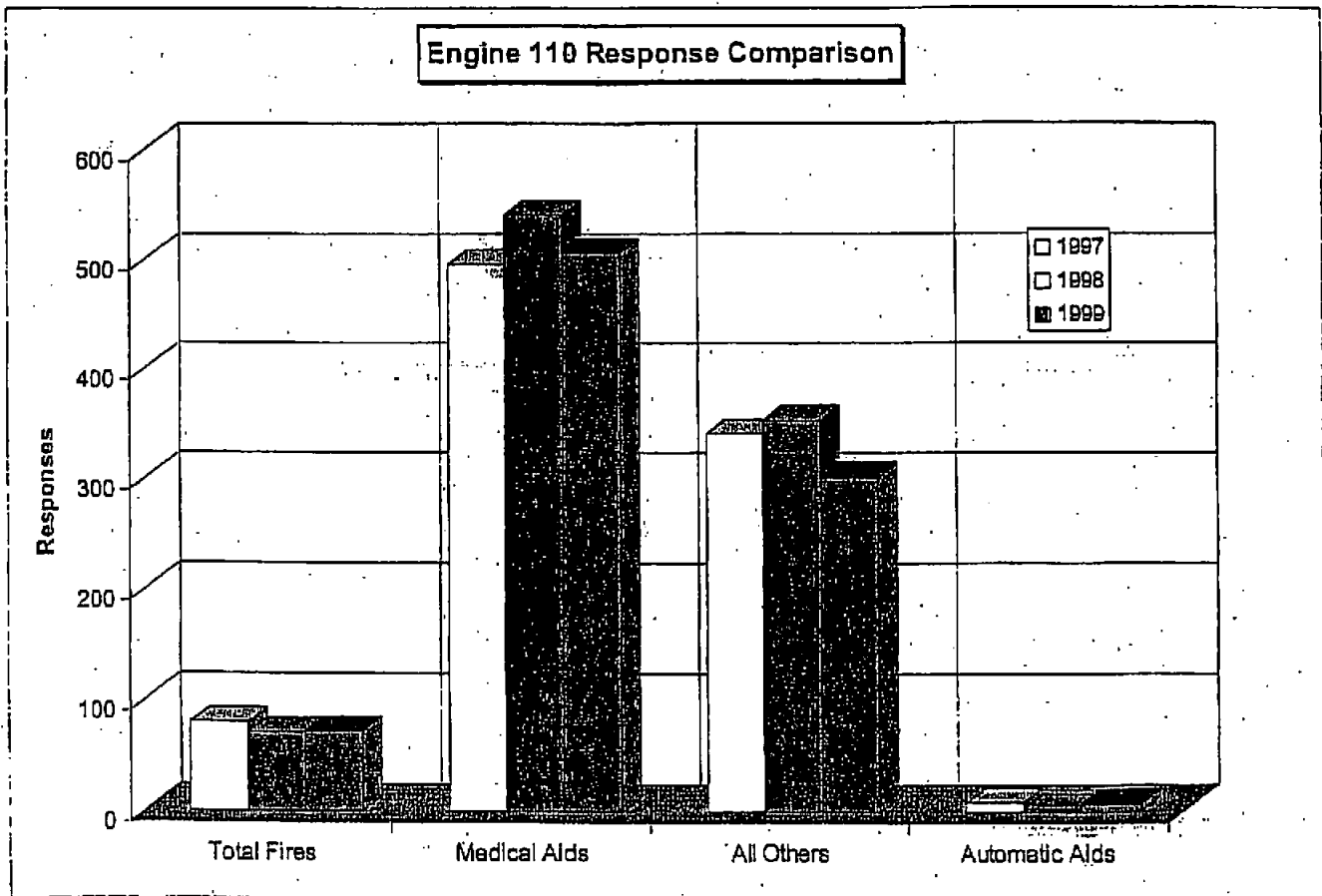
0

Adults

0

Buildings and Grounds

1. Installed new dishwasher.
2. Received treadmill.
3. Removed one large tree and replanted two trees.



Station 111 - Engine



Alarm Responses

Responses For Fires

| | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 18 (1%) | (-11) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 3 (0) | (+1) |
| Vehicle | 35 (3%) | (+6) |
| Vegetation: | | |
| Fireworks | 2 (0) | (+1) |
| Vegetation | 85 (6%) | (+30) |
| Dumpster | 6 (0) | (+1) |
| Miscellaneous Fire Outdoors | 22 (2%) | (-4) |

Responses for Non-Fires

| | | |
|--------------------------------------|-----------|-------|
| Medical: | | |
| Cardiac | 78 (6%) | (-39) |
| Respiratory Emergency | 84 (7%) | (-43) |
| Trauma | 79 (6%) | (-11) |
| OB/Gyn | 4 (0) | (0) |
| Gastro Intestinal/Genito Urinary | 18 (1%) | (-14) |
| Altered LOC (level of consciousness) | 87 (7%) | (+21) |
| Psychiatric | 14 (1%) | (+6) |
| Environmental | 4 (0) | (+1) |
| Not Classified Above. | 340 (26%) | (+70) |
| Violent Crime | 18 (1%) | (-22) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 39 (3%) | (-11) |
| Without Injuries | 35 (3%) | (-3) |
| Public Assistance: | | |
| Public Assistance | 129 (10%) | (-4) |
| Hazardous Materials | 2 (0) | (+1) |
| Bomb | 0 | |
| Fireworks | 0 | |
| Mistake | 112 (9%) | (+25) |
| Alarm System Malfunction | 9 (1%) | (-12) |
| False Alarm | 2 (0) | (-13) |
| Hazardous Materials | 1 (0) | (-3) |
| Returned Enroute | 35 (3%) | (-29) |

Other Types of Responses

| | | |
|---------------|---------|-------|
| Automatic Aid | 46 (4%) | (-22) |
| Mutual Aid | 3 (0) | (+1) |

| | | |
|------------------------|--------------|--------------|
| Total Responses | 1,310 | (-77) |
|------------------------|--------------|--------------|

Average Responses Per Day 3.59

Station 111 - Battalion 5

Alarm Responses Battalion 5

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 19 (6%) | (-22) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 7 (2%) | (+1) |
| Vehicle | 10 (3%) | (-7) |
| Vegetation: | | |
| Fireworks | 2 (1%) | (+1) |
| Vegetation | 93 (30%) | (+18) |
| Dumpster | 1 (0) | (-4) |
| Miscellaneous Fire Outdoors | 16 (5%) | (-1) |

Responses for Non-Fires

| | | |
|--------------------------------------|----------|-------|
| Medical: | | |
| Cardiac | 0 | |
| Respiratory Emergency | 0 | (-4) |
| Trauma | 3 (1%) | (-9) |
| OB/Gyn | 6 (2%) | (+3) |
| Gastro Intestinal/Genito Urinary | 0 | (-1) |
| Altered LOC (level of consciousness) | 1 (0) | (-3) |
| Psychiatric | 0 | (-1) |
| Environmental | 0 | |
| Not Classified Above | 1 (0) | (-6) |
| Violent Crime | 2 (1%) | (0) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 11 (4%) | (-9) |
| Without Injuries | 7 (2%) | (-2) |
| Public Assistance: | | |
| Public Assistance | 34 (11%) | (-14) |
| Hazardous Materials | 3 (1%) | (+2) |
| Bomb | 0 | |
| Fireworks | 1 (0) | (+1) |
| Mistake | 40 (13%) | (+3) |
| Alarm System Malfunction | 13 (4%) | (-16) |
| False Alarm | 5 (2%) | (-9) |
| Hazardous Materials | 2 (1%) | (-3) |
| Returned Enroute | 10 (3%) | (-1) |

Other Types of Responses

| | | |
|---------------|---------|------|
| Automatic Aid | 23 (8%) | (+3) |
| Mutual Aid | 1 (0) | (-1) |

| | | |
|------------------------|------------|--------------|
| Total Responses | 311 | (-81) |
|------------------------|------------|--------------|

Average Responses Per Day85

Station 111

Station Tours

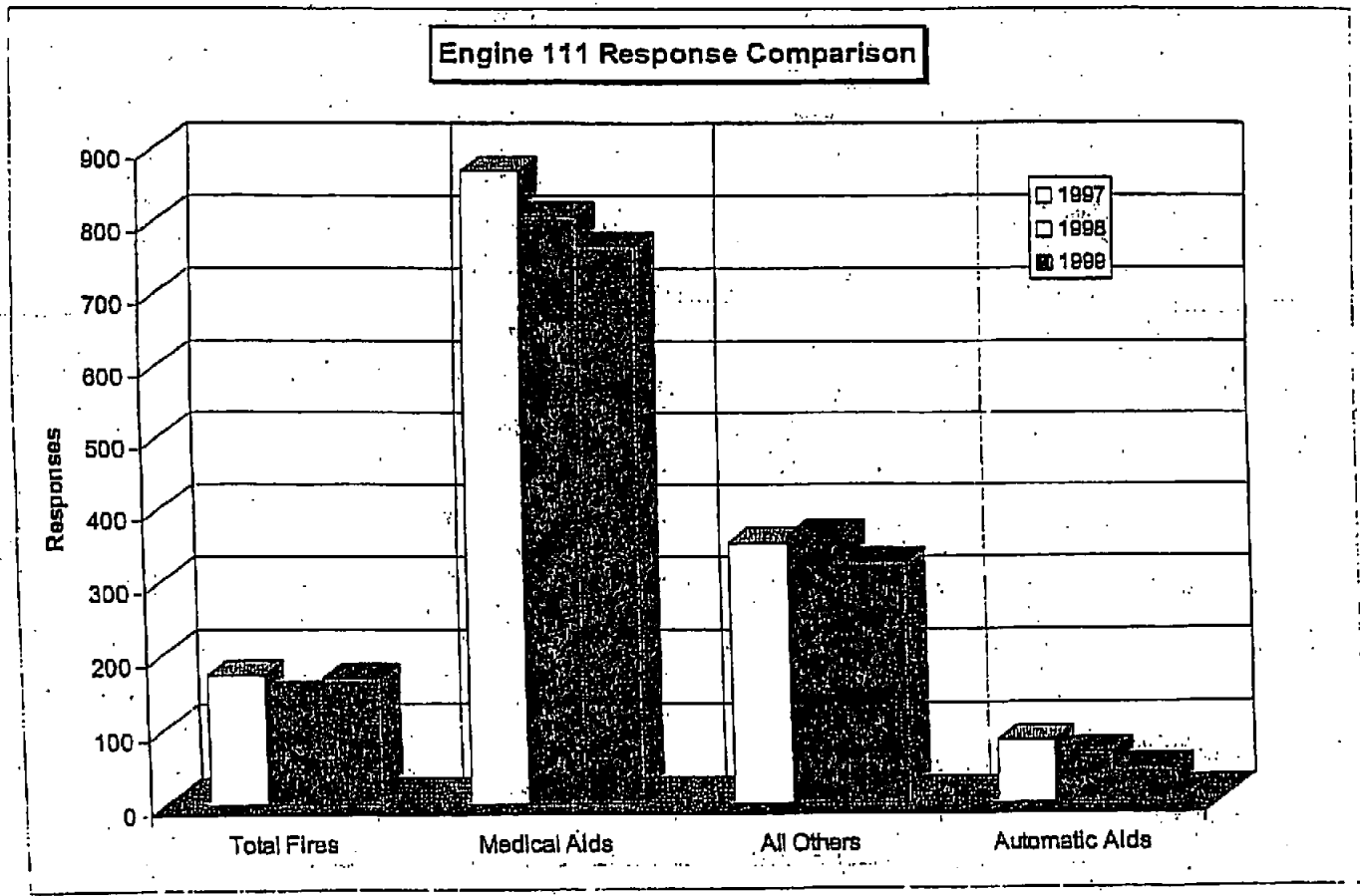
| <u>Number of Tours</u> | <u>Children</u> | <u>Adults</u> |
|------------------------|-----------------|---------------|
| 6 | 110 | 16 |

Public Education/Relations Activities Outside of Station

| <u>Number of Activities</u> | <u>Children</u> | <u>Adults</u> |
|-----------------------------|-----------------|---------------|
| 11 | 365 | 66 |

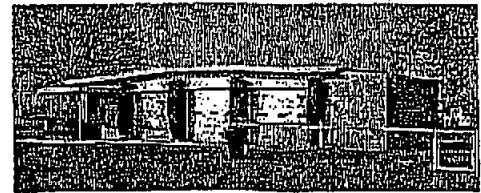
Buildings and Grounds

1. Painted interior of station.
2. New (used) office furniture in Captain's office



Station 112 - Reserve Firefighters

6801 34th Street, North Highlands



Alarm Responses

Responses For Fires

| | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 18 (9%) | (-14) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 6 (3%) | (+2) |
| Vehicle | 13 (6%) | (-8) |
| Vegetation: | | |
| Fireworks | 2 (1%) | (+1) |
| Vegetation | 96 (44%) | (+23) |
| Dumpster | 2 (1%) | (-3) |
| Miscellaneous Fire Outdoors | 13 (6%) | (-5) |

Responses for Non-Fires

| | | |
|--------------------------------------|----------|-------|
| Medical: | | |
| Cardiac | 1 (0) | (+1) |
| Respiratory Emergency | 0 | (-4) |
| Trauma | 0 | (-3) |
| OB/Gyn | 0 | |
| Gastro Intestinal/Genito Urinary | 1 (.5%) | (-2) |
| Altered LOC (level of consciousness) | 0 | (-3) |
| Psychiatric | 0 | |
| Environmental | 0 | |
| Not Classified Above | 0 | (-2) |
| Violent Crime | 0 | (-1) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 1 (.5%) | (-3) |
| Without Injuries | 0 | (-2) |
| Public Assistance: | | |
| Public Assistance | 25 (12%) | (-20) |
| Hazardous Materials | 1 (.5%) | (+1) |
| Bomb | 0 | |
| Fireworks | 1 (.5%) | (+1) |
| Mistake | 19 (9%) | (-13) |
| Alarm System Malfunction | 1 (.5%) | (-11) |
| False Alarm | 3 (1%) | (-6) |
| Hazardous Materials | 0 | (-1) |
| Returned Enroute | 7 (3%) | (-11) |

Other Types of Responses

| | | |
|---------------|---------|------|
| Automatic Aid | 5 (2%) | (-2) |
| Mutual Aid | 1 (.5%) | (+1) |

| | | |
|------------------------|------------|--------------|
| Total Responses | 216 | (-84) |
|------------------------|------------|--------------|

Average Responses Per Day59

Station 112

Station Tours

Number of Tours

0

Children

0

Adults

0

Public Education/Relations Activities Outside of Station

Number of Activities

N/A

Children

N/A

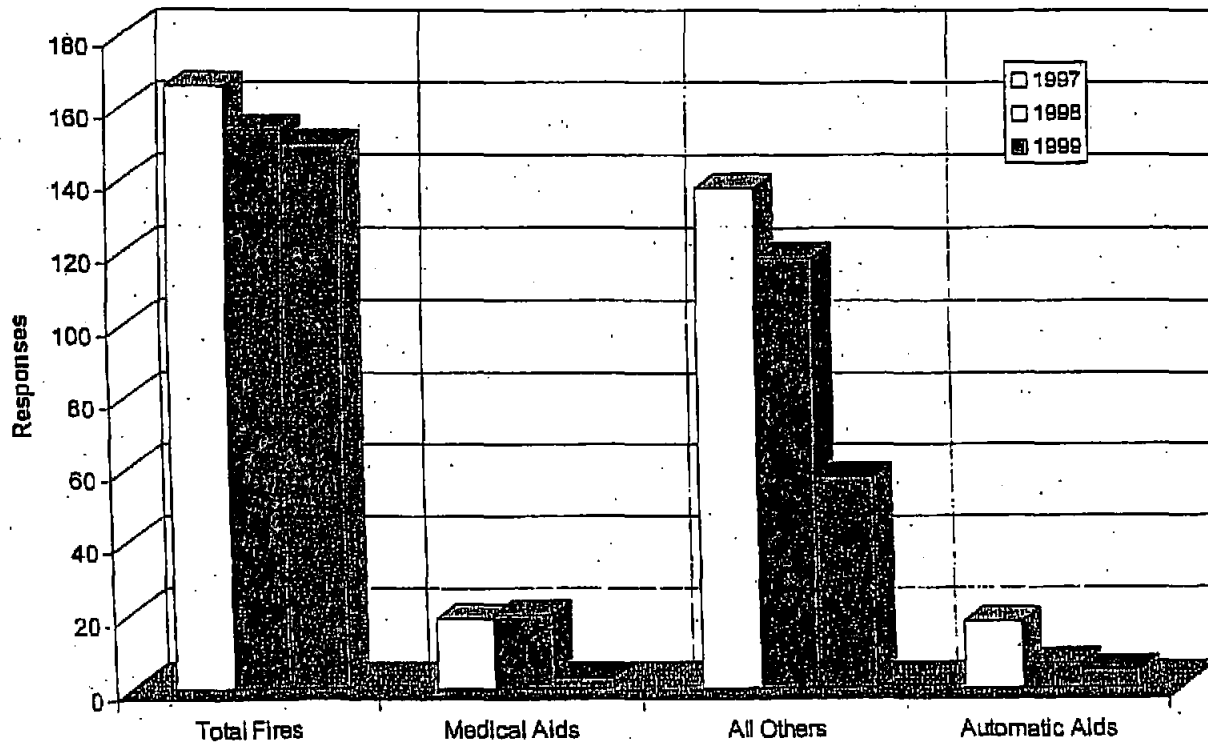
Adults

N/A

Buildings and Grounds

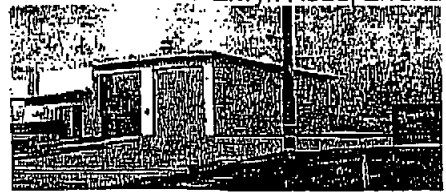
1. Nothing to report.

Engine 112 Response Comparison



Station 116 - Reserve Firefighters

7995 Elwyn Road, Elverta



Alarm Responses

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|-----------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 17 (7%) | (-15) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 6 (3%) | (+2) |
| Vehicle | 14 (7%) | (0) |
| Vegetation: | | |
| Fireworks | 2 (1%) | (+1) |
| Vegetation | 98 (41%) | (+27) |
| Dumpster | 1 (0) | (-3) |
| Miscellaneous Fire Outdoors | 15 (7%) | (-3) |

Responses for Non-Fires

| | | |
|--------------------------------------|----------|-------|
| Medical: | | |
| Cardiac | 2 (1%) | (-1) |
| Respiratory Emergency | 1 (0) | (0) |
| Trauma | 3 (1%) | (+1) |
| OB/Gyn | 0 | |
| Gastro Intestinal/Genito Urinary | 0 | |
| Altered LOC (level of consciousness) | 1 (0) | (-2) |
| Psychiatric | 0 | |
| Environmental | 0 | |
| Not Classified Above | 2 (1%) | (+1) |
| Violent Crime | 0 | |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 3 (0) | (+2) |
| Without Injuries | 2 | (-1) |
| Public Assistance: | | |
| Public Assistance | 30 (14%) | (-16) |
| Hazardous Materials | 1 (0) | (+1) |
| Bomb | 0 | (-1) |
| Fireworks | 1 (0) | (+1) |
| Mistake | 22 (10%) | (-9) |
| Alarm System Malfunction | 1 (0) | (-11) |
| False Alarm | 0 | (-10) |
| Hazardous Materials | 1 | (0) |
| Returned Enroute | 5 (2%) | (-3) |

Other Types of Responses

| | | |
|---------------|---------|------|
| Automatic Aid | 12 (5%) | (-3) |
| Mutual Aid | 1 (0) | (-2) |

| | | |
|------------------------|------------|--------------|
| Total Responses | 241 | (-44) |
|------------------------|------------|--------------|

Average Responses Per Day66

Station 116

Station Tours

Number of Tours

0

Children

0

Adults

0

Public Education/Relations Activities Outside of Station

Number of Activities

6

Children

N/A

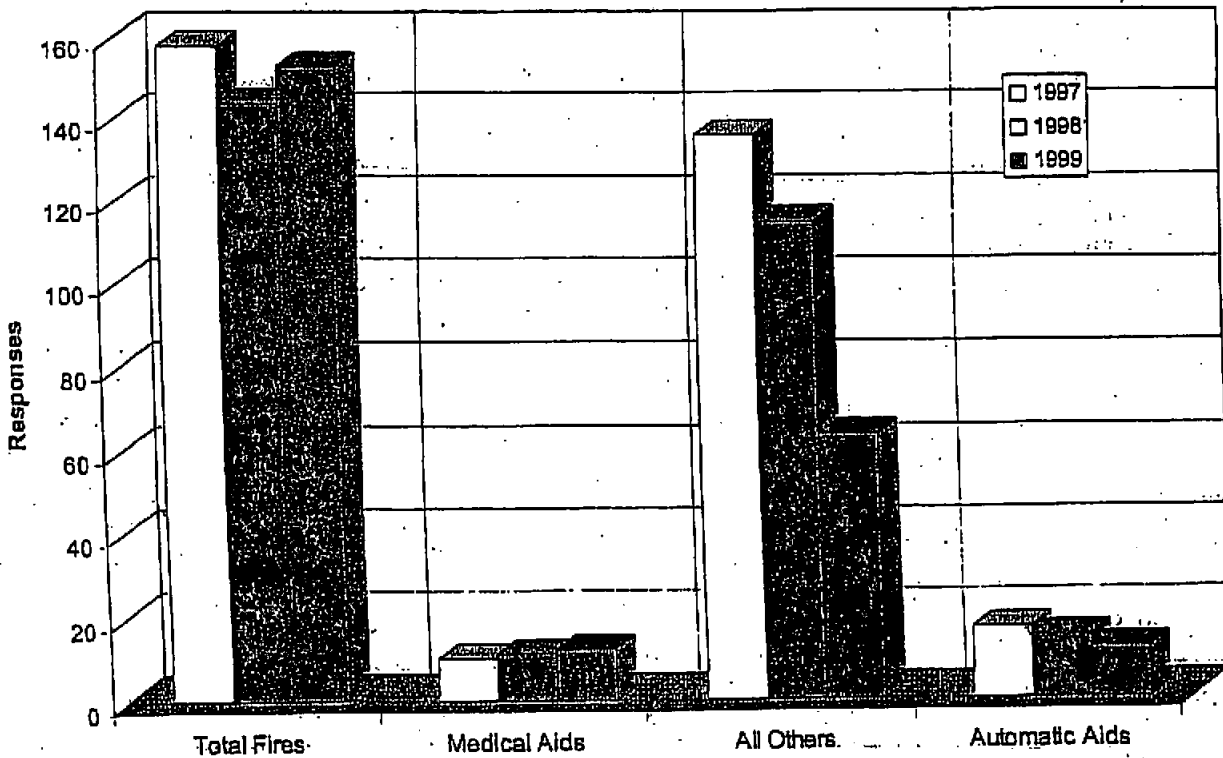
Adults

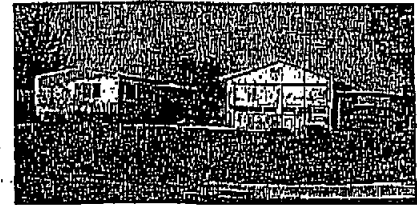
N/A

Buildings and Grounds

1. Asphalt patched parking lot.

Engine 116 Response Comparison





Alarm Responses

| <u>Responses For Fires</u> | <u>1999</u> | <u>Chg +/-</u> |
|--------------------------------------|-------------|----------------|
| Residential: | | |
| Fireworks | 0 | |
| Residential | 17 (2%) | (-11) |
| Commercial: | | |
| Fireworks | 0 | |
| Commercial | 6 (1%) | (+2) |
| Vehicle | 21 (3%) | (-10) |
| Vegetation: | | |
| Fireworks | 2 (0) | (+1) |
| Vegetation | 96 (11%) | (+32) |
| Dumpster | 1 (0) | (-2) |
| Miscellaneous Fire Outdoors | 17 (2%) | (-1) |
| | | |
| <u>Responses for Non-Fires</u> | | |
| Medical: | | |
| Cardiac | 45 (5%) | (-2) |
| Respiratory Emergency | 48 (6%) | (-5) |
| Trauma | 89 (11%) | (+6) |
| OB/Gyn | 9 (1%) | (+8) |
| Gastro Intestinal/Genito Urinary | 13 (2%) | (-11) |
| Altered LOC (level of consciousness) | 57 (7%) | (-11) |
| Psychiatric | 2 (0) | (-9) |
| Environmental | 4 (0) | (+1) |
| Not Classified Above | 66 (8%) | (-12) |
| Violent Crime | 20 (2%) | (+2) |
| Fireworks | 0 | |
| Vehicle Accident: | | |
| With Injuries | 30 (4%) | (-4) |
| Without Injuries | 23 (3%) | (+1) |
| Public Assistance: | | |
| Public Assistance | 69 (8%) | (-16) |
| Hazardous Materials | 4 (0) | (+3) |
| Bomb | 0 | |
| Fireworks | 1 (0) | (+1) |
| Mistake | 55 (7%) | (-17) |
| Alarm System Malfunction | 7 (1%) | (-10) |
| False Alarm | 6 (1%) | (+1) |
| Hazardous Materials | 3 (0) | (-1) |
| Returned Enroute | 31 (4%) | (+19) |
| | | |
| <u>Other Types of Responses</u> | | |
| Automatic Aid | 96 (11%) | (+7) |
| Mutual Aid | 3 (0) | (-2) |
| Total Responses | 841 | (-40) |

Average Responses Per Day 2.30

Station 117

Station Tours

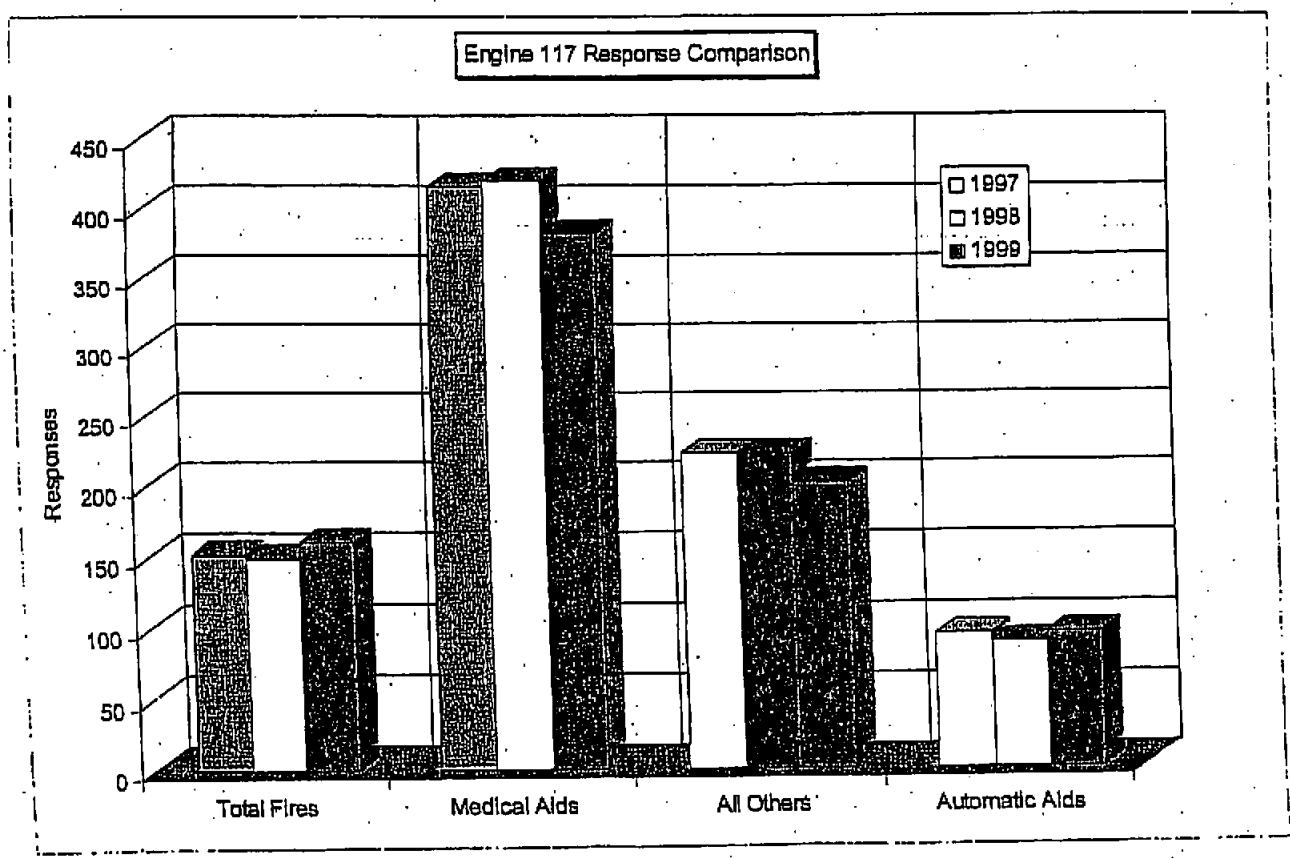
| <u>Number of Tours</u> | <u>Children</u> | <u>Adults</u> |
|------------------------|-----------------|---------------|
| 2 | 3 | 4 |

Public Education/Relations Activities Outside of Station

| <u>Number of Activities</u> | <u>Children</u> | <u>Adults</u> |
|-----------------------------|-----------------|---------------|
| 4 | 340 | 140 |

Buildings and Grounds

1. Station ramp repaired.
2. Installed new "person" door in apparatus room
3. New dishwasher.
4. New treadmill.
5. New Centrex telephone line installed.
6. Removed shrubs from planter.



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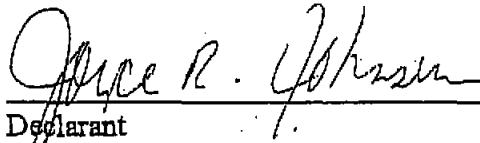
PROOF OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento, and I am over the age of 18 years and not a party to the within action. My place of employment is 4320 Auburn Blvd., Suite 2000, Sacramento, CA 95841.

On September 24, 2003 I served a true and correct copy of the Response to Department of Finance by the Sacramento Metropolitan Fire District on Local Agency Formation Commission (LAFCO), CSM-02-TC-23, by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United State mail at Sacramento, California, with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed this 24th day of September, 2003 at Sacramento, California.



Declarant

Mr. Jim Spano
State Controller's Office (B-08)
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Legislative Analyst's Office
Attention: Marianne O'Malley
925 L Street, Suite 1000
Sacramento, CA 95814

Mr. Tal Finney
Office of Planning and Research
1400 Tenth Street, Suite 150
Sacramento, CA 95814

COMMISSION ON STATE MANDATES

EXHIBIT H

10 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
(916) 323-3682
(916) 445-0278
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June 28, 2007

Ms. Juliana F. Gmur
Maximus, Inc.
2380 Houston Avenue
Clovis, CA 93611

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Draft Staff Analysis and Hearing Date

02-TC-23 *Local Agency Formation Commission (LAFCO)*

Government Code Sections 56326.5, 56381, 56381.6, 56001, 56425, 56430 and 56426.5;

Statutes 2000, Chapter 761 (AB 2838); and Statutes 2002, Chapter 493 (AB 1948);

"LAFCO Municipal Service Review Guidelines" (October 2002); and "LAFCO

Municipal Service Review Guidelines Appendices" (October 2002) of the Governor's

Office of Planning and Research

Sacramento Metropolitan Fire District, Claimant

Dear Ms. Gmur:

The draft staff analysis of this test claim is enclosed for your review and comment.

Written Comments

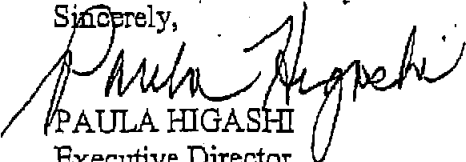
Any party or interested person may file written comments on the draft staff analysis by Tuesday, July 19, 2007. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

Hearing

This test claim is set for hearing on **Thursday, September 27, 2007**, at 9:30 a.m. in Room 126, State Capitol, Sacramento, CA. The final staff analysis will be issued on or about September 13, 2007. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Please contact Deborah Borzelleri at (916) 322-4230 with any questions regarding the above.

Sincerely,


PAULA HIGASHI

Executive Director

Enclosures

ITEM _____
TEST CLAIM
DRAFT STAFF ANALYSIS

Government Code
Sections 56001, 56326.5, 56381, 56381.6,
56425, 56426.5, and 56430

Statutes 1991, Chapter 439 (AB 748)
Statutes 2000, Chapter 761 (AB 2838)
Statutes 2002, Chapter 493 (AB 1948)

LAFCO Municipal Services Review Guidelines (Final Draft, October 3, 2002)
LAFCO Municipal Services Review Guidelines Appendices (Final Draft, October 3, 2002)

Local Agency Formation Commissions

02-TC-23

Sacramento Metropolitan Fire District, Claimant.

EXECUTIVE SUMMARY

This test claim addresses changes to Local Agency Formation Commissions ("LAFCOs"), which are statutorily-created local administrative bodies that make determinations regarding formation and development of local agencies. The specific modifications are to the representatives on LAFCOs, the mechanisms for funding LAFCO operations, and the process for LAFCOs to adopt and update the "sphere of influence" for each local agency within a county.

The Test Claim Statutes Impose a Partially Reimbursable State-Mandated Program Within the Meaning of Article XIII B, Section 6 of the California Constitution

In 1991, the Sacramento County LAFCO was required by statute to have two independent special districts represented on it. The claimant, one of 66 independent special districts in Sacramento County, seeks reimbursement for its representation on the LAFCO – in the event it is chosen to sit on the LAFCO – as well as its representation on the independent special district selection committee, a committee consisting of representatives from all independent special districts in the county established to choose the independent special districts that would be represented on the LAFCO.

Staff finds that, although the test claim statutes require special districts to be represented on the Sacramento County LAFCO, actual participation by a district is neither legally nor practically compelled since the particular special district representatives are chosen by the local independent special district selection committee, and nonparticipation by a chosen district does not result in "certain and severe" penalties. Moreover, although the test claim statutes require the independent special district selection committee to consist of the presiding officer of the legislative body of each independent special district, actual participation by the districts is neither legally nor practically compelled since a quorum of 34 out of 66 districts is required for the committee to operate – up to 32 districts could decline to participate at any

02-TC-23 Local Agency Formation Commissions
Draft Staff Analysis

given meeting – and nonparticipation by a particular district does not result in “certain and severe” penalties.

Claimant also seeks reimbursement for its share of the funding of the Sacramento County LAFCO as required by the test claim statutes. However, staff finds that such costs are not reimbursable because the provision does not mandate any activities or impose a “cost shift” from the *state* to local agencies pursuant to *Lucia Mar Unified School Dist.* or article XIII B, section 6, subdivision (c) (Proposition 1A), as enacted by the voters on November 2, 2004. Instead, the cost shift is from the *county* to the districts, since the immediately previous statute required the counties to provide the entire budget for LAFCOs.

Finally, claimant seeks reimbursement for gathering and providing information to the Sacramento County LAFCO for sphere of influence reviews, which require municipal service reviews, pursuant to statute and Municipal Service Review Guidelines and Appendices adopted by the Office of Planning and Research (OPR). Staff finds that only one statutory provision constitutes a state-mandated “new program or higher level of service” in an existing program: special districts shall file written statements with the LAFCO specifying the functions or classes of service provided by those districts, when the LAFCO prepares or updates a sphere of influence. All other activities claimed for this purpose are either required of the LAFCO and *not* special districts, or the activities are *not mandated* since the Municipal Service Review Guidelines and Appendices do not constitute executive orders.

Only those independent special districts that are subject to article XIII B, section 6 are eligible claimants.

Conclusion

Staff finds that Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)), mandates a “new program or higher level of service” in an existing program, in that it requires special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, when the LAFCO prepares or updates a sphere of influence. Furthermore, the provision imposes costs mandated by the state pursuant to Government Code section 17514 and article XIII B, section 6. Therefore, the activity constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. Only those independent special districts that are subject to article XIII B, section 6 – i.e., those districts that, because of their funding, are not excluded from the spending limits pursuant to article XIII B, section 9, subdivision (c) – are eligible claimants. The reimbursement period begins July 1, 2001.

Staff concludes that Government Code section 56001 declares legislative findings and is helpful to interpret the test claim statutes, but does not mandate any activities. Staff further concludes that Government Code sections 56326.5, 56381, 56381.6, 56425 (except subdivision (h)(1), subsequently renumbered to subdivision (i)(1)), 56426.5, and 56430, and the Municipal Service Review Guidelines and Appendices developed by OPR, as pled, along with any other test claim statutes, guidelines and allegations not specifically approved above, do not mandate a new program or higher level of service subject to article XIII B, section 6.

Recommendation

Staff recommends the Commission adopt this analysis to partially approve this test claim.

STAFF ANALYSIS

Claimant

Sacramento Metropolitan Fire District

Chronology

- 05/29/03 Sacramento Metropolitan Fire District filed test claim with the Commission on State Mandates ("Commission")¹
- 06/19/03 Commission staff deemed the test claim complete
- 07/07/03 The Department of Finance requested an extension of time to file comments on the test claim
- 07/08/03 Commission staff approved extension of time, to August 18, 2003, to file comments on the test claim
- 07/18/03 The Department of Finance submitted comments on test claim with the Commission
- 09/25/03 Sacramento Metropolitan Fire District submitted rebuttal comments to the Department of Finance comments on the test claim with the Commission
- 06/28/07 Commission staff issued draft staff analysis

Background

This test claim addresses changes to funding mechanisms for, and representation on, Local Agency Formation Commissions ("LAFCOs"), as well as modifications to the process for LAFCOs to adopt and update the "sphere of influence"² for each local government agency within a county.

Historical Development of LAFCOs

In light of competing urban, social and economic interests affected by land annexation, and "[a]fter years of failure to cope with these problems to any meaningful extent ..., the Legislature finally acknowledged 'the need for a supra-local agency to intervene in boundary decisions' affecting local governments, and, in 1963, established a LAFCO in each [California] county to serve this purpose."^{3,4} Thus, LAFCOs are statutorily-created administrative bodies which make quasi-legislative determinations⁵ regarding formation and development of local

¹ The reimbursement period for this test claim begins July 1, 2001.

² "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the LAFCO. (Gov. Code § 56076.)

³ *Tillie Lewis Foods, Inc. v. City of Pittsburg (Tillie Lewis)* (1975) 52 Cal.App.3d 983, 995.

⁴ Statutes 1963, chapter 1808.

⁵ *Sierra Club v. San Joaquin Local Agency Formation Commission* (1999) 21 Cal.4th 489, 495.

agencies.⁶ The courts have referred to LAFCOs as the Legislature's "watchdogs" over local boundaries.⁷

The LAFCOs' purposes have evolved over the years, and in 1985, the laws governing local boundary changes were consolidated into the Cortese-Knox Local Government Reorganization Act ("Cortese-Knox Act"),⁸ which provided the "sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts."⁹ The Cortese-Knox Act stated the following purposes for LAFCOs:

Among the purposes of a [LAFCO] are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the [LAFCO] is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities.¹⁰

The Cortese-Knox Act charged LAFCOs with a variety of powers and duties, including but not limited to: reviewing proposals for changes of organization or reorganization;¹¹ approving annexation of unincorporated, noncontiguous territory in certain instances;¹² adopting written procedures, regulations and standards;¹³ and developing, determining, adopting and periodically updating the sphere of influence of each local governmental agency within the county.¹⁴

By June 30, 1985, each LAFCO was required to adopt a sphere of influence for each local governmental agency within its jurisdiction,¹⁵ in order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies.¹⁶ In determining the sphere of influence of each local agency,

⁶ Government Code section 56301.

⁷ *Tillie Lewis, supra*, 52 Cal.App.3d 983, 1005.

⁸ Statutes 1985, chapter 541; Government Code sections 56000 et seq.

⁹ Government Code section 56100.

¹⁰ Government Code section 56301, as enacted by Statutes 1985, chapter 541.

¹¹ Government Code section 56375, subdivision (a).

¹² Government Code section 56375, subdivision (e), subsequently renumbered to subdivision (d).

¹³ Government Code section 56375, subdivisions (i), (j), and (k), subsequently renumbered to subdivisions (g), (h), and (i).

¹⁴ Government Code section 56425.

¹⁵ Government Code section 56426.

¹⁶ Government Code sections 56076 and 56425.

the LAFCO was required to consider and prepare a written statement of its determination with respect to the following points:

- 1) The present and planned land uses in the area, including agricultural and open-space lands.
- 2) The present and probable need for public facilities and services in the area.
- 3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
- 4) The existence of any social or economic communities of interest in the area if the LAFCO determines that they are relevant to the agency.¹⁷

LAFCOs were originally established with representatives from the county, cities in the county and the general public,¹⁸ with the option of adding independent special districts.¹⁹ Any county choosing to have independent special district representation on the LAFCO was required to establish an independent special district selection committee to choose such members, which shall consist of the presiding officer of the legislative body of each independent special district.²⁰ Funding for LAFCOs was historically provided by the county served²¹ and by fees for the cost of specified proceedings undertaken by the LAFCO.²²

In recognition of the fact that nearly 35 years had passed since a thorough investigation of the policies, practices, and statutes affecting the organization and boundaries of California's local agencies had been conducted, in 1997 the Legislature created the Commission on Local Governance for the 21st Century.²³ The 21st Century Commission, as it came to be known, was charged with reviewing current statutes regarding policies, criteria, procedures and precedents for city, county and special district boundary changes, to solicit the views and advice of the public, to propose criteria to increase citizen and community participation in city, county, and special district governments consistent with federal law, and to recommend any appropriate statutory changes.²⁴

On January 20, 2000, after extensive hearings and deliberation, the 21st Century Commission released its final report, entitled *Growth Within Bounds*. The report made the following recommendations:

¹⁷ *Ibid*.

¹⁸ Former Government Code section 54780, repealed and renumbered to Government Code section 56325. (Stats. 1985, ch. 541.)

¹⁹ Government Code section 56332, subdivision (a), as enacted by Statutes 1985, chapter 541.

²⁰ *Ibid*.

²¹ Government Code section 56381, as enacted by Statutes 1985, chapter 541.

²² Government Code section 56383.

²³ AB 1484 (Hertzberg), Statutes 1997, chapter 943.

²⁴ Government Code section 56302, subdivision (c), as enacted by Statutes 1997, chapter 943.

1. LAFCO policies and procedures should be streamlined.
2. LAFCOs should be neutral, independent, and provide balanced representation for counties, cities and special districts, with funding provided from each of those categories.
3. LAFCO powers should be strengthened to prevent sprawl and ensure the orderly extension of government services.
4. Policies to protect agricultural and open space lands and other resources should be strengthened.
5. The state-local fiscal relationship should be comprehensively revised.
6. The state should develop incentives to encourage compatibility and coordination of plans and actions of all local agencies, including school districts, within each region as a way to encourage an integrated approach to public service delivery and improve overall governance.
7. Communication, coordination, and procedures of LAFCOs and local governments should be enhanced to promote government efficiency.
8. Opportunities for public involvement, active participation, and information regarding government decision-making should be increased.

The Legislature responded by enacting many of the 21st Century Commission's recommendations into the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.²⁵ The act expands the purposes of the LAFCO to include preserving open space and agricultural lands, efficiently providing government services, and, when formation of a new government entity is proposed, making a determination as to whether existing agencies can feasibly provide the needed services in a more efficient and accountable manner.²⁶ The relevant provisions of this act, as well as the other test claim statutes and related executive orders, are summarized below.

Sacramento County LAFCO Representation (Stats. 1991, Ch. 439):

- Section 56326.5 was added to the Government Code in 1991 to provide that, for the *Sacramento County LAFCO only*, in addition to the basic representation of five members; — i.e., two county members, two members representing cities in the county, and one general public member²⁷ — one of the city members must be from the City of Sacramento and two members representing special districts in the County must sit on the LAFCO. The record for this legislation indicates that Sacramento County LAFCO, prior to the enactment of section 56326.5, chose to include special district representation as authorized by Government Code section 56332.²⁸ A requirement that independent special districts sit on the Sacramento LAFCO triggers the additional requirement for an independent special

²⁵ AB 2838, Statutes 2000, chapter 761.

²⁶ Government Code section 56301.

²⁷ Government Code section 56325, as enacted by Statutes 1985, chapter 541.

²⁸ Governor's Office of Planning and Research, Enrolled Bill Report for AB 748, September 3, 1991, page 1.

district selection committee, which is established pursuant to Government Code section 56332.

Cortese-Knox-Hertzberg Local Government Reorganization Act (Stats. 2000, Ch. 761):

- The legislative findings and declarations for the Act were amended to include discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services.²⁹
- Separate and apart from Sacramento County, the basic number of members on LAFCOs for most of the other counties was increased from five to seven, with the two additional members representing independent special districts.³⁰ When a LAFCO did not have representation from independent special districts on January 1, 2001, the LAFCO was required to "initiate proceedings for representation of independent special districts upon the [LAFCO] if requested by independent special districts..."³¹ (Emphasis added.)
- Changes were made in funding for LAFCOs; instead of the existing requirement of being entirely funded by the county, LAFCOs with representation by cities and special districts are now funded by a one-third share each from the county, cities and special districts.³² The independent special districts' share was apportioned according to each district's revenues for general purpose transactions, as reported in the most recent edition of the "Financial Transactions Concerning Special Districts" published by the State Controller, or by an alternative method approved by a majority of the independent special districts representing a majority of their combined populations.³³
- A new provision was added to authorize LAFCOs to waive certain fees, when fees for specified proceedings are charged and the LAFCO finds that payment would be detrimental to the public interest.³⁴
- The provisions regarding the sphere of influence for each local government agency were changed as follows:
 - The LAFCO shall review and update the sphere of influence *not less than once every five years*;³⁵
 - For any sphere of influence or sphere of influence that includes a special district, the LAFCO shall:
 - require existing districts to file written statements specifying functions or classes of service provided;

²⁹ Government Code section 56001.

³⁰ Government Code section 56325.

³¹ Government Code section 56332.5.

³² Government Code section 56381, subdivision (a).

³³ Government Code section 56381, subdivision (b)(1).

³⁴ Government Code section 56383.

³⁵ Government Code section 56425, subdivision (f).

- establish the nature, location, and extent of any functions or classes of service provided by existing districts; and
 - determine that, except as otherwise authorized by regulations, no new or different function or class of service shall be provided by any existing district unless approved by the LAFCO.³⁶ (Emphasis added.)
- A review and update to the sphere of influence requires LAFCOs to conduct a municipal service review.³⁷ In conducting a municipal service review, a LAFCO shall prepare a written statement of its determinations with respect to each of the following nine topics:
1. infrastructure needs or deficiencies;
 2. growth and population projections for the affected area;
 3. financing constraints and opportunities;
 4. cost avoidance opportunities;
 5. opportunities for rate restructuring;
 6. opportunities for shared facilities;
 7. government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
 8. evaluation of management efficiencies; and
 9. local accountability and governance.³⁸
- Not later than July 1, 2001, OPR, in consultation with LAFCOs, the California Association of Local Agency Formation Commissions, and other local governments, was required to prepare guidelines for municipal service reviews to be conducted by LAFCOs.³⁹

LAFCO Revenues from Independent Special Districts (Stats. 2002, Ch. 493)

- This statute revised the method for calculating independent special district revenues to be paid to LAFCOs, basing the calculation on nonenterprise revenues and enterprise revenues rather than general purpose transactions.⁴⁰ It also capped the share of any one independent special district to 50% of the total independent special districts' share of operating costs.⁴¹ Additionally, revenue relief was provided for health care districts with negative net revenue and for those operating under public entity bankruptcy.⁴²

³⁶ Government Code section 56425, subdivision (h), as enacted in Statutes 2000, chapter 761, subsequently renumbered to Government Code section 56425, subdivision (i).

³⁷ Government Code section 56430, subdivision (a).

³⁸ *Ibid.*

³⁹ Government Code section 56430, subdivision (d).

⁴⁰ Government Code section 56381, subdivision (b)(1)(C).

⁴¹ Government Code section 56381, subdivision (b)(1)(F).

⁴² Government Code section 56381, subdivision (b)(1)(D).

Municipal Service Review Guidelines and Municipal Service Review Appendices Issued by the Governor's Office of Planning and Research (Final Drafts Issued 10/03/02)

- OPR developed the Guidelines and Appendices as directed by the test claim statutes,⁴³ which require OPR to prepare *guidelines* rather than regulations. Hence the documents should be considered advisory rather than regulatory.
- The Guidelines and Appendices describe the statutory framework and requirements of the municipal service review, and provide guidance on:
 1. how the LAFCO, service provider agencies and the public can prepare to most effectively engage in the process;
 2. integrating municipal service reviews with other LAFCO actions, application of the California Environmental Quality Act (CEQA) and federal and state anti-discrimination statutes, and development of the nine statutorily-required determinations;⁴⁴ and
 3. how to draft the final individual municipal service review report and how to ensure adequate public participation opportunities, including statutory meeting requirements.⁴⁵

Claimant's Position

The claimant states that the test claim statutes and executive orders impose a reimbursable state-mandated program within the meaning of article XIII, B, section 6 of the California Constitution and Government Code section 17514.

Claimant asserts that the following activities and costs are reimbursable:

1. Time and expense of representing Sacramento Metropolitan Fire District on the Sacramento County LAFCO, if chosen by the independent special district selection committee, pursuant to Government Code section 56326.5.
2. Time and expense of representing Sacramento Metropolitan Fire District on the independent special district selection committee, pursuant to Government Code section 56326.5.
3. Costs to fund Sacramento Metropolitan Fire District's share of the operating budget for the Sacramento County LAFCO, pursuant to Government Code sections 56326.5, 56381 and 56381.6, and/or as suggested by the LAFCO Municipal Service Guidelines Appendices, pages 26-27.
4. Time and expense of providing information to the LAFCO when the LAFCO determines a sphere of influence, pursuant to Government Code section 56425, subdivision (g).⁴⁶

⁴³ Government Code section 56430, subdivision (d).

⁴⁴ Government Code section 56430.

⁴⁵ Municipal Service Review Guidelines, Executive Summary, page 2.

⁴⁶ So claimed; however, subdivision (g) did not require these activities but subdivision (h) had similar language: "For any sphere of influence or a sphere of influence that includes a special district, the [LAFCO] shall do all of the following: (1) Require existing districts to file written

5. Pursuant to page 12 of the LAFCO Municipal Service Review Guidelines, time and expense of providing the following information, depending on the type of service provided, to the LAFCO when the LAFCO conducts a municipal service review:⁴⁷
- a list of relevant statutory and regulatory obligations;
 - a copy of the most recent master services plan;
 - a metes and bounds legal description of the agency's boundary;
 - service area maps (to the extent already prepared) including:
 - a service boundary map;
 - a map indicating parcel boundaries (GIS maps may be available from the land use jurisdiction);
 - a vicinity or regional map with provider's boundary, major landmarks, freeways or highways, and adjacent or overlapping service provider boundaries (note: more than one map may need to be prepared to show all data); and
 - maps indicating existing land uses within city or district boundaries and on adjacent properties.
 - applicable excerpts from regional transportation, water, air quality, fair share housing allocation, airport land use, open space or agricultural plans or policies, or other environmental policies or programs;
 - copies of regulatory and operating permits;
 - number of acres or square miles included within the service area;
 - type of sphere or sphere boundaries;
 - assessed valuation;
 - estimate of population within district boundaries;
 - as appropriate, the number of people, households, parcels or units currently receiving service, or the number of service connections;
 - projected growth in service demand or planned new service demand/capacity;
 - special communities of interest or neighborhoods affected by service;

statements with the [LAFCO] specifying the functions or classes of service provided by those districts. (2) Establish the nature, location, and extent of any functions or classes of service provided by existing districts. (3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the [LAFCO]." (Emphasis added.)

⁴⁷ Rather than stating that districts must provide the information, page 12 of the Municipal Service Review Guidelines actually states: "Below is a list of the types of information a service provider [i.e., independent special district] may wish to gather to expedite the municipal service review process. It is not necessary to collect all types of data listed below. Select only those items that are relevant to the type of services under review." Furthermore, on page 13 the Guidelines state: "Don't Reinvent the Wheel Service providers [i.e., independent special districts] may regularly submit reports to a regulatory or financing agency which contain the information LAFCO needs to complete the municipal service review. Use the information in these reports to respond to information requests by LAFCO. ... Early consultation with LAFCO and meaningful input by the service provider can reduce the time and cost to both parties."

- capital improvement plans;
 - current service capacity;
 - call volume;
 - response time; and
 - annual operating budget.
6. Pursuant to page 17 of the LAFCO Municipal Service Review Guidelines, time and expense for the LAFCO to prepare a workplan when a LAFCO conducts a municipal service review, which includes the following elements:
 - list of services to be reviewed;
 - service providers that will be affected/involved;
 - study area boundaries for the municipal service review;
 - data collection process;
 - public participation process; and
 - public hearing process.
 7. Pursuant to Chapter 7, commencing on page 24, of the LAFCO Municipal Service Review Guidelines, time and expense for the LAFCO to prepare an Environmental Impact Report when the municipal services review is considered a "project" which must comply with the California Environmental Quality Act ("CEQA"); and if future land use determinations are to be based on the municipal service review.
 8. Pursuant to Government Code section 56430 and pages 29 through 36 of the LAFCO Municipal Service Review Guidelines, time and expense for the LAFCO when conducting a municipal service review to prepare a written statement of its determinations with respect to each of the following nine issues:
 - infrastructure needs or deficiencies;
 - growth and population projections for the affected area;
 - financing constraints and opportunities;
 - cost avoidance opportunities;
 - opportunities for rate restructuring;
 - opportunities for shared facilities;
 - government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
 - evaluation of management efficiencies; and
 - local accountability and governance.
 9. Pursuant to page 35 of the Municipal Service Review Guidelines, time and expense of the LAFCO, when conducting a municipal service review and evaluating an agency's or district's management efficiencies, to obtain information from the agency or district with respect to the following factors or issues:⁴⁸

⁴⁸ Leading into the list of factors or issues, the Guidelines actually state: "In evaluating an agency's management efficiencies, LAFCO may wish to address the following factors in its review: ..."

- evaluation of the agency's capacity to assist with and/or assume services provided by other agencies;
- evaluation of agency's spending on mandatory programs;
- comparison of agency's mission statement and published customer service goals and objectives;
- availability of master service plan(s);
- contingency plans for accommodating existing and planned growth;
- publicized activities;
- implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement;
- personnel policies;
- availability of resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service;
- available technology to conduct an efficient business;
- collection and maintenance of pertinent data necessary to comply with state laws and provide adequate services;
- opportunities for joint powers agreements, Joint Powers Authorities, and/or regional planning opportunities;
- evaluation of agency's system of performance measures;
- capital improvement projects as they pertain to Government Code sections 65401 and 65103, subdivision (c);
- accounting practices;
- maintenance of contingency reserves;
- written policies regarding the accumulation and use of reserves and investment practices;
- impact of agency's policies and practices on environmental objectives and affordable housing;
- environment and safety compliance; and
- current litigation and/or grand jury inquiry involving the service under LAFCO review.

10. Pursuant to Government Code section 56820.5⁴⁹ and the LAFCO Municipal Service Review Guidelines Appendices, time and expense of the Sacramento Metropolitan Fire District to provide information regarding the municipal service review required under regulations adopted by the LAFCO. This provision was mentioned in the narrative but was not specifically pled by claimant.

11. Costs paid to the LAFCO for reviewing the District's component of a municipal service review.

Claimant estimates the following costs to implement the program: 1) \$20,000 - \$30,000 for claimant's portion of the annual LAFCO budget for the period January 1, 2001 through

⁴⁹ Government Code section 56820.5, renumbered from Government Code section 56451 in Statutes 2000, chapter 761.

December 31, 2001; 2) \$50,000 - \$80,000 for claimant's portion of the annual LAFCO budget for the period of January 1, 2002 and beyond; 3) in excess of \$20,000 to provide to the LAFCO the information required for a municipal service review; and 4) \$5,000 to the LAFCO for its review of claimant's component of the municipal service review.

Claimant filed additional comments in response to the Department of Finance's comments which are addressed, as necessary, in the analysis.

Position of Department of Finance

The Department of Finance states that the test claim statutes may have resulted in costs mandated by the state, but points out the following:

- A special district may lawfully decline to sit as a member of its LAFCO.
- Although LAFCO independent special district selection committee membership is required by law, special districts are not required to participate in the committee's activities; many are members in name only.
- LAFCOs have existing statutory fee authority that may be used to cover their operating costs. To the extent that LAFCOs elect to make use of this authority, LAFCO members would be relieved of the need to contribute toward the LAFCO's annual budget.
- LAFCOs have had statutory authority to require information of local agencies since 1965.
- OPR's Municipal Service Review Guidelines and Appendices do not carry the force of law.

Discussion

The courts have found that article XIII B, section 6 of the California Constitution⁵⁰ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁵¹ "Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."⁵²

⁵⁰ Article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

⁵¹ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

⁵² *County of San Diego v. State of California (County of San Diego)* (1997) 15 Cal.4th 68, 81.

A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁵³ In addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.⁵⁴

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.⁵⁵ To determine if the program is new or imposes a higher level of service, the test claim requirements must be compared with the legal requirements in effect immediately before the enactment of the test claim statutes.⁵⁶ A "higher level of service" occurs when there is "an increase in the actual level or quality of governmental services provided."⁵⁷

Finally, the newly required activity or increased level of service must impose costs mandated by the state.⁵⁸

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.⁵⁹ In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."⁶⁰

The analysis addresses the following issues:

- Is Sacramento Metropolitan Fire District an eligible claimant under article XIII B, section 6 of the California Constitution?

⁵³ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

⁵⁴ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

⁵⁵ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 (*County of Los Angeles*); *Lucia Mar, supra*, 44 Cal.3d 830, 835).

⁵⁶ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

⁵⁷ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 877.

⁵⁸ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

⁵⁹ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

⁶⁰ *County of Sonoma, supra*, 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817 (*City of San Jose*).

- Do the test claim statutes or alleged executive orders mandate a “new program or higher level of service” within the meaning of article XIII B, section 6 of the California Constitution?
- Do the test claim statutes or alleged executive orders impose “costs mandated by the state” within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514?

Issue 1: Is Sacramento Metropolitan Fire District an eligible claimant under article XIII B, section 6 of the California Constitution?

Article XIII B, section 6 was adopted in recognition of the state constitutional restrictions on the powers of local government to tax and spend, and requires a subvention of funds to reimburse local agencies when the state imposes a new program or higher level of service upon those agencies. The Third District Court of Appeal in *County of Placer v. Corin* (1980) 113 Cal.App.3d 443 explained the reasoning behind Article XIII B as follows:

Article XIII B was adopted less than 18 months after the addition of article XIII A to the state Constitution, and was billed as “the next logical step to Proposition 13” [article XIII A]. While article XIII A was generally aimed at controlling ad valorem property taxes and the imposition of new “special taxes” [citations], the thrust of article XIII B is toward placing certain limitations on the growth of appropriations at both the state and local government level ...⁶¹

The court further described this concept:

[A]rticle XIII B does not limit the ability to expend government funds collected from all sources. Rather, the appropriations limit is based on “appropriations subject to limitation,” which consists primarily of the authorization to expend during a fiscal year the “proceeds of taxes.” (§ 8, subd. (a).) As to local governments, limits are placed only on the authorization to expend the proceeds of taxes levied by that entity, in addition to the proceeds of state subventions (§ 8, subd. (c)); no limitation is placed on the expenditure of those revenues that do not constitute “proceeds of taxes.”⁶²

Thus, since taxing and spending limitations are placed only on the proceeds of taxes, “[n]o state duty of subvention is triggered where the local agency is not required [by the test claim statutes] to expend the proceeds of taxes.”⁶³ Section 9 of Article XIII B sets forth specific circumstances wherein the costs in question *are not* “appropriations subject to limitation,” and therefore subvention is not required. One such exclusion to the limitation is found in subdivision (c), which applies to special districts:

⁶¹ *County of Placer, supra*, 113 Cal.App.3d 443, 446.

⁶² *Id.* at 447.

⁶³ *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987.

Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 ½ cents per \$100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.

The claimant, Sacramento Metropolitan Fire District, is a special district that was formed by reorganization of the Sacramento County Fire District and the American River Fire District on December 1, 2000.⁶⁴ Therefore, the district did not exist on January 1, 1978 and its appropriations do not meet the first criteria.

The claimant's revenues consist of, among other things, property taxes, fines, and fees for services.⁶⁵ Thus, the claimant is not a district "which is totally funded by other than the proceeds of taxes" and its appropriations do not meet the second criteria. Consequently, the article XIII B, section 9, subdivision (c), exclusion to the appropriations limit is not applicable to the appropriations of Sacramento Metropolitan Fire District. The District is therefore an eligible claimant within the meaning of article XIII B, section 6.

Issue 2: Do the test claim statutes or alleged executive orders mandate a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution?

Courts have recognized the purpose of article XIII B, section 6 is "to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill-equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."⁶⁶ The cases have held that a test claim statute may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task,⁶⁷ and the required activity or task is new, constituting a "new program," or it creates a "higher level of service" over the previously required level of service.⁶⁸

Alternatively, in light of the intent of article XIII B, section 6, a reimbursable state-mandated program has been found to exist in some instances when the state shifts fiscal responsibility for a mandated program to local agencies but no actual activities have been imposed by the test claim statute or executive order.⁶⁹ Moreover, as of November 3, 2004, article XIII B, section 6, subdivision (c), of the California Constitution defines a "mandated new program or higher level of service" as including "a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility

⁶⁴ *Department History*, <http://www.smfd.ca.gov/>.

⁶⁵ Sacramento Metropolitan Fire District, Final Budget for Fiscal Year 2007, page A-29.

⁶⁶ *County of San Diego*, *supra*, 15 Cal. 4th 68, 81 (citing *Lucia Mar*, *supra*, 44 Cal.3d 830).

⁶⁷ *Long Beach*, *supra*, 225 Cal.App.3d 155, 174.

⁶⁸ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835-836.

⁶⁹ *Lucia Mar*, *supra*, 44 Cal.3d 830, 836.

for a required program for which the State previously had complete or partial financial responsibility.”⁷⁰

Thus, a mandated “new program or higher level of service” may be found under either circumstance cited above, that is, where the test claim statutes mandate *activities* that are new in comparison to the preexisting scheme that result in providing a service to the public, or where the *state shifts from itself to local agencies* the cost for a *required* program.

Claimant is seeking reimbursement for the following:

1. time and expense of representing Sacramento Metropolitan Fire District on the independent special district selection committee;
2. time and expense of representing Sacramento Metropolitan Fire District on the Sacramento LAFCO, if that district is chosen by the independent special district selection committee;
3. costs for the Sacramento Metropolitan Fire District to fund its share of the operating budget for the Sacramento LAFCO;
4. time and expense of providing information to the LAFCO when the LAFCO determines a sphere of influence;
5. time and expense of providing information to the LAFCO when the LAFCO conducts a municipal service review;
6. time and expense for the LAFCO to prepare a workplan when the LAFCO conducts a municipal service review;
7. when the municipal service review is considered a “project” under the California Environmental Quality Act, time and expense for the LAFCO to prepare an Environmental Impact Report;
8. when the LAFCO conducts a municipal service review, the LAFCO shall prepare a written statement with regard to nine specified issues;
9. when the LAFCO conducts a municipal service review and the LAFCO is evaluating an agency’s or district’s management efficiencies, time and expense for the LAFCO to obtain specified information from the agency or district;
10. time and expense of providing information required under regulations adopted by the LAFCO and by the Municipal Service Review Guidelines Appendices; and
11. costs paid to the LAFCO for reviewing the District’s component of a municipal service review.

In the analysis below, the alternative tests for a “new program or higher level of service” are applied as appropriate to each of these items. However, any activities of the LAFCO are not addressed since LAFCOs are not represented in this claim; instead, the claimant is an independent special district and represents only independent special districts in the claim.

⁷⁰ Enacted by the voters as Proposition 1A, November 2, 2004.

Legislative Findings and Declarations (Gov. Code, § 56001)

Government Code section 56001 sets forth the legislative findings and declarations with regard to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This section is helpful in understanding the purposes for LAFCOs and the scope of LAFCO operations, but does not mandate any activities on local agencies in California. Therefore, Government Code section 56001 does not mandate a "new program or higher level of service" on independent special districts.

Representation on LAFCO and Independent Special District Selection Committee (Gov. Code, § 56326.5, subd. (d))

The Government Code sets forth provisions for the composition and selection of members of LAFCOs. There are general provisions for most counties,⁷¹ and some counties, including Sacramento, have specific statutory provisions for the composition of their LAFCOs.⁷² The test claim statute pled by the claimant is section 56326.5. The analysis is limited to subdivision (d) of that section, since it is the only subdivision dealing with independent special districts.⁷³

For this test claim statute, the question is whether subdivision (d) mandates new activities that constitute a "new program or higher level of service" over an existing program. For the reasons stated below, staff finds that *individual* special district representation and participation on the LAFCO is a local discretionary decision, and participation in the independent special district selection committee is a discretionary decision of the independent special district. Consequently, section 56326.5, subdivision (d), does not mandate a "new program or higher level of service."

LAFCO Representation

For most counties, Government Code section 56325 sets forth the following composition of the LAFCO:

... Except as otherwise provided in this chapter,⁷⁴ the [LAFCO] shall consist of members selected as follows:

- (a) Two appointed by the board of supervisors from their own membership. ...
- (b) Two selected by the cities in the county, each of whom shall be a mayor or council member, appointed by the city selection committee. ...

⁷¹ Government Code section 56325.

⁷² Counties with LAFCO membership and selection criteria set forth in *special* provisions of the Government Code: Kern County (section 56328.5), Los Angeles County (section 56326), Sacramento County (56326.5), Santa Clara County (sections 56327 and 56327.3), and San Diego County (section 56328).

⁷³ Since claimant is an independent special district, this test claim does not make any findings with regard to any other type of local government entity.

⁷⁴ *Ibid.*

- (c) Two presiding officers or members of legislative bodies of independent special districts selected by the independent special district selection committee pursuant to Section 56332. ...
- (d) One representing the general public appointed by the other members of the [LAFCO].

Sacramento County is one of the counties with its own statutory provision setting forth the composition of the LAFCO. Government Code section 56326.5, as added by the test claim statute in 1991, states:

In Sacramento County, the [LAFCO] *shall* consist of seven members, selected as follows:

- (a) Two representing the county, appointed by the board of supervisors from their own membership. ...
- (b) One representing the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. ...
- (c) One representing the cities in the county, who is a city officer appointed by the city selection committee.
- (d) Two representing special districts selected by an independent special district selection committee pursuant to Section 56332. ...⁷⁵
- (e) One representing the general public, appointed by the other six members of the [LAFCO]. ... (Emphasis added.)

The plain language of subdivision (d) *requires* two independent special districts in Sacramento County to be represented on the LAFCO. The actual special district representatives, however, are *chosen* by the independent special district selection committee from a list of 66 independent special districts available in Sacramento County.⁷⁶ There is no other requirement specifying a *particular* independent special district is required to sit on the Sacramento County LAFCO. Claimant states that the statute "speaks in mandatory, not discretionary terms." Yet the mandatory requirement is for two independent special districts to be represented; the decision as to which districts are chosen to be on the LAFCO is made at the local level. Consequently, the state has not legally compelled that a *particular special district* sit on the Sacramento County LAFCO.

The Department of Finance further argues that, in the event a district is *chosen* by the selection committee, "[a] district may lawfully decline to sit as a member of its LAFCO."⁷⁷ There is no statutory requirement stating that an independent special district chosen by the selection committee must actually sit as a member of the LAFCO. Staff therefore finds that the state has not legally compelled a district that is chosen to sit on the LAFCO to actually serve on the LAFCO.

⁷⁵ This subdivision was amended by Statutes 2000, chapter 761, pled in the test claim, to state: (d) Two presiding officers or members of legislative bodies of independent special districts selected by an independent special district selection committee pursuant to Section 56332."

⁷⁶ <http://www.saclafco.org/>.

⁷⁷ Letter from Connie Squires, Program Budget Manager, Department of Finance, submitted July 22, 2003, page 2.

Nevertheless, where no legal compulsion to participate in a program exists, the courts have ruled that at times, based on the particular circumstances, "practical" compulsion might be found. The Supreme Court in *Kern High School Dist.* addressed the issue of "practical" compulsion in the context of a school district that had participated in optional funded programs in which new requirements were imposed. In *Kern*, the court determined there was no "practical" compulsion to participate in the underlying programs, since a district that elects to discontinue participation in a program does not face "certain and severe ... penalties" such as "double ... taxation" or other "draconian" consequences.⁷⁸

In the case of *San Diego Unified School Dist.*, the test claim statutes required school districts to afford to a student specified hearing procedures whenever an expulsion recommendation was made and before a student could be expelled.⁷⁹ The Supreme Court held that hearing costs incurred as a result of specific, *statutorily required* expulsion recommendations, e.g., where the student allegedly possessed a firearm, constituted a reimbursable state-mandated program.⁸⁰ Regarding expulsion recommendations that were *discretionary* on the part of the district, the court acknowledged the school district's arguments, stating that in the absence of legal compulsion, compulsion *might* nevertheless be found when a school district exercised its discretion in deciding to expel a student for a serious offense to other students or property, in light of the state constitutional requirement to provide safe schools.⁸¹ Ultimately, however, the Supreme Court denied reimbursement for the hearing procedures regarding discretionary expulsions on alternative grounds.⁸²

Here, as noted above, neither the selection committee's decision to choose a particular district, nor that district's decision to serve on the LAFCO, is legally compelled by the state. Nor does evidence in the record support the notion that "practical" compulsion is applicable in the instant case. First, there are a myriad of factors that come to bear on a local decision to *choose* a particular district to serve on the LAFCO, which could include that district's own efforts to influence the decision to be the selected district. Moreover, there is no evidence that "certain and severe" penalties would ensue if a particular district is not chosen.

With regard to a district's decision not to serve on the LAFCO if chosen, the claimant asserts:

[The argument] is analogous to the requirements of Government Code, Section 17553, which provides for the participation of the Department of Finance in matters before the Commission on State Mandates. Surely Finance does not have to participate, yet if it were not to participate, not only would its input not be known, but factors detrimentally affecting the state's budget could occur without its knowledge or participation. So too is true with regard to the participation of special districts in LAFCO.

⁷⁸ *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 754.

⁷⁹ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 866.

⁸⁰ *Id.* at pages 881-882.

⁸¹ *Id.* at page 887, footnote 22.

⁸² *Id.* at page 888.

... Furthermore, ... [w]ithout participation of special districts, the LAFCO's special statutory fee authority could be used adversely to the interests of the LAFCO. ...⁸³

[W]ithout active participation [by special districts in the LAFCO], there is no guarantee that the costs of operating the LAFCO will be subject to any fiscal constraints. As noted in the test claim, LAFCO merely assembles what it wishes to have by way of operating capital for the next fiscal year, and assesses that total cost against the county, all cities and special districts within its jurisdiction. For this purpose, participation in LAFCO, to the extent the occasion presents itself, is imperative.⁸⁴

Claimant's argument actually goes to whether a particular district should be *chosen* by the independent special district selection committee in the first place, and provides evidence to support an independent special district's advantage in seeking representation on the LAFCO so as to protect its own financial or other interests within the County, or the LAFCO's financial interests. It does not address whether a chosen district is compelled by the state to serve once chosen.

The relevant holding in this instance is from *Kern* wherein the Supreme Court states that school districts that have discretion will make the choices that are ultimately the most beneficial for the district:

As to each of the optional funded programs here at issue, school districts are, and have been, free to decide whether to (i) continue to participate and receive program funding, even though the school district also must incur program-related costs associated with the [new] requirements or (ii) decline to participate in the funded program. Presumably, a school district will continue to participate only if it determines that the best interests of the district and its students are served by participation – in other words, if, *on balance*, the funded program, even with strings attached, is deemed beneficial. And, presumably, a school district will decline participation if and when it determines that the costs of program compliance outweigh the funding benefits. (Emphasis in original.)⁸⁵

The circumstances discussed in this passage are analogous to the instant situation. Claimant states that if an independent special district does not participate in the LAFCO, the district's input would not be known and actions detrimental to its interest or its legal responsibilities could occur without its knowledge or participation. Presumably, discretionary decisions to select independent special districts for representation on the Sacramento County LAFCO will be in the best interests of the independent special districts as a whole in the County. And, a chosen independent special district's decision to participate or not in LAFCO will be based on the district's own best interests. When the local selection committee and the local agencies involved have such discretion, the program is *not* state-mandated.

⁸³ Claimant's response to Department of Finance, submitted September 25, 2003, page 2.

⁸⁴ *Id.* at page 3.

⁸⁵ *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 753.

The Supreme Court in *San Diego Unified School Dist.* underscored the fact that a state mandate is found when the state, rather than a local official, has made the decision to participate in the program.⁸⁶ In this case, the state has not required any particular independent special district to be represented on the LAFCO, rather the independent special district selection committee makes that decision. Nor has the state imposed certain and severe penalties for a chosen district's nonparticipation.

Therefore, staff finds that an independent special district chosen to sit on the Sacramento County LAFCO by the independent special district selection committee is not mandated by the state to do so. Consequently, Government Code section 56326.5, subdivision (d), does not mandate a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

Representation on Independent Special District Selection Committee

When the LAFCO in a county has independent special district representation, those districts are chosen by the independent special district selection committee. Government Code section 56326.5, subdivision (d), incorporates by reference section 56332, which sets forth the provisions establishing that committee.

For most counties, as noted above, having independent special district representation on the LAFCO is based on an initial discretionary decision at the local level. However, in Sacramento County, Government Code section 56326.5 requires such representation, which in turn triggers the requirement to establish the independent special district selection committee pursuant to section 56332. Section 56332 states in pertinent part:

(a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. ... Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the districts shall constitute a quorum. ...

(b) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(1) Whenever a vacancy exists among the members or alternate members representing independent special districts upon the [LAFCO].

(2) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown in the last equalized county assessment roll.

(c)(1) If the executive officer determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for

⁸⁶ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 880.

nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions. ...

(d) The selection committee shall appoint two regular members and one alternate member to the [LAFCO]. The members so appointed shall be elected or appointed special district officers residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a [LAFCO] meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. The representation by a regular district member who is a special district officer shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the special district. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district of which the member is a representative.

(e) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.

The independent special district selection committee is required by law to *consist* of the presiding officer of the legislative body of each independent special district. Claimant concludes that every district is required by law to participate in the committee. Staff finds, however, the plain language of the statute does not constitute legal compulsion for districts to *participate* in committee activities.

Nor does staff find the circumstances amount to practical compulsion. The Department of Finance asserts that many special districts are committee members in name only. A quorum for the committee to operate is a majority of the districts in the county.⁸⁷ Thus it is possible for the committee to conduct business with only a majority of the districts, not *every* district. According to Sacramento County LAFCO's website,⁸⁸ there are 66 independent special districts; 34 districts represent a quorum in Sacramento County. This means that 32 of the 66 independent special districts in Sacramento County could decline to participate in any given meeting. Moreover, no "certain or severe" penalties would result if a district fails to participate in the independent special district selection committee.

Instead, as noted above with regard to participation in the LAFCO by a chosen district, the principles of *Kern High School Dist.* are applicable.⁸⁹ An independent special district's decision to participate or not in the independent special district selection committee will be.

⁸⁷ Government Code section 56332, subdivision (a).

⁸⁸ <http://www.saclafco.org/>.

⁸⁹ *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 753.

based on the district's own best interests. When the independent special district selection committee members have such discretion, the program is *not* state-mandated.

Therefore, staff finds that an independent special district is not mandated by the state to participate in independent special district selection committee activities and, consequently, any such activities set forth in Government Code section 56326.5, subdivision (d), do not mandate a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

Independent Special Districts' Costs to Fund LAFCOs (Gov. Code, §§ 56381 and 56381.6)

Government Code section 56381 provides that when the LAFCO has independent special district representation on it, special districts are required to pay a one-third share of the budget for the LAFCO.⁹⁰ Section 56381.6 provides that for counties whose membership is established pursuant to sections 56326, 56326.5, 56327, or 56328, the LAFCO's annual operational costs "shall be apportioned among the classes of public agencies that select members on the [LAFCO] in proportion to the number of members selected by each class." Section 56381.6 also allows for an alternative cost apportionment subject to a majority affirmative vote of the [LAFCO] that includes the affirmative vote of at least one of the members selected by the county, city or special districts.

Government Code section 56326.5 provides that, in Sacramento County, independent special districts are required to be represented on the LAFCO. Accordingly, the independent special districts are required to pay their proportionate share of costs for funding the LAFCO.⁹¹

Section 56381 does not require independent special districts to engage in any activity or task. Alternatively, the statute does impose increased costs to the independent special districts in Sacramento County to fund the Sacramento County LAFCO. Based on the following analysis, however, staff finds that since the increased costs are not the result of a shift in fiscal responsibility from the *state* to local agencies, the district's costs to fund the Sacramento County LAFCO do not mandate a "new program or higher level of service" on the district.

In the case of *Lucia Mar*, the Supreme Court recognized that a "new program or higher level of service" within the meaning of article XIII B, section 6 could include a shift in costs from the state to a local entity for a required program.⁹² As of November 3, 2004, Article XIII B, Section 6, subdivision (c), also requires reimbursement when the Legislature transfers from the state to local agencies "complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility."

However, the cost shift here is not from the *state* to the districts but from the *county* to the districts, since the immediately previous version of Government Code section 56381 required the counties to provide the entire budget for LAFCOs.⁹³ The Sixth District Court of Appeal in

⁹⁰ If the county has no cities, then the county and independent special districts each pay a one-half share of the LAFCO's budget. (Gov. Code, § 56381.)

⁹¹ In other counties in which independent special district representation on the LAFCO is based on an underlying discretionary decision at the local level, these costs are not mandated.

⁹² *Lucia Mar*, *supra*, 44 Cal.3d 830, 836.

⁹³ Government Code section 56381, as enacted by Statutes 1985, chapter 541.

City of San Jose specifically addressed the issue of a cost shift among local agencies. In that case, the test claim statutes had authorized counties to charge cities and other local agencies the costs of booking into county jails persons who had been arrested by employees of the cities or local agencies.⁹⁴ The court rejected the City's reliance on the holding of *Lucia Mar*, stating:

The flaw in City's reliance on *Lucia Mar* is that in our case the shift in funding is not from the State to the local entity but from county to city. In *Lucia Mar*, prior to the enactment of the statute in question, the program was funded and operated entirely by the state. Here, however, at the time [the test claim statute] was enacted, and indeed long before that statute, the financial and administrative responsibility associated with the operation of county jails and detention of prisoners was borne entirely by the county.⁹⁵

The City of San Jose also unsuccessfully argued that, although counties have traditionally borne those expenses, "they do so only in their role as agents of the State."⁹⁶ However, the court noted that characterizing the county as an agent of the state "is not supported by recent case authority, nor does it square with definitions particular to subvention analysis."⁹⁷ The court found it relevant to point out that fiscal responsibility for the program in question had long rested with the county and not with the state.⁹⁸ In the instant case, counties have similarly had sole fiscal responsibility for LAFCOs since their inception.⁹⁹

With regard to definitions peculiar to subvention analysis, the *San Jose* court stated:

More importantly, in analyzing a question involving reimbursement under section 6, the definitions contained in California Constitution, article XIII B and in the legislation enacted to implement it must be deemed controlling. Article XIII B treats cities and counties alike as "local government." Under section 8, subdivision (d), this term means "any city, county, city and county, school district, special district, authority or other political subdivision of or within the state." Furthermore, Government Code section 17514 defines "costs mandated by the state" to mean any increased costs that a "local agency" or school district is required to incur. "Local agency" means "any city, county, special district, authority, or other political subdivision of the state." (Gov. Code § 17518.) Thus for purposes of subvention analysis, it is clear that counties and cities were intended to be treated alike as part of "local government"; both are considered local agencies or political subdivisions of the State. Nothing in

⁹⁴ *City of San Jose, supra*, 45 Cal.App.4th 1802, page 1806.

⁹⁵ *Id.* at 1812.

⁹⁶ *Id.* at 1814.

⁹⁷ *Ibid.*

⁹⁸ *Id.* at 1815.

⁹⁹ Former Government Code sections 54771 (Stats. 1963, ch.1810), 54776 (Stats. 1965, ch.587), and 54776.1 (Stats. 1969, ch. 1301).

article XIII B prohibits the sifting of costs between local governmental entities.¹⁰⁰

Since the definitions for "local government" in the Constitution and "local agency" in the Government Code also include "special districts," the same principles apply here. Therefore, a shift of funding from a county to a special district is likewise not subject to state subvention. Accordingly, any independent special districts' share of costs to fund a LAFCO does not mandate a "new program or higher level of service" within the meaning of article XIII B, section 6.

Costs Paid to LAFCO for Reviewing District's Component of Municipal Service Review

There is no requirement in statute, nor is there any other evidence in the record, to support claimant's assertion that the independent special district is required by the state to pay the LAFCO for reviewing its component of the municipal service review. Any such requirement would have been established by the LAFCO itself, not the state via the test claim statutes. Therefore, the alleged costs do not result from a state-mandated "new program or higher level of service" within the meaning of article XIII B, section 6.

Gather and Provide Information to the LAFCO for Sphere of Influence Review and Municipal Service Review (Gov. Code, §§ 56425, 56426.5 and 56430; Municipal Service Review Guidelines and Appendices)¹⁰¹

Claimant asserts that various activities are required of independent special districts when the LAFCO conducts a sphere of influence review or a municipal service review, as set forth in Government Code sections 56425, 56426.5 and 56430, as well as the Municipal Service Review Guidelines and Appendices, resulting in a reimbursable state-mandated program being imposed on independent special districts. However, staff finds that, based on the plain language of the test claim statutes, with one exception addressed below, the claimed activities are *not* imposed on independent special districts, but rather on the LAFCO itself. Moreover, as discussed further below, the Municipal Service Review Guidelines and Appendices, to the extent that they do address special districts, do not meet the definition of "executive order" found in Government Code section 17516, since they do not "order" special districts to do anything.

Staff finds that only the following provisions are relevant in analyzing whether there are any activities required of independent special districts in a sphere of influence review or municipal service review.

Government Code section 56425, subdivision (f), as enacted by the test claim statutes, states the following:

(f) Upon determination of a sphere of influence, the [LAFCO] shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years.

¹⁰⁰ *Id.* at 1815.

¹⁰¹ Claimant mentioned Government Code section 56820.5 in the narrative of the test claim with regard to information the LAFCO requires of districts. However, claimant did not *specifically* plead the section, and, therefore, staff makes no findings with regard to it.

Pre-existing law required LAFCOs to "develop and determine the sphere of influence of each local governmental agency within the county"¹⁰² and, upon determination of a sphere of influence, the LAFCO was required to adopt the sphere and periodically review and update the adopted sphere.¹⁰³ Although this review must now occur every five years, it is the LAFCO that is required to review and update the sphere of influence. Thus, the plain language of this provision does not mandate any activities on independent special districts.

Government Code section 56425, subdivision (h),¹⁰⁴ as enacted by the test claim statutes, states the following:

(h) For any sphere of influence or a sphere of influence that includes a special district, the [LAFCO] shall do all of the following:

(1) Require existing districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

(3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the LAFCO.

Based on the plain language of this provision, only subdivision (h)(1) requires *special districts* to do anything. Subdivision (h)(1) requires the LAFCO to require special districts to provide specified information. The plain language of subdivisions (h)(2) and (h)(3) do not mandate any activities on independent special districts.

The prior law authorized LAFCOs to adopt, amend or repeal regulations affecting the functions and services of special districts, including the ability to enact regulations to require existing districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts.¹⁰⁵ Because of this prior law, the Department of Finance states that LAFCOs had pre-existing statutory authority to require information of local agencies. Staff agrees, but notes that *having authority* to require the information be provided by existing districts is not the same as *being required* to require the information. The pre-existing statutory authority gave LAFCOs discretion as to whether to enact regulations to require the information. Here, as a result of enacting subdivision (h)(1), it is the *state* that has made the decision to require the LAFCO to require existing districts to provide the information.¹⁰⁶

¹⁰² Government Code section 56425, subdivision (a), as enacted by Statutes 1985, chapter 541.

¹⁰³ Government Code section 56425, subdivision (b), as enacted by Statutes 1985, chapter 541.

¹⁰⁴ Government Code section 56425, subdivision (h), as enacted by Statutes 2000, chapter 761, was subsequently renumbered to section 56425, subdivision (i), by Statutes 2005, chapter 347.

¹⁰⁵ Government Code section 56451, subdivision (b), as enacted by Statutes 1985, chapter 541.

¹⁰⁶ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at 880, found that a provision in the Education Code constituted a state mandate, "in that it establishes conditions under which the

Hence, the activity of a special district filing written statements to the LAFCO, which specify the functions or classes of service provided by the district, is state-mandated. The activity was authorized but not required by the pre-existing statutory scheme. Furthermore, the activity provides an enhanced service to the public by improving the process for ensuring orderly growth and development in California and efficiently extending governmental services.¹⁰⁷ Therefore, this activity mandates a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

Government Code section 56426.5 was not amended by the test claim statutes. The section, as it existed when the test claim was filed, addressed spheres of influence affected by city incorporations or reorganizations that included city incorporations. Although the test claim statutes incorporated the section by reference into section 56430, subdivision (d), section 56426.5 does not mandate any activities on independent special districts.

Section 56430, as enacted by the test claim statutes, states the following:

(a) In order to prepare and to update spheres of influence in accordance with section 56425, the [LAFCO] shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the [LAFCO]. The [LAFCO] shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Infrastructure needs or deficiencies.
- (2) Growth and population projections for the affected area.
- (3) Financing constraints and opportunities.
- (4) Cost avoidance opportunities.
- (5) Opportunities for rate restructuring.
- (6) Opportunities for shared facilities.
- (7) Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
- (8) Evaluation of management efficiencies.
- (9) Local accountability and governance.

(b) In conducting a service review, the [LAFCO] shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) The [LAFCO] shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5 or to update a sphere of influence pursuant to Section 56425.

...

state, rather than local officials, has made the decision requiring a school district to incur the costs ..."

¹⁰⁷ Government Code sections 56001 and 56301.

The plain language of this section does not mandate any activities on independent special districts.

With regard to the Municipal Service Review Guidelines and Appendices, as the Department of Finance notes, these documents do not have the force of law. Government Code section 17516 defines executive order as "any order, plan, requirement, rule or regulation" issued by the Governor, any officer or official serving at the pleasure of the Governor, or any agency, department, board, or commission of state government. Government Code section 56430, subdivision (d), states:

(d) Not later than July 1, 2001, the Office of Planning and Research, in consultation with [LAFCOs], the California Association of Local Agency Formation Commissions, and other local governments, shall prepare guidelines for the service review to be conducted by [LAFCOs] pursuant to this section.

The Executive Summary of the Guidelines states the following:

Existing law requires OPR to prepare guidelines, not regulations. This document should therefore be considered advisory and not regulatory. ...

This document provides general guidance. LAFCOs may need to modify these recommendations to reflect local conditions, circumstances and types of services which are being reviewed. ...

Throughout the Guidelines, OPR has identified those actions which are required by law and those where OPR recommends a particular process or policy when undertaking the municipal service review.

The Guidelines do not order independent special districts to engage in any activities. The Appendices to the Municipal Service Review support the Guidelines and likewise do not order special districts to engage in any activities. Thus, the Guidelines and Appendices are not "executive orders" pursuant to Government Code section 17516, and are not subject to article XIII B, section 6.

In summary, the only activity that mandates a "new program or higher level of service" in an existing program on independent special districts is set forth in Government Code section 56425, subdivision (h)(1), subsequently renumbered to subdivision (i)(1). This subdivision requires special districts to file written statements to the LAFCO specifying the functions or classes of service provided by the district, when the LAFCO prepares or updates a sphere of influence. However, only those independent special districts that are subject to article XIII B, section 6 – i.e., those districts that, because of their funding, are not excluded from the spending limits pursuant to article XIII B, section 9, subdivision (c) – are eligible claimants.

Issue 3: Do the test claim statutes or alleged executive orders impose "costs mandated by the state" within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514?

For the mandated activity in Government Code section 56425, subdivision (h)(1), to impose a reimbursable, state-mandated program, two additional elements must be satisfied. First, the activities must impose costs mandated by the state pursuant to Government Code section

17514. Second, the statutory exceptions to reimbursement listed in Government Code section 17556 cannot apply.

Government Code section 17514 defines "costs mandated by the state" as any increased cost a local agency is required to incur as a result of a statute that mandates a new program or higher level of service. The claimant alleged in the test claim in excess of \$20,000 to provide to the LAFCO the information required for a municipal service review. Thus, there is evidence in the record, signed under penalty of perjury, that there are increased costs for the mandated activity.

For the reasons stated below, staff finds that none of the statutory exceptions to reimbursement listed in Government Code section 17556 are applicable to deny the test claim.

The Department of Finance states that LAFCOs have existing fee authority that may be used to cover their operating costs. The Department further states that, to the extent that LAFCOs elect to make use of this authority, LAFCO members would be relieved of the need to contribute toward the LAFCO's annual budget. Moreover, many independent special districts, including Sacramento Metropolitan Fire District, have fee authority for specified purposes.

Government Code section 17556 states that:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency ..., if, after a hearing, the commission finds that:

... (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

Although some independent special districts have the ability to levy service charges or fees, the question here is whether the claimant has authority to levy service charges or fees that can be used to pay for the mandated activity of filing written statements to the LAFCO specifying the functions or classes of service provided by the district, and, if so, whether those fees are sufficient to pay for that mandated activity.

The authority to charge fees or service charges varies by special district, and fire districts have authority to charge fees for specified services.¹⁰⁸ Additionally, the LAFCOs themselves have authority to charge fees for certain services or "costs of proceedings" before the LAFCO.¹⁰⁹ These fees are limited, however, to the costs of providing the specified services, pursuant to Government Code section 66016. More importantly, there are no fees authorized for the purpose of the mandated activity of filing written statements to the LAFCO. Therefore, this exception does not apply to deny the test claim.

Conclusion

Staff finds that Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)), mandates a "new program or higher level of service" in an existing program, in that it requires special districts to file written statements with the LAFCO

¹⁰⁸ Health and Safety Code section 13146, subdivision (e).

¹⁰⁹ Government Code section 56383.

specifying the functions or classes of service provided by those districts, when the LAFCO prepares or updates a sphere of influence. Furthermore, the provision imposes costs mandated by the state pursuant to Government Code section 17514 and article XIII B, section 6.

Therefore, the activity constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. Only those independent special districts that are subject to article XIII B, section 6 – i.e., those districts that, because of their funding, are not excluded from the spending limits pursuant to article XIII B, section 9, subdivision (c) – are eligible claimants. The reimbursement period begins July 1, 2001.

Staff concludes that Government Code section 56001 declares legislative findings and is helpful to interpret the test claim statutes, but does not mandate any activities. Staff further concludes that Government Code sections 56326.5, 56381, 56381.6, 56425 (except subdivision (h)(1), subsequently renumbered to subdivision (i)(1)), 56426.5, and 56430, and the Municipal Service Review Guidelines and Appendices developed by OPR, as pled, along with any other test claim statutes, guidelines and allegations not specifically approved above, do not mandate a new program or higher level of service subject to article XIII B, section 6.

Recommendation

Staff recommends the Commission adopt this analysis to partially approve the test claim.

Commission on State Mandates

Original List Date: 6/18/2003
Updated: 7/19/2006
Print Date: 05/28/2007
Claim Number: 02-TC-23
Issue: LAFCO

Mailing Information: Draft Staff Analysis

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

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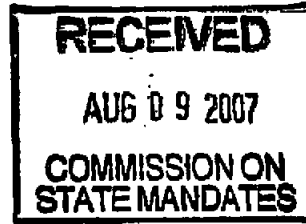
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RESPONSE TO DRAFT STAFF ANALYSIS

Chapter 439, Statutes of 1991
Chapter 761, Statutes of 2000
Chapter 493, Statutes of 2002
LAFCO Municipal Services Review Guidelines
LAFCO Municipal Services Review Guidelines Appendices

Claim no. 02-TC-23

Local Agency Formation Commission (LAFCO)

INTRODUCTION:

Test claimant Sacramento Metropolitan Fire District (hereinafter "District") submits the following in response to the Draft Staff Analysis issued by Commission staff on June 28, 2007. Having found that the District is a proper claimant, the Draft Staff Analysis concludes that only part of the program is reimbursable leaving the debate centering around the following issue:

Do the test claim statutes or alleged executive orders mandate a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution?

Staff answers the above question partially in the negative concluding that, with regard to certain activities, participation in the LAFCO is optional and thus there is no reimbursable state mandate. Staff applies its logic inconsistently and without following the logic to its rational conclusion resulting in the exclusion of certain state-mandated activities from reimbursement. The District takes this opportunity to provide a more balanced picture.

Analysis

1. Staff Fails to Properly Analyze Statutes and Apply Case Law to Support the Finding of a Mandate.

A. The Legislation Mandates the Participation of Two Special Districts.

As thoroughly explained by Staff in its analysis, the law prescribes a particular formula for the members of the Sacramento County LAFCO. Subdivision (d) of Government Code section 56326.5 sets forth that two members must be from special districts as selected by an independent special district selection committee. Staff finds that this is not a mandatory provision upon any particular special district. That is to say, because the statute leaves it open for a committee to determine which districts will participate, there is no mandate. Staff then goes on to apply the rules that govern practical compulsion. Staff's dismissal of the mandate, however, is too hasty; and the discussion of practical compulsion, unnecessary.

In looking at the legislation and its use of the term "shall", there is clearly a mandate that two special districts participate as members of the LAFCO. The issue is whether the fact that the group of districts from which to choose is larger than two negates the mandate. District argues it does not. Even if each district in turn makes the voluntary decision not to participate, eventually some district will be forced to become a member. As President Truman understood, the buck cannot be continually passed; it must stop somewhere. And, when it stops, there lies legal compulsion, not practical compulsion.

Staff extends this analysis by noting that the choice as to which two special districts are members lies in the hands of a committee, thus the voluntary decision of the committee further strains applicability of the mandate. This analysis, however, does not ring true. The use of the committee is merely a mechanism by which the members are selected. The committee is not empowered to force the participation of a special district. and, use of this mechanism does not change the mandatory language of the statute that ensures that two special districts must be members of the LAFCO.

B. Representation on the Selection Committee is Mandated For All.

In the vein as that stated above, the law prescribes the use of a particular committee for the selection of the special district members of the Sacramento County LAFCO. Subdivision (d) of Government Code section 56326.5 sets forth that two members must be from special districts as selected by an independent special district selection committee, which, in turn, is controlled by Government Code section 56332. This section sets forth the constituents of the committee in subdivision (a), stating that the "committee shall consist of the presiding officer of the legislative body of each independent special district...." The subdivision goes on to state the voting rights of these committee members and that a majority constitutes a quorum. Staff points to the word "consist" finding that use of that term does require the participation of the members. Having found no legal compulsion, Staff continues down this precarious path to conclude that there is no practical compulsion to participate since only 34 districts are needed for a quorum. Staff's logic contorts the mandatory language of the statute into a nullity which cannot stand: The law neither does nor requires idle acts.¹

¹ Civil Code section 3532.

This Commission is often faced with the question of whether a jurisdiction has acted, that is, made a voluntary decision to negate the existence of a mandate. Oftentimes, Staff turns to the guidance provided by the Supreme Court in *Kern High School District*², as it has done in this case. And so this Commission is left to contemplate “draconian consequences”³ and “certain and severe ... penalties”⁴. Yet, clearer guidance exists in a more recent Supreme Court decision. In *San Diego Unified School District v. Commission on State Mandates*⁵, the Court instructs the Commission on how to analyze the issue of voluntariness:

Upon reflection, we agree with the District and amici curiae that there is reason to question an extension of the holding of *City of Merced* so as to preclude reimbursement under article XIII B, section 6 of the state Constitution and Government Code section 17514, whenever an entity makes an initial discretionary decision that in turn triggers mandated costs. Indeed, it would appear that under a strict application of the language in *City of Merced*, public entities would be denied reimbursement for state-mandated costs in apparent contravention of the intent underlying article XIII B, section 6 of the state Constitution and Government Code section 17514 and contrary to past decisions in which it has been established that reimbursement was in fact proper. For example, as explained above, in *Carmel Valley, supra*, 190 Cal.App.3d 521, an executive order requiring that county firefighters be provided with protective clothing and safety equipment was found to create a reimbursable state mandate for the added costs of such clothing and equipment. (*Id.*, at pp. 537-538.) The court in *Carmel Valley* apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ — and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected. Yet, under a strict application of the rule gleaned from *City of Merced, supra*, 153 Cal.App.3d 777, such costs would not be reimbursable for the simple reason that the local agency’s decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc. We find it doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result, and hence we are reluctant to endorse, in

² *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727.

³ *Id.* at 754.

⁴ *Ibid.*

⁵ (2004) 33 Cal.4th 859.

this case, an application of the rule of *City of Merced* that might lead to such a result.⁶

Staff may point out that they are not using the *City of Merced* case: But is this not the same argument? Just as the Court notes that the jurisdiction can control costs by not hiring firefighters, here the Staff argues that the special districts can control costs by not participating in the LAFCO. As the Court concludes: Such argument is folly. The statute is clear that each presiding officer of an independent special district is a member of the selection committee. As the Court would see it: The intended result being that members would participate in the actions and meetings of the committee. Staff's argument defies both reason and the Supreme Court.

2. The Mandated New Services Did Not Result in a Local-to-Local Shift of Costs.

Government Code sections 56381 and 56381.6 set forth the apportionment of the LAFCO budget to the various entities that lie within each LAFCO's jurisdictional boundaries. Staff explains that, under prior law, the county was responsible for the LAFCO budget costs. Staff, then, dismisses the claim by District that its portion of the LAFCO costs are mandated by noting that the shift in costs comes not from the state, but instead from the county. Such shifting from one local governmental entity to another was found not to be a mandate under *City of San Jose*.⁷ Although Staff got the holding of the case correct, the different set of facts in the instant case makes *City of San Jose* inapplicable.

The court in *City of San Jose* was looking at a statute that reallocated jail booking fees. Prior to the legislation, the county had borne the costs. Under the new statutory scheme, all those who made use of the jail would be charged a fee. The court found that a mere new cost did not merit reimbursement under article XII B, section 6. Indeed, other case law supports this court's analysis; insisting upon a higher level of service to accompany the new cost.⁸ And, unlike the situation faced by San Jose, that is the case here.

As explained by Staff, the scope and authority of LAFCO has been expanding.⁹ Through the Cortese-Knox Local Government Reorganization Act, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and subsequent legislation, the members of LAFCO have been providing an increasing higher level of service. It is these services that have resulted in new costs. Under a strict application of article XIII B, section 6, these costs meet the test and are reimbursable. The fact that this higher level of service and associated costs have been spread amongst many new claimants is not relevant. The legislation required a higher level of service and then established the manner in which the costs from the services are to be paid.

3. Special Districts Must Participate in LAFCO Reviews.

⁶ *Id.* at 485-486.

⁷ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802.

⁸ *San Diego Unified School District, supra*, at 877.

⁹ See Draft Staff Analysis at 3-8 for a more complete discussion.

As noted above, Staff explains the expanding scope of LAFCO which includes, in Government Code sections 56425 and 56430, the determination of spheres of influence, service reviews and updates that must be performed by LAFCO. Staff counters assertions by District that these statutes result in mandated activities and costs by pointing out that the mandatory language imposes a duty only upon LAFCO. Again, Staff's analysis fails to account for the real world application of the law and the intended result of its creators.

For LAFCO to "conduct service reviews of the municipal services provided in the county" and to "comprehensively review all of the agencies that provide...services", it requires the co-operation of those entities. The participation of District in these reviews is not a voluntary act¹⁰: It is mandated upon District as it is upon LAFCO. To hold otherwise is to void the purpose of the law.

Finally, although Staff agrees that Government Code section 56425, subdivision (h) does mandate activities on District with regard to spheres of influence, Staff was silent as to whether this includes the updates that are necessary for the reviews by LAFCO under section 56425, subdivision (f). District requests that this be specifically included as part of its duties under subdivision (h).

CONCLUSION:

Based on the preceding arguments, District urges the Commission to find that the LAFCO program, as set forth above, is a reimbursable state mandate under Article XIII B, section 6 of the California Constitution.

¹⁰ See discussion, *supra*, at section 1.B.

CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and correct, except as to those matters stated upon information and belief and as to those matters, I believe them to be true.

Executed this 9th day of August, 2007, at Sacramento, California, by:



David M. Baltzell
Assistant Chief
Sacramento Metropolitan Fire District

PROOF OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento, and I am over the age of 18 years and not a party to the within action. My place of employment is 4320 Auburn Blvd., Suite 2000, Sacramento, CA 95841.

On August 10, 2007, I served:

RESPONSE TO DRAFT STAFF ANALYSIS

Chapter 439, Statutes of 1991

Chapter 761, Statutes of 2000

Chapter 493, Statutes of 2002

LAFCO Municipal Services Review Guidelines

LAFCO Municipal Services Review Guidelines Appendices

Claim no. 02-TC-23

Local Agency Formation Commission (LAFCO)

by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed this 10 day of August, 2007; at Sacramento, California.



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ITEM 9
TEST CLAIM
FINAL STAFF ANALYSIS

Government Code
Sections 56001, 56326.5, 56381, 56381.6,
56425, 56426.5, and 56430

Statutes 1991, Chapter 439 (AB 748)
Statutes 2000, Chapter 761 (AB 2838)
Statutes 2002, Chapter 493 (AB 1948)

LAFCO Municipal Services Review Guidelines
(Final Draft, October 3, 2002, Governor's Office of Planning and Research)
LAFCO Municipal Services Review Guidelines Appendices
(Final Draft, October 3, 2002, Governor's Office of Planning and Research)

Local Agency Formation Commissions

02-TC-23

Sacramento Metropolitan Fire District, Claimant

EXECUTIVE SUMMARY

This test claim addresses changes to Local Agency Formation Commissions ("LAFCOs"), which are statutorily-created local administrative bodies that make determinations regarding formation and development of local agencies. The test claim statutes modify representation on the Sacramento County LAFCO, mechanisms for funding LAFCO operations when independent special districts are represented, and the process for LAFCOs to adopt and update the "sphere of influence" for each local agency within all California counties. The claimant is an independent special district, thus the findings of this test claim apply to independent special districts only and *not* LAFCOs or other local government agencies. Furthermore, only independent special districts that are subject to the tax and spend limitations of articles XIII A and XIII B are eligible claimants.

The Test Claim Statutes Impose a Partially Reimbursable State-Mandated Program Within the Meaning of Article XIII B, Section 6 of the California Constitution

In 1991, the Sacramento County LAFCO was required by statute to have two independent special districts represented on it. The claimant, one of 66 independent special districts in Sacramento County, seeks reimbursement for its representation on the LAFCO – in the event it is chosen to sit on the LAFCO – as well as its representation on the independent special district selection committee, a committee consisting of representatives from all independent special districts in the county established to choose the independent special districts that would be represented on the LAFCO.

Staff finds that the test claim statutes require two special districts to be represented on the Sacramento County LAFCO. However, there is no evidence in the record that such activities impose "costs mandated by the state" pursuant to Government Code section 17514 and

article XIII B, section 6. Thus, any such activities do not impose a reimbursable, state-mandated program. With regard to the independent special district selection committee, staff finds that since the section of the Government Code which sets forth the requirements for the committee that selects the independent special districts for the LAFCO – Government Code section 56332 – was not pled in the test claim, the Commission does not have jurisdiction to make any findings with regard to that provision.

Claimant also seeks reimbursement for its share of the funding of the Sacramento County LAFCO as required by the test claim statutes. However, staff finds that such costs are not reimbursable because the provision neither mandates any activities nor imposes a “cost shift” from the *state* to local agencies pursuant to *Lucia Mar Unified School Dist.* or article XIII B, section 6, subdivision (c) (Proposition 1A), as enacted by the voters on November 2, 2004. Instead, the cost shift is from the *county* to the districts, since counties have been required to provide the entire budget for LAFCOs since 1963.

Finally, claimant seeks reimbursement for gathering and providing information to the LAFCO for sphere of influence reviews and municipal service reviews, pursuant to statute and Municipal Service Review Guidelines and Appendices adopted by the Office of Planning and Research (OPR). Staff finds that only one statutory provision, Government Code section 56425, subdivision (h), constitutes a state-mandated “new program or higher level of service” in an existing program: special districts shall be required by the LAFCO to file written statements with the LAFCO specifying the functions or classes of service provided by those districts as required by the LAFCO when undertaking specified sphere of influence reviews. All other activities claimed for sphere of influence reviews or municipal service reviews are either required of the *LAFCO* and *not* special districts, or the activities are *not mandated* since the Municipal Service Review Guidelines and Appendices do not constitute executive orders.

Conclusion

Staff finds that Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)), constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6, and Government Code section 17514, in that it requires independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

Only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

Staff concludes that Government Code section 56001 declares legislative findings and is helpful to interpret the test claim statutes, but does not mandate any activities. Staff further concludes that Government Code sections 56326.5, 56381, 56381.6, 56425 (except subdivision (h)(1), subsequently renumbered to subdivision (i)(1)), 56426.5, and 56430, and the Municipal Service Review Guidelines and Appendices developed by OPR, as pled, along with any other test claim statutes, alleged executive orders, guidelines and allegations not

specifically approved above, do not mandate a new program or higher level of service subject to article XIII B, section 6.

Recommendation

Staff recommends the Commission adopt this analysis to partially approve this test claim.

STAFF ANALYSIS

Claimant

Sacramento Metropolitan Fire District

Chronology

- 05/29/03 Sacramento Metropolitan Fire District filed test claim with the Commission on State Mandates ("Commission")¹
- 06/19/03 Commission staff deemed the test claim complete
- 07/07/03 The Department of Finance requested an extension of time to file comments on the test claim
- 07/08/03 Commission staff approved extension of time, to August 18, 2003, to file comments on the test claim
- 07/18/03 The Department of Finance submitted comments on test claim to the Commission
- 09/25/03 Sacramento Metropolitan Fire District submitted rebuttal comments to the Department of Finance comments on the test claim to the Commission
- 06/28/07 Commission staff issued draft staff analysis
- 07/24/07 The Department of Finance submitted comments on the test claim to the Commission
- 07/25/07 Sacramento Metropolitan Fire District requested an extension of time to file comments on the draft staff analysis
- 07/25/07 Commission staff approved extension of time, to August 9, 2007, to file comments on the draft staff analysis
- 08/09/07 Sacramento Metropolitan Fire District filed comments on the draft staff analysis with the Commission
- 09/17/07 Commission staff issued the final staff analysis

Background

This test claim addresses representation on the Sacramento County Local Agency Formation Commission ("LAFCO"), changes to funding mechanisms for LAFCOs with independent special district representation, and modifications to the process for LAFCOs to adopt and update the "sphere of influence"² for each local government agency within a county.

¹ The reimbursement period for this test claim begins July 1, 2001.

² "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the LAFCO. (Gov. Code § 56076.)

Historical Development of LAFCOs

In light of competing urban, social and economic interests affected by land annexation, and “[a]fter years of failure to cope with these problems to any meaningful extent . . . , the Legislature finally acknowledged ‘the need for a supra-local agency to intervene in boundary decisions’ affecting local governments, and, in 1963, established a LAFCO in each [California] county to serve this purpose.”^{3,4} Thus, LAFCOs are statutorily-created administrative bodies which make quasi-legislative determinations⁵ regarding formation and development of local agencies.⁶ The courts have referred to LAFCOs as the Legislature’s “watchdogs” over local boundaries.⁷

The LAFCOs’ purposes have evolved over the years, and in 1985, the laws governing local boundary changes were consolidated into the Cortese-Knox Local Government Reorganization Act (“Cortese-Knox Act”),⁸ which provided the “sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts.”⁹ The Cortese-Knox Act stated the following purposes for LAFCOs:

Among the purposes of a [LAFCO] are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the [LAFCO] is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities.¹⁰

The Cortese-Knox Act charged LAFCOs with a variety of powers and duties, including but not limited to: reviewing proposals for changes of organization or reorganization;¹¹ approving annexation of unincorporated, noncontiguous territory in certain instances;¹² adopting written procedures, regulations and standards;¹³ and developing, determining, adopting and

³ *Tillie Lewis Foods, Inc. v. City of Pittsburg (Tillie Lewis)* (1975) 52 Cal.App.3d 983, 995.

⁴ Statutes 1963, chapter 1808.

⁵ *Sierra Club v. San Joaquin Local Agency Formation Commission* (1999) 21 Cal.4th 489, 495.

⁶ Government Code section 56301.

⁷ *Tillie Lewis, supra*, 52 Cal.App.3d 983, 1005.

⁸ Statutes 1985, chapter 541; Government Code sections 56000 et seq.

⁹ Government Code section 56100.

¹⁰ Government Code section 56301, as enacted by Statutes 1985, chapter 541.

¹¹ Government Code section 56375, subdivision (a).

¹² Government Code section 56375, subdivision (e), subsequently renumbered to subdivision (d).

¹³ Government Code section 56375, subdivisions (i), (j), and (k), subsequently renumbered to subdivisions (g), (h), and (i).

periodically updating the sphere of influence of each local governmental agency within the county.¹⁴

By June 30, 1985, each LAFCO was required to adopt a sphere of influence for each local governmental agency within its jurisdiction,¹⁵ in order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies.¹⁶ In determining the sphere of influence of each local agency, the LAFCO was required to consider and prepare a written statement of its determination with respect to the following points:

- 1) The present and planned land uses in the area, including agricultural and open-space lands.
- 2) The present and probable need for public facilities and services in the area.
- 3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
- 4) The existence of any social or economic communities of interest in the area if the LAFCO determines that they are relevant to the agency.¹⁷

LAFCOs were originally established with representatives from the county, cities in the county and the general public,¹⁸ with the option of adding independent special districts.¹⁹ The term of office for each member is generally four years, but if independent special districts are added to the LAFCO, the first term of one of those members is only two years.²⁰ The body who originally appointed any member whose term has expired appoints his or her successor for a full term of four years, and any member may be removed at any time and without cause by the body appointing that member.²¹ The expiration date of all terms of office is the first Monday in May in the year the term expires; vacancies in the membership are required to be filled for the unexpired term by appointment by the body originally appointing the member.²² Provision is also made for appointing alternate members in each category, who are allowed to serve and vote in place of their member who is absent or disqualifies himself or herself from participating in a meeting of the LAFCO, and to fill vacancies in unexpired terms until a new member is appointed.²³

¹⁴ Government Code section 56425.

¹⁵ Government Code section 56426.

¹⁶ Government Code sections 56076 and 56425.

¹⁷ *Ibid.*

¹⁸ Former Government Code section 54780, repealed and renumbered to Government Code section 56325. (Stats. 1985, ch. 541.)

¹⁹ Government Code section 56332, subdivision (a), as enacted by Statutes 1985, chapter 541.

²⁰ Government Code section 56334.

²¹ *Ibid.*

²² *Ibid.*

²³ Government Code sections 56325, 56331, 56331.3, 56332 and 56335.

LAFCO members and alternates are reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office and the LAFCO may authorize per diem payments to members or alternates for each day of attendance of LAFCO meetings.²⁴

Any county having or choosing to have independent special district representation on the LAFCO is required to establish an independent special district selection committee to choose such members, which must consist of the presiding officer of the legislative body of each independent special district.²⁵ Meetings of the independent special district selection committee are required *only* when a vacancy of an independent special district member on the LAFCO occurs,²⁶ or when requested by one or more members of the selection committee representing 10 percent or more of the assessed value of taxable property within the county.²⁷ Where such meetings are not feasible, the executive officer of the committee may conduct the business of the committee in writing.²⁸

LAFCOs are authorized to charge fees for the cost of specified proceedings undertaken by the LAFCO,²⁹ and funding and facilities for LAFCOs have historically been provided by the county served.³⁰

In recognition of the fact that nearly 35 years had passed since a thorough investigation of the policies, practices, and statutes affecting the organization and boundaries of California's local agencies had been conducted, in 1997 the Legislature created the Commission on Local Governance for the 21st Century.³¹ The 21st Century Commission, as it came to be known, was charged with reviewing current statutes regarding policies, criteria, procedures and precedents for city, county and special district boundary changes, to solicit the views and advice of the public, to propose criteria to increase citizen and community participation in city, county, and special district governments consistent with federal law, and to recommend any appropriate statutory changes.³²

On January 20, 2000, after extensive hearings and deliberation, the 21st Century Commission released its final report, entitled *Growth Within Bounds*. The report made the following recommendations:

²⁴ *Ibid.*

²⁵ Government Code section 56332, subdivision (a), as enacted by Statutes 1985, chapter 541.

²⁶ Government Code section 56332, subdivision (c)(1), as enacted by Statutes 1985, chapter 541, subsequently renumbered to subdivision (b)(1).

²⁷ Government Code section 56332, subdivision (c)(2), as enacted by Statutes 1985, chapter 541, subsequently renumbered to subdivision (b)(2).

²⁸ Government Code section 56332, subdivision (d), as enacted by Statutes 1985, chapter 541, subsequently renumbered to subdivision (c).

²⁹ Government Code section 56383.

³⁰ Government Code section 56381, as enacted by Statutes 1985, chapter 541.

³¹ AB 1484 (Hertzberg), Statutes 1997, chapter 943.

³² Government Code section 56302, subdivision (c), as enacted by Statutes 1997, chapter 943.

1. LAFCO policies and procedures should be streamlined.
2. LAFCOs should be neutral, independent, and provide balanced representation for counties, cities and special districts, with funding provided from each of those categories.
3. LAFCO powers should be strengthened to prevent sprawl and ensure the orderly extension of government services.
4. Policies to protect agricultural and open space lands and other resources should be strengthened.
5. The state-local fiscal relationship should be comprehensively revised.
6. The state should develop incentives to encourage compatibility and coordination of plans and actions of all local agencies, including school districts, within each region as a way to encourage an integrated approach to public service delivery and improve overall governance.
7. Communication, coordination, and procedures of LAFCOs and local governments should be enhanced to promote government efficiency.
8. Opportunities for public involvement, active participation, and information regarding government decision-making should be increased.

The Legislature responded by enacting many of the 21st Century Commission's recommendations into the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.³³ The act expands the purposes of the LAFCO to include preserving open space and agricultural lands, efficiently providing government services, and, when formation of a new government entity is proposed, making a determination as to whether existing agencies can feasibly provide the needed services in a more efficient and accountable manner.³⁴

This Test Claim is Limited to the Following Statutes and Alleged Executive Orders

Sacramento County LAFCO Representation (Stats. 1991, Ch. 439):

- Section 56326.5 was added to the Government Code in 1991 to provide that, for the *Sacramento County LAFCO only*, in addition to the basic representation of five members, — i.e., two county members, two members representing cities in the county, and one general public member³⁵ — one of the city members must be from the City of Sacramento and two members representing independent special districts in the County must sit on the LAFCO. The record for this legislation indicates that Sacramento County LAFCO, *prior to* the enactment of section 56326.5, chose to include special district representation as authorized by Government Code section 56332.³⁶ The independent special district selection committee selects the two independent special district members.

³³ AB 2838, Statutes 2000, chapter 761.

³⁴ Government Code section 56301.

³⁵ Government Code section 56325, as enacted by Statutes 1985, chapter 541.

³⁶ Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis for AB 748, June 18, 1991, page 1.

Cortese-Knox-Hertzberg Local Government Reorganization Act (Stats. 2000, Ch. 761):

- The legislative findings and declarations for the Act were amended to include:
 - 1) discouraging urban sprawl; 2) preserving open space and prime agricultural lands; and
 - 3) efficiently extending government services.³⁷
- Changes were made in funding for LAFCOs; instead of the existing requirement of being entirely funded by the county, LAFCOs with representation by cities and special districts are now funded by a one-third share each from the county, cities and special districts.³⁸ The independent special districts' share was apportioned according to each district's revenues for general purpose transactions, as reported in the most recent edition of the "Financial Transactions Concerning Special Districts" published by the State Controller, or by an alternative method approved by a majority of the independent special districts representing a majority of their combined populations.³⁹
- The provisions regarding the sphere of influence for each local government agency were changed as follows:
 - The LAFCO shall review and update the sphere of influence *not less than once every five years*,⁴⁰
 - For any sphere of influence or sphere of influence that includes a special district, the LAFCO shall:
 - require existing districts to file written statements specifying functions or classes of service provided;
 - establish the nature, location, and extent of any functions or classes of service provided by existing districts; and
 - determine that, except as otherwise authorized by regulations, no new or different function or class of service shall be provided by any existing district unless approved by the LAFCO.⁴¹ (Emphasis added.)
 - A review and update to the sphere of influence requires LAFCOs to conduct a municipal service review.⁴² In conducting a municipal service review, a LAFCO shall prepare a written statement of its determinations with respect to each of the following nine topics:
 1. infrastructure needs or deficiencies;
 2. growth and population projections for the affected area;
 3. financing constraints and opportunities;

³⁷ Government Code section 56001.

³⁸ Government Code section 56381, subdivision (a).

³⁹ Government Code section 56381, subdivision (b)(1).

⁴⁰ Government Code section 56425, subdivision (f).

⁴¹ Government Code section 56425, subdivision (h), as enacted in Statutes 2000, chapter 761, subsequently renumbered to Government Code section 56425, subdivision (i).

⁴² Government Code section 56430, subdivision (a).

4. cost avoidance opportunities;
 5. opportunities for rate restructuring;
 6. opportunities for shared facilities;
 7. government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
 8. evaluation of management efficiencies; and
 9. local accountability and governance.⁴³
- o Not later than July 1, 2001, the Governor's Office of Planning and Research (OPR), in consultation with LAFCOs, the California Association of Local Agency Formation Commissions, and other local governments, was required to prepare guidelines for municipal service reviews to be conducted by LAFCOs.⁴⁴

LAFCO Revenues from Independent Special Districts (Stats. 2002, Ch. 493):

- This statute revised the method for calculating independent special district revenues to be paid to LAFCOs, basing the calculation on nonenterprise revenues and enterprise revenues rather than general purpose transactions.⁴⁵ It also capped the share of any one independent special district to 50% of the total independent special districts' share of operating costs.⁴⁶ Additionally, revenue relief was provided for health care districts with negative net revenue and for those operating under public entity bankruptcy.⁴⁷

Municipal Service Review Guidelines and Municipal Service Review Appendices Issued by the Governor's Office of Planning and Research (Final Drafts Issued 10/03/02):

- OPR developed the Guidelines and Appendices as directed by the test claim statutes,⁴⁸ which require OPR to prepare *guidelines* rather than regulations. Hence the documents should be considered advisory rather than regulatory.
- The Guidelines and Appendices describe the statutory framework and requirements of the municipal service review, and provide guidance on:
 1. how the LAFCO, service provider agencies and the public can prepare to most effectively engage in the process;
 2. integrating municipal service reviews with other LAFCO actions, application of the California Environmental Quality Act (CEQA) and federal and state anti-discrimination statutes, and development of the nine statutorily-required determinations,⁴⁹ and

⁴³ *Ibid.*

⁴⁴ Government Code section 56430, subdivision (d).

⁴⁵ Government Code section 56381, subdivision (b)(1)(C).

⁴⁶ Government Code section 56381, subdivision (b)(1)(F).

⁴⁷ Government Code section 56381, subdivision (b)(1)(D).

⁴⁸ Government Code section 56430, subdivision (d).

⁴⁹ Government Code section 56430.

3. how to draft the final individual municipal service review report and how to ensure adequate public participation opportunities, including statutory meeting requirements.⁵⁰

Claimant's Position

The claimant states that the test claim statutes and executive orders impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Claimant asserts that the following activities and costs are reimbursable:

1. Time and expense of representing Sacramento Metropolitan Fire District on the Sacramento County LAFCO, if chosen by the independent special district selection committee, pursuant to Government Code section 56326.5.⁵¹
2. Time and expense of representing Sacramento Metropolitan Fire District on the independent special district selection committee. These activities were mentioned in the narrative section of the test claim, but Government Code section 56332 which governs the independent special district selection committee was not specifically pled by claimant.
3. Costs to fund Sacramento Metropolitan Fire District's share of the operating budget for the Sacramento County LAFCO, pursuant to Government Code sections 56326.5, 56381 and 56381.6, and/or as suggested by the LAFCO Municipal Service Guidelines Appendices, pages 26-27.
4. Time and expense of providing information to the LAFCO when the LAFCO determines a sphere of influence, pursuant to Government Code section 56425, subdivision (g).⁵²
5. Pursuant to page 12 of the LAFCO Municipal Service Review Guidelines, time and expense of providing the following information, depending on the type of service provided, to the LAFCO when the LAFCO conducts a municipal service review:⁵³

⁵⁰ Municipal Service Review Guidelines, Executive Summary, page 2.

⁵¹ Test claim, page 3; comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 2.

⁵² So claimed; however, subdivision (g) did not require these activities but subdivision (h) had similar language: "For any sphere of influence or a sphere of influence that includes a special district, the [LAFCO] shall do all of the following: (1) Require existing districts to file written statements with the [LAFCO] specifying the functions or classes of service provided by those districts. (2) Establish the nature, location, and extent of any functions or classes of service provided by existing districts. (3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the [LAFCO]." (Emphasis added.)

⁵³ Rather than stating that districts must provide the information, page 12 of the Municipal Service Review Guidelines actually states: "Below is a list of the types of information a service provider [i.e., independent special district] may wish to gather to expedite the municipal service review process. It is not necessary to collect all types of data listed below.

- a list of relevant statutory and regulatory obligations;
 - a copy of the most recent master services plan;
 - a metes and bounds legal description of the agency's boundary;
 - service area maps (to the extent already prepared) including:
 - a service boundary map;
 - a map indicating parcel boundaries (GIS maps may be available from the land use jurisdiction);
 - a vicinity or regional map with provider's boundary, major landmarks, freeways or highways, and adjacent or overlapping service provider boundaries (note: more than one map may need to be prepared to show all data); and
 - maps indicating existing land uses within city or district boundaries and on adjacent properties.
 - applicable excerpts from regional transportation, water, air quality, fair share housing allocation, airport land use, open space or agricultural plans or policies, or other environmental policies or programs;
 - copies of regulatory and operating permits;
 - number of acres or square miles included within the service area;
 - type of sphere or sphere boundaries;
 - assessed valuation;
 - estimate of population within district boundaries;
 - as appropriate, the number of people, households, parcels or units currently receiving service, or the number of service connections;
 - projected growth in service demand or planned new service demand/capacity;
 - special communities of interest or neighborhoods affected by service;
 - capital improvement plans;
 - current service capacity;
 - call volume;
 - response time; and
 - annual operating budget.
6. Pursuant to page 17 of the LAFCO Municipal Service Review Guidelines, time and expense for the LAFCO to prepare a workplan when a LAFCO conducts a municipal service review, which includes the following elements:
- list of services to be reviewed;
 - service providers that will be affected/involved;
 - study area boundaries for the municipal service review;

Select only those items that are relevant to the type of services under review." Furthermore, on page 13 the Guidelines state: "Don't Reinvent the Wheel Service providers [i.e., independent special districts] may regularly submit reports to a regulatory or financing agency which contain the information LAFCO needs to complete the municipal service review. Use the information in these reports to respond to information requests by LAFCO. ... Early consultation with LAFCO and meaningful input by the service provider can reduce the time and cost to both parties."

- data collection process;
 - public participation process; and
 - public hearing process.
7. Pursuant to Chapter 7, commencing on page 24, of the LAFCO Municipal Service Review Guidelines, time and expense for the LAFCO to prepare an Environmental Impact Report when the municipal services review is considered a "project" which must comply with the California Environmental Quality Act ("CEQA"), and if future land use determinations are to be based on the municipal service review.
 8. Pursuant to Government Code section 56430 and pages 29 through 36 of the LAFCO Municipal Service Review Guidelines, time and expense for the LAFCO when conducting a municipal service review to prepare a written statement of its determinations with respect to each of the following nine issues:
 - infrastructure needs or deficiencies;
 - growth and population projections for the affected area;
 - financing constraints and opportunities;
 - cost avoidance opportunities;
 - opportunities for rate restructuring;
 - opportunities for shared facilities;
 - government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
 - evaluation of management efficiencies; and
 - local accountability and governance.
 9. Pursuant to page 35 of the Municipal Service Review Guidelines, time and expense of the LAFCO, when conducting a municipal service review and evaluating an agency's or district's management efficiencies, to obtain information from the agency or district with respect to the following factors or issues:⁵⁴
 - evaluation of the agency's capacity to assist with and/or assume services provided by other agencies;
 - evaluation of agency's spending on mandatory programs;
 - comparison of agency's mission statement and published customer service goals and objectives;
 - availability of master service plan(s);
 - contingency plans for accommodating existing and planned growth;
 - publicized activities;
 - implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement;
 - personnel policies;

⁵⁴ Leading into the list of factors or issues, the Guidelines actually state: "In evaluating an agency's management efficiencies, LAFCO may wish to address the following factors in its review: ..."

- availability of resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service;
 - available technology to conduct an efficient business;
 - collection and maintenance of pertinent data necessary to comply with state laws and provide adequate services;
 - opportunities for joint powers agreements, Joint Powers Authorities, and/or regional planning opportunities;
 - evaluation of agency's system of performance measures;
 - capital improvement projects as they pertain to Government Code sections 65401 and 65103, subdivision (c);
 - accounting practices;
 - maintenance of contingency reserves;
 - written policies regarding the accumulation and use of reserves and investment practices;
 - impact of agency's policies and practices on environmental objectives and affordable housing;
 - environment and safety compliance; and
 - current litigation and/or grand jury inquiry involving the service under LAFCO review.
10. Pursuant to Government Code section 56820.5⁵⁵ and the LAFCO Municipal Service Review Guidelines Appendices, time and expense of the Sacramento Metropolitan Fire District to provide information regarding the municipal service review required under regulations adopted by the LAFCO. This provision was mentioned in the narrative but was not specifically pled by claimant.
11. Costs paid to the LAFCO for reviewing the District's component of a municipal service review.

Claimant estimates the following costs to implement the program: 1) \$20,000 - \$30,000 for claimant's portion of the annual LAFCO budget for the period January 1, 2001 through December 31, 2001; 2) \$50,000 - \$80,000 for claimant's portion of the annual LAFCO budget for the period of January 1, 2002 and beyond; 3) in excess of \$20,000 to provide to the LAFCO the information required for a municipal service review; and 4) \$5,000 to the LAFCO for its review of claimant's component of the municipal service review.

Claimant filed additional comments in response to the Department of Finance's comments and the draft staff analysis, which are addressed, as necessary, in the analysis.

⁵⁵ Government Code section 56820.5, renumbered from Government Code section 56451 in Statutes 2000, chapter 761.

Position of Department of Finance

The Department of Finance states that the test claim statutes may have resulted in costs mandated by the state, but points out the following:

- A special district may lawfully decline to sit as a member of its LAFCO.
- Although LAFCO independent special district selection committee membership is required by law, special districts are not required to participate in the committee's activities; many are members in name only.
- LAFCOs have existing statutory fee authority that may be used to cover their operating costs. To the extent that LAFCOs elect to make use of this authority, LAFCO members would be relieved of the need to contribute toward the LAFCO's annual budget.
- LAFCOs have had statutory authority to require information of local agencies since 1965.
- OPR's Municipal Service Review Guidelines and Appendices do not carry the force of law.

The Department filed additional comments concurring with the draft staff analysis.

Discussion

The courts have found that article XIII B, section 6 of the California Constitution⁵⁶ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁵⁷ "Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."⁵⁸

A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁵⁹ In

⁵⁶ Article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

⁵⁷ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

⁵⁸ *County of San Diego v. State of California (County of San Diego)* (1997) 15 Cal.4th 68, 81.

⁵⁹ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.⁶⁰

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.⁶¹ To determine if the program is new or imposes a higher level of service, the test claim requirements must be compared with the legal requirements in effect immediately before the enactment of the test claim statutes.⁶² A "higher level of service" occurs when there is "an increase in the actual level or quality of governmental services provided."⁶³

Finally, the newly required activity or increased level of service must impose costs mandated by the state.⁶⁴

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.⁶⁵ In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."⁶⁶

The analysis addresses the following issues:

- Which independent special districts are eligible claimants under article XIII B, section 6 of the California Constitution?
- Do the test claim statutes or alleged executive orders mandate a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution?

⁶⁰ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

⁶¹ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 (*County of Los Angeles*); *Lucia Mar*, *supra*, 44 Cal.3d 830, 835).

⁶² *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

⁶³ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 877.

⁶⁴ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

⁶⁵ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

⁶⁶ *County of Sonoma*, *supra*, 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817 (*City of San Jose*).

- Do Government Code sections 56326.5, subdivision (d), and 56425, subdivision (h)(1), impose "costs mandated by the state" within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514?

Issue 1: Which independent special districts are eligible claimants under article XIII B, section 6 of the California Constitution?

Not all independent special districts are subject to article XIII B, section 6. Article XIII B, section 6 was adopted in recognition of the state constitutional restrictions on the powers of local government to tax and spend, and requires a subvention of funds to reimburse local agencies when the state imposes a new program or higher level of service upon those agencies. The Third District Court of Appeal in *County of Placer v. Corin* (1980) 113 Cal.App.3d 443 explained the reasoning behind Article XIII B as follows:

Article XIII B was adopted less than 18 months after the addition of article XIII A to the state Constitution, and was billed as "the next logical step to Proposition 13" [article XIII A]. While article XIII A was generally aimed at controlling ad valorem property taxes and the imposition of new "special taxes" [citations], the thrust of article XIII B is toward placing certain limitations on the growth of appropriations at both the state and local government level ...⁶⁷

The court further described this concept:

[A]rticle XIII B does not limit the ability to expend government funds collected from all sources. Rather, the appropriations limit is based on "appropriations subject to limitation," which consists primarily of the authorization to expend during a fiscal year the "proceeds of taxes." (§ 8, subd. (a).) As to local governments, limits are placed only on the authorization to expend the proceeds of taxes levied by that entity, in addition to the proceeds of state subventions (§ 8, subd. (c)); no limitation is placed on the expenditure of those revenues that do not constitute "proceeds of taxes."⁶⁸

Thus, since taxing and spending limitations are placed only on the proceeds of taxes, "[n]o state duty of subvention is triggered where the local agency is not required [by the test claim statutes] to expend the proceeds of taxes."⁶⁹ Section 9 of Article XIII B sets forth specific circumstances wherein the costs in question *are not* "appropriations subject to limitation," and therefore subvention is not required. One such exclusion to the limitation is found in subdivision (c), which applies to special districts:

Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 ½ cents per \$100 of assessed value; or the

⁶⁷ *County of Placer, supra*, 113 Cal.App.3d 443, 446.

⁶⁸ *Id.* at 447.

⁶⁹ *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987.

appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.

The claimant, Sacramento Metropolitan Fire District, is a special district that was formed by reorganization of the Sacramento County Fire District and the American River Fire District on December 1, 2000.⁷⁰ Therefore, the district did not exist on January 1, 1978 and its appropriations do not meet the first criteria that excludes their appropriations from the spending limit of article XIII B.

The claimant's revenues consist of, among other things, property taxes, fines, and fees for services.⁷¹ Thus, the claimant is not a district "which is totally funded by other than the proceeds of taxes" and its appropriations do not meet the second criteria. Consequently, the article XIII B, section 9, subdivision (c), exclusion to the appropriations limit is not applicable to the appropriations of Sacramento Metropolitan Fire District. The District is therefore an eligible claimant within the meaning of article XIII B, section 6.

For any other independent special district in California to be an eligible claimant under this test claim, that district must be subject to the tax and spend limitations of article XIII A and article XIII B, and *not* subject to the appropriations limit exclusions in article XIII B, section 9, subdivision (c).

Issue 2: Do the test claim statutes or alleged executive orders mandate a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution?

Courts have recognized the purpose of article XIII B, section 6 is "to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill-equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."⁷² The cases have held that a test claim statute may impose a reimbursable state-mandated program in two ways.

First is where the test claim statute orders or commands a local agency or school district to engage in an activity or task,⁷³ and the required activity or task is new, constituting a "new program," or creates a "higher level of service" over the previously required level of service.⁷⁴

Second, in light of the intent of article XIII B, section 6, a reimbursable state-mandated program has been found to exist in some instances when the state shifts fiscal responsibility for a mandated program to local agencies but no actual activities have been imposed by the test claim statute or executive order.⁷⁵ Additionally, as of November 3, 2004, article XIII B,

⁷⁰ *Department History*, <http://www.smfd.ca.gov/>.

⁷¹ Sacramento Metropolitan Fire District, Final Budget for Fiscal Year 2007, page A-29.

⁷² *County of San Diego, supra*, 15 Cal. 4th 68, 81 (citing *Lucia Mar, supra*, 44 Cal.3d 830).

⁷³ *Long Beach, supra*, 225 Cal.App.3d 155, 174.

⁷⁴ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835-836.

⁷⁵ *Lucia Mar, supra*, 44 Cal.3d 830, 836.

section 6, subdivision (c), of the California Constitution defines a "mandated new program or higher level of service" as including "a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility."⁷⁶

Thus, a mandated "new program or higher level of service" may be found under either circumstance cited above, that is, where the test claim statutes mandate *activities* that are new in comparison to the preexisting scheme that result in providing a service to the public, *or* where the state shifts from itself to local agencies the *cost* for a required program but no activities are imposed.

Claimant is seeking reimbursement for the following:

1. time and expense of representing Sacramento Metropolitan Fire District on the Sacramento LAFCO, if that district is chosen by the independent special district selection committee;
2. time and expense of representing Sacramento Metropolitan Fire District on the independent special district selection committee;
3. costs for the Sacramento Metropolitan Fire District to fund its share of the operating budget for the Sacramento LAFCO;
4. time and expense of providing information to the LAFCO when the LAFCO determines a sphere of influence;
5. time and expense of providing information to the LAFCO when the LAFCO conducts a municipal service review;
6. time and expense for the LAFCO to prepare a workplan when the LAFCO conducts a municipal service review;
7. when the municipal service review is considered a "project" under the California Environmental Quality Act, time and expense for the LAFCO to prepare an Environmental Impact Report;
8. when the LAFCO conducts a municipal service review, the LAFCO shall prepare a written statement with regard to nine specified issues;
9. when the LAFCO conducts a municipal service review and the LAFCO is evaluating an agency's or district's management efficiencies, time and expense for the LAFCO to obtain specified information from the agency or district;
10. time and expense of providing information required under regulations adopted by the LAFCO and by the Municipal Service Review Guidelines Appendices; and
11. costs paid to the LAFCO for reviewing the District's component of a municipal service review.

In the analysis below, the alternative tests for a "new program or higher level of service" are applied as appropriate to the test claim statutes and to the items identified by claimant.

⁷⁶ Enacted by the voters as Proposition 1A, November 2, 2004.

However, any activities of the *LAFCO itself* are not addressed since LAFCOs are not represented in this claim; instead, the claimant is an independent special district and represents only independent special districts in the claim.

Legislative Findings and Declarations (Gov. Code, § 56001)

Government Code section 56001 sets forth the legislative findings and declarations with regard to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This section is helpful in understanding the purposes for LAFCOs and the scope of LAFCO operations, but does not mandate any activities on local agencies in California. Therefore, Government Code section 56001 does not mandate a “new program or higher level of service” on independent special districts.

Representation on LAFCO and Independent Special District Selection Committee in Sacramento County (Gov. Code, § 56326.5, subd. (d))

The Government Code sets forth provisions for the composition and selection of members of LAFCOs. There are general provisions for most counties,⁷⁷ and some counties have specific statutory provisions for the composition of their LAFCOs.⁷⁸ The test claim statute pled by the claimant, section 56326.5, enacted in 1991, specifies the composition of the Sacramento County LAFCO. The analysis is limited to subdivision (d) of that section, since it is the only subdivision dealing with independent special districts.

For this test claim statute, the question is whether subdivision (d) mandates new activities that constitute a “new program or higher level of service” over an existing program. For the reasons stated below, staff finds that representation by two independent special districts on the Sacramento County LAFCO, selected by the independent special district selection committee pursuant to section 56332, mandates a “new program or higher level of service” on those independent special districts that serve on the LAFCO.

Staff further finds that since the section of the Government Code which sets forth the requirements for the committee that selects the independent special districts for the LAFCO – Government Code section 56332 – was not pled in the test claim, the Commission does not have jurisdiction to make any findings with regard to that provision.⁷⁹

Prior to the test claim statute, Sacramento County was governed by Government Code section 56325 which provided that the LAFCO shall consist of five or seven members, seven if there was special district representation. The addition of special districts to LAFCOs pursuant to that section was *voluntary* on the part of the LAFCO.⁸⁰

⁷⁷ Government Code section 56325.

⁷⁸ Counties with LAFCO membership and selection criteria set forth in *special* provisions of the Government Code: Kern County (section 56328.5), Los Angeles County (section 56326), Sacramento County (56326.5), Santa Clara County (sections 56327 and 56327.3), and San Diego County (section 56328).

⁷⁹ Nor did claimant plead any costs associated with section 56332.

⁸⁰ Government Code section 56332, as enacted by Statutes 1985, chapter 541.

Because of the test claim statute enacted in 1991, Sacramento County is now one of the counties with a statutory provision setting forth a more specific composition of members on its LAFCO. Government Code section 56326.5, as added by the test claim statute in 1991, states:

In Sacramento County, the [LAFCO] *shall consist of seven members*, selected as follows:

- (a) Two representing the county, appointed by the board of supervisors from their own membership. ...
- (b) One representing the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. ...
- (c) One representing the cities in the county, who is a city officer appointed by the city selection committee. ...
- (d) *Two representing special districts selected by an independent special district selection committee pursuant to Section 56332. ...*⁸¹
- (e) One representing the general public, appointed by the other six members of the [LAFCO]. ... (Emphasis added.)

The plain language of subdivision (d) *requires* two members representing independent special districts in Sacramento County, selected by the independent special district selection committee pursuant to Government Code section 56332, to sit on the Sacramento County LAFCO. In Sacramento County there are 66 independent special districts eligible to be represented on the LAFCO.⁸² However, there is no other requirement specifying a *particular* independent special district is required to sit on the Sacramento County LAFCO.

Claimant argues that choosing the district via the independent special district selection committee is merely a mechanism by which the members are selected.⁸³ “[A]nd, use of this mechanism does not change the mandatory language of the statute that ensures that two special districts must be members of the LAFCO.”⁸⁴

The Department of Finance states that, in the event a district is chosen by the selection committee, “[a] district may lawfully decline to sit as a member of its LAFCO.”⁸⁵ In response, claimant argues that “[e]ven if each district in turn makes the voluntary decision not to participate, eventually some district will be forced to become a member,” which amounts to legal compulsion.⁸⁶

⁸¹ This subdivision was amended by Statutes 2000, chapter 761, pled in the test claim, to state: “(d) Two presiding officers or members of legislative bodies of independent special districts selected by an independent special district selection committee pursuant to Section 56332.”

⁸² <http://www.saclafo.org/>.

⁸³ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 2.

⁸⁴ *Ibid.*

⁸⁵ Letter from Connie Squires, Program Budget Manager, Department of Finance, submitted July 18, 2003, page 2.

⁸⁶ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 2.

Staff finds that section 56326.5, subdivision (d), constitutes a state mandate. Since the independent special district selection committee selects the members, there is discretion at the local level as to which independent special districts will be selected to serve on the LAFCO. And there are no statutory requirements stating that a chosen independent special district must actually sit as a member of the LAFCO or participate in LAFCO proceedings. Nevertheless, staff finds the plain language of the test claim statute legally compels two independent special districts in Sacramento County to be represented on the LAFCO, regardless of which two are selected.

The legislative history for Statutes 1991, chapter 439, indicates that the Sacramento County LAFCO chose to add independent special district representatives⁸⁷ prior to enactment of the test claim statute.⁸⁸ However, Government Code section 17565 addresses this issue:

If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.

Thus, the prior voluntary action of the Sacramento County LAFCO to include independent special district representation on its LAFCO does not preclude a state-mandate finding for the activity.

Moreover, the new requirement of having independent special district representation on the Sacramento LAFCO provides an enhanced service to the public by improving the process for ensuring orderly growth and development in Sacramento County, efficiently extending governmental services and ensuring fair representation of special districts in those processes.⁸⁹ Therefore, this activity mandates a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

Therefore, staff finds that Government Code section 56326.5, subdivision (d), requiring two representatives of independent special districts to be Sacramento County LAFCO members, mandates a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

Independent Special Districts' Costs to Fund LAFCOs (Gov. Code, §§ 56381 and 56381.6)

Government Code section 56381, subdivision (b)(1)(A), as added by Statutes 2000, chapter 761, provides that in counties in which there is a city and independent special district representation on the LAFCO, the county, cities, and independent special districts are required to pay a one-third share of the LAFCO's operational costs.⁹⁰ Section 56381.6 establishes how those costs are apportioned among classes of public agencies for certain LAFCOs, including

⁸⁷ Pursuant to Government Code section 56332, which establishes the independent special district selection committee and sets forth its operating procedures.

⁸⁸ Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis for AB 748, June 18, 1991, page 1.

⁸⁹ Government Code sections 56001, 56301 and 56326.5.

⁹⁰ If the county has no cities, then the county and independent special districts each pay a one-half share of the LAFCO's budget. (Gov. Code, § 56381, subd. (b)(3).)

the Sacramento County LAFCO, but allows for an alternative cost apportionment by the affected LAFCOs.

Staff finds that LAFCOs with independent special district representation pursuant to their discretionary authority in Government Code sections 56325, 56332, and 56332.5, have made a discretionary decision to include special districts on the LAFCO. As a consequence, the requirement for districts to pay a proportionate share of costs for funding the LAFCO pursuant to sections 56381 and 56381.6 flows from that initial local discretionary decision and does not impose a state-mandated new program or higher level of service.⁹¹

Staff further finds that sections 56381 and 56381.6 require independent special districts in counties that are required to have independent special districts on the LAFCO to pay their proportionate share of costs for funding the LAFCO. These are the LAFCOs in Los Angeles County (section 56326), San Diego County (section 56328) and Sacramento County (56326.5).

Staff finds, however, that Government Code sections 56381 and 56381.6 do not mandate a new program or higher level of service on these independent special districts. The plain language of sections 56381 and 56381.6 does not require independent special districts to engage in any activity or task. Moreover, as described below these statutes do not shift fiscal responsibility from the *state* to independent special districts.

In the case of *Lucia Mar*, the Supreme Court recognized that a “new program or higher level of service” within the meaning of article XIII B, section 6 could include a shift in costs from the state to a local entity for a required program.⁹² As of November 3, 2004, Article XIII B, section 6, subdivision (c), also requires reimbursement when the Legislature transfers from the state to local agencies “complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.”

However, the cost shift here is not from the *state* to the districts but from the *county* to the districts. Since 1963, prior to adoption of article XIII B, section 6, counties have been responsible for providing the entire budget for LAFCOs.⁹³ The Sixth District Court of Appeal in *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, specifically addressed the issue of a cost shift among local agencies. In that case, the test claim statutes authorized counties to charge cities and other local agencies the costs of booking into county jails persons who had been arrested by employees of the cities or local agencies.⁹⁴ The court rejected the City’s reliance on the holding of *Lucia Mar*, stating:

The flaw in City’s reliance on *Lucia Mar* is that in our case the shift in funding is not from the State to the local entity but from county to city. In *Lucia Mar*, prior to the enactment of the statute in question, the program was funded and operated entirely by the state. Here, however, at the time

⁹¹ *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 743 (citing *City of Merced*, *supra*, 153 Cal.App.3d 777).

⁹² *Lucia Mar*, *supra*, 44 Cal.3d 830, 836.

⁹³ Former Government Code sections 54771 (Stats. 1963, ch.1810), 54776 (Stats. 1965, ch.587), and 54776.1 (Stats. 1969, ch. 1301).

⁹⁴ *City of San Jose*, *supra*, 45 Cal.App.4th 1802, 1806.

[the test claim statute] was enacted, and indeed long before that statute, the financial and administrative responsibility associated with the operation of county jails and detention of prisoners was borne entirely by the county.⁹⁵

The City of San Jose also unsuccessfully argued that, although counties have traditionally borne those expenses, "they do so only in their role as agents of the State."⁹⁶ However, the court noted that characterizing the county as an agent of the state "is not supported by recent case authority, nor does it square with definitions particular to subvention analysis."⁹⁷ The court found it relevant to point out that fiscal responsibility for the program in question had long rested with the county and not with the state.⁹⁸ In the instant case, counties have similarly had sole fiscal responsibility for LAFCOs since their inception.⁹⁹

With regard to definitions peculiar to subvention analysis, the *San Jose* court stated:

... [I]n analyzing a question involving reimbursement under section 6, the definitions contained in California Constitution, article XIII B and in the legislation enacted to implement it must be deemed controlling. Article XIII B treats cities and counties alike as "local government." Under section 8, subdivision (d), this term means "any city, county, city and county, school district, special district, authority or other political subdivision of or within the state." Furthermore, Government Code section 17514 defines "costs mandated by the state" to mean any increased costs that a "local agency" or school district is required to incur. "Local agency" means "any city, county, special district, authority, or other political subdivision of the state." (Gov. Code § 17518.) Thus for purposes of subvention analysis, it is clear that counties and cities were intended to be treated alike as part of "local government"; both are considered local agencies or political subdivisions of the State. Nothing in article XIII B prohibits the shifting of costs between local governmental entities.¹⁰⁰

Since the definitions for "local government" in the Constitution and "local agency" in the Government Code also include "special districts," the same principles apply to special districts. Therefore, a shift of funding from a county to a special district is likewise not subject to state subvention.

Claimant argues that *City of San Jose* is inapplicable in this instance because there is an increased level of service in the LAFCO which did not occur in the funding shift from the

⁹⁵ *Id.* at 1812.

⁹⁶ *Id.* at 1814.

⁹⁷ *Ibid.*

⁹⁸ *Id.* at 1815.

⁹⁹ Former Government Code sections 54771 (Stats. 1963, ch.1810), 54776 (Stats. 1965, ch.587), and 54776.1 (Stats. 1969, ch. 1301).

¹⁰⁰ *City of San Jose, supra*, 45 Cal.App.4th 1802, 1815.

county to the City of San Jose.¹⁰¹ Citing background language in the draft staff analysis regarding historical development of LAFCOs, claimant concludes that “the scope and authority of LAFCO has been expanding” and “the members of LAFCO have been providing an increasing higher level of service” which has resulted in new costs.¹⁰² Then claimant argues: “The fact that this higher level of service and associated costs have been spread amongst many new claimants is not relevant. The legislation required a higher level of service and then established the manner in which the costs from the services are to be paid.”¹⁰³

Staff finds claimant’s argument inapposite for this test claim, since the assertion is that actual activities were imposed on the LAFCO, yet the LAFCO is not a claimant here. Only independent special districts are represented in this test claim. Thus, the Commission has no jurisdiction to make any findings with regard to the assertion that a new program or higher level of service was imposed on LAFCOs. Moreover, as previously noted, Government Code sections 56381 and 56381.6 do not impose any actual activities on *special districts*. The cases are clear that increasing *costs* of providing services cannot be equated with requiring an increased level of service under a section 6 analysis,¹⁰⁴ and no activities are imposed on special districts in relation to their share of funding the LAFCO.

Thus, the only alternative to finding a new program or higher level of service for affected special districts is under the cost-shift analysis established in *Lucia Mar* and *City of San Jose*, and article XIII B, section 6, subdivision (c). Under this alternative, the test for determining whether a new program or higher level of service was imposed centers upon whether the *state* or the *local agency* previously had primary responsibility for the program.¹⁰⁵ Here, LAFCO operations have been funded by the counties since 1963. Therefore, the primary holding of *City of San Jose* is directly on point for this analysis: “Nothing in article XIII B prohibits the shifting of costs between local governmental entities.”¹⁰⁶

Accordingly, any independent special district’s share of costs to fund the LAFCO pursuant to Government Code sections 56381 and 56381.6 does not mandate a “new program or higher level of service” within the meaning of article XIII B, section 6.

Costs Paid to LAFCO for Reviewing District’s Component of Municipal Service Review

There is no requirement in statute, nor is there any other evidence in the record, to support claimant’s assertion that Sacramento County independent special districts are required by the state to pay the LAFCO for reviewing the district’s component of the municipal service review. Any such requirement would have been established by the LAFCO itself, not the state via the test claim statutes. Therefore, the alleged costs do not result from a state-mandated “new program or higher level of service” within the meaning of article XIII B, section 6.

¹⁰¹ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 4.

¹⁰² *Ibid.*

¹⁰³ *Ibid.*

¹⁰⁴ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 876-877 (citing *City of Richmond v. Commission on State Mandates* (1998) 64 Cal.App.4th 1190).

¹⁰⁵ *City of San Jose*, *supra*, 45 Cal.App.4th 1802, 1813.

¹⁰⁶ *Id.* at 1815.

Gather and Provide Information to the LAFCO for Sphere of Influence Review and Municipal Service Review (Gov. Code, §§ 56425, 56426.5 and 56430; Municipal Service Review Guidelines and Appendices)¹⁰⁷

Claimant asserts that various activities are required of independent special districts when the LAFCO conducts a sphere of influence review or a municipal service review, as set forth in Government Code sections 56425, 56426.5 and 56430, as well as the Municipal Service Review Guidelines and Appendices, resulting in a reimbursable state-mandated program being imposed on independent special districts. However, staff finds that, with one exception addressed below, the claimed activities are *not* imposed on independent special districts, but rather on the LAFCO itself. Moreover, as discussed further below, the Municipal Service Review Guidelines and Appendices, to the extent that they do address special districts, do not meet the definition of "executive order" found in Government Code section 17516, since they do not "order" special districts to do anything.

Government Code section 56425:

Government Code section 56425, subdivision (f), as enacted by the test claim statutes, states the following:

- (f) Upon determination of a sphere of influence, the [LAFCO] shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years.

Pre-existing law required LAFCOs to "develop and determine the sphere of influence of each local governmental agency within the county"¹⁰⁸ and, upon determination of a sphere of influence, the LAFCO was required to adopt the sphere and periodically review and update the adopted sphere.¹⁰⁹ Although this review must now occur every five years, it is the LAFCO that is required to review and update the sphere of influence. Thus, the plain language of this provision does not mandate any activities on independent special districts.

Government Code section 56425, subdivision (h),¹¹⁰ as enacted by the test claim statutes, states the following:

- (h) For any sphere of influence or a sphere of influence that includes a special district, the [LAFCO] shall do all of the following:
- (1) Require existing districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts.
 - (2) Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

¹⁰⁷ Claimant mentioned Government Code section 56820.5 in the narrative section of the test claim with regard to information the LAFCO requires of districts. However, claimant did not specifically plead the section, and, therefore, staff makes no findings with regard to it.

¹⁰⁸ Government Code section 56425, subdivision (a), as enacted by Statutes 1985, chapter 541.

¹⁰⁹ Government Code section 56425, subdivision (b), as enacted by Statutes 1985, chapter 541.

¹¹⁰ Government Code section 56425, subdivision (h), as enacted by Statutes 2000, chapter 761, subsequently renumbered to section 56425, subdivision (i), by Statutes 2005, chapter 347.

(3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the LAFCO. (Emphasis added.)

Based on the plain language of this provision, only subdivision (h)(1) imposes a state-mandated requirement for LAFCOs to require *special districts* to file written statements with the LAFCO specifying the functions or classes of service provided by the districts. The plain language of subdivisions (h)(2) and (h)(3) does not mandate any activities on independent special districts.

The prior law authorized LAFCOs to adopt, amend or repeal regulations affecting the functions and services of special districts, including the ability to enact regulations to require existing districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts.¹¹¹ Because of this prior law, the Department of Finance states that LAFCOs had pre-existing statutory authority to require information of local agencies. Staff agrees, but notes that *having authority* to require the information be provided by existing districts is not the same as *being required* to require the information. The pre-existing statutory authority gave LAFCOs discretion as to whether to enact regulations to require the information. Here, as a result of enacting subdivision (h)(1), it is the *state* that has made the decision to require the LAFCO to require existing districts to provide the information.¹¹²

Hence, the activity of an independent special district filing written statements to the LAFCO, which specify the functions or classes of service provided by the district, is state-mandated. The activity was authorized but not required by the pre-existing statutory scheme. Furthermore, the activity provides an enhanced service to the public by improving the process for ensuring orderly growth and development in California, efficiently extending governmental services,¹¹³ and advantageously providing for the present and future needs of the county and its communities.¹¹⁴ Therefore, this activity mandates a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

In comments on the draft staff analysis, the claimant requested clarification as to whether the requirement to provide information under Government Code section 56425, subdivision (h)(1), includes *updates* that are necessary for the reviews by the LAFCO under subdivision (f).¹¹⁵ As modified by the test claim statutes,¹¹⁶ subdivision (f) stated:

¹¹¹ Government Code section 56451, subdivision (b), as enacted by Statutes 1985, chapter 541.

¹¹² *San Diego Unified School Dist., supra*, 33 Cal.4th at 880, found that a provision in the Education Code constituted a state mandate, "in that it establishes conditions under which the state, rather than local officials, has made the decision requiring a school district to incur the costs ..."

¹¹³ Government Code sections 56001 and 56301.

¹¹⁴ Government Code section 56425, subdivision (a).

¹¹⁵ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 5.

¹¹⁶ Statutes 2000, chapter 761.

Upon determination of a sphere of influence, the [LAFCO] shall adopt that sphere, and shall, as necessary, *review and update* the adopted sphere not less than once every five years. (Emphasis added.)

Since subdivision (f) required the LAFCO to adopt, and review and update spheres of influence, the question is whether the spheres of influence identified in subdivision (h), i.e., "any sphere of influence" or "a sphere of influence that includes a special district," include updates to the identified spheres of influence.

In statutory construction cases, the fundamental task is to determine the Legislature's intent so as to effectuate the purpose of the statute.¹¹⁷ The first step is to examine the statutory language, "giving the words their usual and ordinary meaning," and if the terms of the statute are unambiguous, it is presumed the lawmakers meant what they said and the plain meaning of the language governs.¹¹⁸ However, if there is ambiguity in the plain language the inquiry must go further to extrinsic sources, including the objects to be achieved and the legislative history.¹¹⁹ In that case, courts must select the construction that "comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences."¹²⁰

Here, "any" sphere of influence, given its ordinary meaning in this context would include "one or another [sphere of influence] without restriction or exception."¹²¹ Thus, "any sphere of influence" would include updated spheres of influence, since updated spheres of influence are a type of sphere of influence contemplated by the statute pursuant to subdivision (f).

Furthermore, "a sphere of influence that includes a special district" must also be updated pursuant to subdivision (f), since nothing in the statute excludes such a sphere of influence from the requirement for updating. Therefore, "a sphere of influence that includes a special district" likewise includes *updated* spheres of influence.

The time frame for the above requirements is limited, however, because section 56425 was changed the following year. Statutes 2001, chapter 667,¹²² narrowed the spheres of influence affected by the requirements of subdivision (h). The 2001 statute replaced "any sphere of influence or a sphere of influence that includes a special district" with "a sphere of influence for a special district." Thus, beginning January 1, 2002, the subdivision (h)(1) requirement – that LAFCOs require special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts – is *only* applicable when LAFCOs adopt or update a sphere of influence for a special district, and not any other sphere of influence.

¹¹⁷ *Estate of Griswold* (2001) 25 Cal.4th 904, 910 (citing *Day v. City of Fontana* (2001) 25 Cal.4th 268, 272.).

¹¹⁸ *Id.* at 911

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ Webster's II New College Dictionary (1999) page 51, column 2.

¹²² This statute was not pled by claimant.

Therefore, for the six-month period of July 1, 2001, through December 31, 2001, Government Code section 56425, subdivision (h)(1), mandates a new program or higher level of service for independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts for any sphere of influence or sphere of influence that included a special district, including any *update* to a sphere of influence or any *update* to a sphere of influence that included a special district. On and after January 1, 2002, subdivision (h)(1) mandates a new program or higher level of service for independent special districts to file written statements to the LAFCO specifying the functions or classes of service provided by the districts, but only when LAFCOs adopt or update *a sphere of influence for a special district*.

Government Code section 56426.5:

Although the claimant pled Government Code section 56426.5, the statutes that added and amended it were not pled. Section 56426.5 was added by Statutes 1989, chapter 1384, and repealed and added again in Statutes 2002, chapter 614. Therefore, the Commission does not have jurisdiction to make any findings with regard to it.

Government Code section 56430:

Section 56430, as enacted by the test claim statutes, addresses developing and updating the sphere of influence, and states the following:

(a) In order to prepare and to update spheres of influence in accordance with section 56425, the [LAFCO] shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the [LAFCO]. The [LAFCO] shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Infrastructure needs or deficiencies.
- (2) Growth and population projections for the affected area.
- (3) Financing constraints and opportunities.
- (4) Cost avoidance opportunities.
- (5) Opportunities for rate restructuring.
- (6) Opportunities for shared facilities.
- (7) Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
- (8) Evaluation of management efficiencies.
- (9) Local accountability and governance.

(b) In conducting a service review, the [LAFCO] shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) The [LAFCO] shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5

or to update a sphere of influence pursuant to Section 56425.

...

The plain language of this section does not mandate any activities on independent special districts.

Municipal Service Review Guidelines and Appendices:

With regard to the Municipal Service Review Guidelines and Appendices, as the Department of Finance notes, these documents do not have the force of law. Government Code section 17516 defines executive order as "any order, plan, requirement, rule or regulation" issued by the Governor, any officer or official serving at the pleasure of the Governor, or any agency, department, board, or commission of state government. Government Code section 56430, subdivision (d), states:

(d) Not later than July 1, 2001, the Office of Planning and Research, in consultation with [LAFCOs], the California Association of Local Agency Formation Commissions, and other local governments, shall prepare guidelines for the service review to be conducted by [LAFCOs] pursuant to this section.

The Executive Summary of the Guidelines states the following:

Existing law requires OPR to prepare guidelines, not regulations. This document should therefore be considered advisory and not regulatory. ...

This document provides general guidance. LAFCOs may need to modify these recommendations to reflect local conditions, circumstances and types of services which are being reviewed. ...

Throughout the Guidelines, OPR has identified those actions which are required by law and those where OPR recommends a particular process or policy when undertaking the municipal service review.

The Guidelines do not order independent special districts to engage in any activities. The Appendices to the Municipal Service Review support the Guidelines and likewise do not order special districts to engage in any activities. Thus, the Guidelines and Appendices are not "executive orders" pursuant to Government Code section 17516, and are not subject to article XIII B, section 6.

Claimant argues, however, that *all* activities necessary for independent special districts to cooperate with the LAFCO when it conducts a municipal service review should be reimbursed:

For LAFCO to "conduct service reviews of the municipal services provided in the county" and to "comprehensively review all of the agencies that provide ... services", it requires the co-operation of those entities. The participation of District in these reviews is not a voluntary act: It is mandated upon District as it is upon LAFCO. To hold otherwise is to void the purpose of the law.¹²³

¹²³ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 5.

Here, claimant is asserting that special districts are “practically compelled” – if not legally compelled – to cooperate with the LAFCO in providing information the LAFCO requests. The appropriate test for “voluntariness,” according to claimant, is found in *San Diego Unified School Dist.*,¹²⁴ wherein the Supreme Court cautioned “there is reason to question an extension of the holding of *City of Merced* so as to preclude reimbursement ... whenever an entity makes an initial discretionary decision that in turn triggers mandated costs.”¹²⁵ In that passage, the court referenced the case of *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, which found a reimbursable state mandate was created by an executive order that required county firefighters to be provided with protective clothing and safety equipment.¹²⁶ The *San Diego* court theorized that, because the local agency possessed discretion concerning how many firefighters it would employ and could in that sense control costs, a strict application of the *City of Merced* rule could foreclose reimbursement in such a situation “for the simple reason that the local agency’s decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc.”¹²⁷ The court found it “doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result...”¹²⁸

Staff finds, however, the *San Diego Unified School Dist.* citation is not on point. The *Carmel Valley* case involved actual legal compulsion for fire districts to provide fire safety equipment; the *San Diego* court warned prohibiting reimbursement based on the original discretionary decisions by the fire district on how many firefighters to employ, which could theoretically control costs, would not likely carry out the intent of article XIII B, section 6. In this case there is neither an initial discretionary decision at issue, nor actual legal compulsion. It is the LAFCO that is required to conduct the service review and obtain the information, and in only one instance, set forth above, does the statute actually require anything of the independent special district.

Instead, the test here for practical compulsion lies with *Kern High School Dist.*, i.e., whether “certain or severe” penalties or other “draconian” consequences would result if the district failed to provide information that is not statutorily required to the LAFCO for municipal service reviews.¹²⁹ There is nothing in law or the record to indicate any such consequences would ensue if a special district does not provide all information requested by the LAFCO, nor is there anything in the record to indicate that all information must be obtained directly from the affected special district.

Summary:

¹²⁴ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 5 referencing pages 3-4.

¹²⁵ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 887.

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*

¹²⁹ *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 751.

The following statutes mandate a "new program or higher level of service" in an existing program on independent special districts that are subject to the tax and spend limitations in article XIII A and article XIII B:

1. Two representatives of independent special districts selected by the independent special district selection committee must be members of the Sacramento County LAFCO (Government Code section 56326.5, subdivision (d)).
2. File written statements to the LAFCO, when required by the LAFCO, specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:
 - July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
 - On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

(Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1).)

Issue 3: Do Government Code sections 56326.5, subdivision (d), and 56425, subdivision (h)(1), impose "costs mandated by the state" within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514?

For these statutes to impose a reimbursable, state-mandated program, two additional elements must be satisfied. First, the statutes must impose "costs mandated by the state" pursuant to Government Code section 17514. Second, the statutory exceptions to reimbursement listed in Government Code section 17556 cannot apply.

Government Code section 17514 defines "costs mandated by the state" as any increased cost a local agency is required to incur as a result of a statute that mandates a new program or higher level of service. The claimant alleged in the test claim:

The Sacramento Metropolitan Fire District does not have the total estimate of costs for discharging this program. However, the claimant is informed and believes that with the enactment of Chapter 761, Statutes of 2000, it cost between \$20,000 to \$30,000 to defray its portion of the LAFCO's annual budget, and it is estimated that because of the changes wrought by Chapter 493, Statutes of 2002, it will cost between \$50,000 and \$80,000 per year to so fund. Regarding the municipal services review, the LAFCO has indicated it will charge the claimant upwards of \$5,000 to review its component, and it will cost the claimant in excess of \$20,000 to provide the information required to the LAFCO.

Thus, there is evidence in the record, signed under penalty of perjury, that there are increased costs for the activities mandated by Government Code section 56425, subdivision (h)(1) – providing specified information to the LAFCO as required by the LAFCO for specified sphere of influence reviews.

However, there is *no* evidence in the record that there are increased costs for the activities mandated by Government Code section 56326.5, subdivision (d) – representation by two

independent special districts on the Sacramento County LAFCO. The test claim citation above alleging estimated costs does not reference the 1991 test claim statute. And, even if costs are subsequently alleged, Government Code section 56334 provides that members and alternates are reimbursed by the LAFCO for their actual reasonable and necessary expenses:

[LAFCO] members and alternates shall be reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office. The [LAFCO] may authorize payment of a per diem to [LAFCO] members and alternates for each day while they are at meetings of the [LAFCO].

Therefore, staff finds Government Code section 56326.5, subdivision (d), does not impose "costs mandated by the state" pursuant to Government Code section 17514 and no reimbursement is required.

With regard to the activities mandated by Government Code section 56425, subdivision (h)(1), for the reasons stated below, staff finds that none of the statutory exceptions to reimbursement listed in Government Code section 17556 are applicable to deny reimbursement for these activities.

The Department of Finance states that LAFCOs have existing fee authority that may be used to cover their operating costs. The Department further states that, to the extent that LAFCOs elect to make use of this authority, LAFCO members would be relieved of the need to contribute toward the LAFCO's annual budget.

Government Code section 17556 states that:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency ..., if, after a hearing, the commission finds that:

... (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

Government Code section 56383 allows LAFCOs to establish a schedule of fees for the *costs of proceedings* such as filing and processing applications filed with the LAFCO, proceedings undertaken by the LAFCO and any reorganization committee, amending a sphere of influence or reconsidering a resolution. LAFCOs, however, are not represented in this claim, and the state-mandated program is imposed on independent special districts. Moreover, section 56383, subdivision (b), prohibits the schedule of fees from exceeding "the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016."¹³⁰ Thus, authority for charging fees under section 56383 for *costs of proceedings* does not equate to authority for charging fees to cover *operating costs*. Instead, Government Code section 56381 establishes the funding mechanisms for LAFCO's operating costs, i.e., one third from counties, one third from cities, and one third from special districts. Thus, the LAFCO's

¹³⁰ Government Code section 66016 requires local agencies to hold a public meeting prior to levying a new fee or service charge or increasing an existing fee or service charge, and the fees or service charges cannot exceed the estimated amount required to provide the service for which the service charge or fee is levied.

fee authority under section 56383 is not designed to pay for the mandated program and therefore is not "sufficient to pay for the mandated program or increased level of service" pursuant to section 17556, subdivision (d).

Although many independent special districts, including Sacramento Metropolitan Fire District, have fee authority for specified purposes as well as the ability to levy special taxes,¹³¹ the question here is whether the claimant has authority to levy service charges or fees that can be used to pay for the mandated activity of filing written statements to the LAFCO specifying the functions or classes of service provided by the district, and, if so, whether those fees are sufficient to pay for that mandated activity.

The authority to charge fees or service charges varies by special district, and fire districts have authority to charge fees for "any service which the district provides or the cost of enforcing any regulation for which the fee is charged"¹³² in addition to other specified fees.¹³³ These fees are likewise limited, however, to the costs of providing the specified services.¹³⁴ More importantly, there are no fees authorized specifically for the *purpose* of the mandated activity of filing written statements to the LAFCO under Government Code section 56425, subdivision (h)(1). Therefore, section 17556, subdivision (d) is not applicable to deny the test claim.

Conclusion

Staff finds that Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)), constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6, and Government Code section 17514, in that it requires independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

¹³¹ Although some districts have the ability to levy special taxes, article XIII B was "intended to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues... [and] requires subvention only when the costs in question can be recovered solely from tax revenues." (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487, in determining the constitutionality of Government Code section 17556, subdivision (d).) Therefore, any special taxes that can be levied by the special district are protected by article XIII B, whereas fees or service charges for specified purposes are not.

¹³² Health and Safety Code section 13916, subdivision (a).

¹³³ Health and Safety Code sections 13143.5, 13146, 13146.2 and 13869.7.

¹³⁴ Health and Safety Code section 13916, subdivision (a) states in relevant part: "No fee shall exceed the costs reasonably borne by the district in providing the service or enforcing the regulation for which the fee is charged." See also Health and Safety Code sections 13143.5, 13146 and 13869.7 for similar limitations.

Only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

Staff concludes that Government Code section 56001 declares legislative findings and is helpful to interpret the test claim statutes, but does not mandate any activities. Staff further concludes that Government Code sections 56326.5, 56381, 56381.6, 56425 (except subdivision (h)(1), subsequently renumbered to subdivision (i)(1)), 56426.5, and 56430, and the Municipal Service Review Guidelines and Appendices developed by OPR, as well as, along with any other test claim statutes, alleged executive orders, guidelines and allegations not specifically approved above, do not mandate a new program or higher level of service subject to article XIII B, section 6.

Recommendation

Staff recommends the Commission adopt this analysis to partially approve the test claim.

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MS. HIGASHI: Ms. Bryant?

MEMBER BRYANT: Aye.

MS. HIGASHI: Mr. Chivaro?

MEMBER CHIVARO: Aye.

MS. HIGASHI: Mr. Glaab?

MEMBER GLAAB: Aye.

MS. HIGASHI: Mr. Lujano?

MEMBER LUJANO: Aye.

MS. HIGASHI: Mr. Sheehy?

CHAIR SHEEHY: Aye.

MS. HIGASHI: The motion is adopted.

This brings us now to our first test claim.

Item 9 is the staff analysis on the LAFCO test claim.

Senior Commission Counsel Deborah Borzelleri will be presenting this item.

MS. BORZELLERI: Thank you, Paula.

This test claim addresses changes to the operation of and the funding for local agency formation commissions, otherwise known as LAFCOs.

LAFCOs are statutorily created local administrative bodies that make determinations regarding formation and development of local agencies and local boundaries.

The test-claim statutes modify representation

1 on the Sacramento County LAFCO, mechanisms for funding
2 LAFCO operations when independent special districts are
3 represented on the LAFCO, and the process for LAFCOs to
4 adopt and update the sphere of influence for each local
5 agency within California counties.

6 The claimant here is an independent special
7 district. Thus, the findings of this test claim apply to
8 independent special districts only, and not to LAFCOs or
9 any other local government agency.

10 Furthermore, only independent special districts
11 that are subject to the tax-and-spend limitations of
12 Articles XIII A and B are eligible claimants.

13 Staff find that the test-claim statutes impose
14 a partially reimbursable state-mandated program for the
15 activities listed on page two of the staff's analysis,
16 and recommend the Commission adopt the analysis to
17 partially approve the test claim.

18 Will the parties please state your name for the
19 record?

20 MS. GMUR: Juliana Gmur on behalf of the
21 Sacramento Metropolitan Fire District.

22 MR. CHAVEZ: Good morning. Joe Chavez,
23 Associate General Counsel for the Sacramento Metropolitan
24 Fire District.

25 CHAIR SHEEHY: Ms. Gmur?

1 Oh, excuse me. Go ahead, Mrs. Castañeda.

2 MS. CASTAÑEDA: Carla Castañeda, Department of
3 Finance.

4 MS. GEANACOU: Susan Geanacou, Department of
5 Finance.

6 CHAIR SHEEHY: Ms. Gmur, would you like to
7 testify on this matter?

8 MS. GMUR: Yes, I would. Thank you so very
9 much.

10 First, I would like to commend staff for their
11 analysis. I found it to be very thoughtful and
12 responsive to the comments that we have filed. And all
13 in all, it is an excellent analysis.

14 There is one point, however, that I would like
15 to discuss. And I would like to direct your attention,
16 if I may, to page 23 of the final staff analysis.

17 I'm making a special moment to talk about this
18 because I have to say, when I first went through the
19 analysis, I didn't catch this little nuance of law. And
20 it took me a couple of times to notice it and to bring
21 the analysis around. So I would like to take a moment to
22 talk about the applicability of the *City of San José*.

23 Let's talk for a moment about this case.

24 In the *City of San José* case, what the court
25 was looking at was a concept of shift.

1 Now, I know that the commissioners -- and, of
2 course, the staff -- that have talked a lot about this
3 concept of shift. Because it is an important -- you
4 know, it's the *sine qua non* of any mandate that you're
5 going to be looking for. You want to see a shift of
6 fiscal responsibility from the state onto the locals.

7 In the *City of San José*, the test claim was
8 concerning jail booking fees. The statute had authorized
9 counties who had been paying for the booking fees up
10 until that point to be able to charge the cities and
11 other agencies who made use of the jail for the booking
12 fees.

13 And the Court said, you know, "We don't find
14 the shift here because it is not a shift from the state
15 to the local agency. It is, indeed, a shift from one
16 local agency -- a county -- to another local agency -- a
17 city -- and, therefore, the test claim fails."

18 Now, you may think I've just painted myself
19 into a corner. You may think, well, you've just
20 described LAFCO. But the bill in LAFCO is different.
21 And in the examination of law, one of the questions that
22 is constantly coming up is: Does the change in one fact
23 change the outcome, the decision that was made?

24 And we have a factual change here. The bill
25 not only spread the costs of the LAFCO amongst many

1 parties -- it had originally been borne by counties
2 only -- but it also expanded the program.

3 So think, if you will, for the moment if a
4 county were sitting here. The county would come, they
5 would bring their test claim, and they would say, "The
6 program has gotten bigger." And that would be an
7 appropriate basis. We have an increased level of
8 service, we have increased costs. This would be an
9 appropriate basis for a test claim.

10 So what we have here are two things happening
11 at once: We have the apportionment, which if the program
12 had not changed, if it had been simply what it was before
13 but now it was apportioned, clearly *San José* would apply.

14 But in this case, the program has gotten
15 bigger, and it has been apportioned. And I argue, in
16 that case, the *City of San José* cannot apply because it
17 is, indeed, the state that is shifting a financial
18 responsibility by increasing the level of service.

19 I know I've kind of confused you. I'm going to
20 keep going.

21 Now, if you take that out of the mix, if
22 *San José* does not apply, then the Commission staff will
23 then turn to me and say, "Well, wait, where is your
24 higher level of service?"

25 We have to go back to what happened in *San José*

1 because those test claims relied on *Lucia Mar*, another
2 case talking about the costs, the increased costs of a
3 program. In that case, it was the *Handicapped Children*
4 program. And in that case, the State had apportioned a
5 cost to the local school districts to pay for the
6 program. And that was upheld.

7 So if you are looking at this, what you're
8 seeing is that there's a larger program, so there is a
9 shift -- there is an apportionment, but the apportionment
10 would -- but for the fact of the apportionment, it would
11 have been borne by the county, anyway, and it would have
12 been the proper subject for a test claim.

13 So why should the district be denied the
14 ability to come forward when the county, without the
15 apportionment, could have come forward on a test claim?

16 Any questions?

17 CHAIR SHEEHY: Are there questions from the
18 committee members on Ms. Gmur's testimony?

19 MEMBER WORTHLEY: Mr. Chairman, I don't have a
20 question. I agree with you. I think that -- I notice
21 that also -- and I find in the staff analysis that
22 they've already concluded that there is an enhancement.
23 On page 22, the middle paragraph, it says, "The new
24 requirement of having independent special district
25 representation on the Sacramento LAFCO provides an

1 enhanced service to the public." So a conclusion has
2 been drawn that by adding these additional members and
3 mandating that they be on there, there is an enhanced
4 service level. That's what you're speaking to.

5 MS. GMUR: Yes.

6 MEMBER WORTHLEY: So by enhancing the service,
7 making it bigger, if you will -- it goes again to there's
8 another discussion about the fact that as LAFCO members,
9 they're entitled to be paid for their actual costs and
10 there can be per-diem costs.

11 And then the discussion is, well, LAFCO can
12 charge a fee. Where does LAFCO get its fee but from the
13 special district that's participating in it. So it's a
14 circuitous argument. The money still has to come from
15 the special district to pay for these positions because,
16 in fact, that's where the fees come from.

17 So I agree with you, this is an expanded
18 service. It's a hybrid, if you will. You have, in fact,
19 no shifting of actual state dollars to this program, but
20 you have expansion of the program, and that expansion in
21 and of itself should constitute a reimbursable mandate.

22 MS. GMUR: And this is very technical kind and
23 piecemeal, looking at this, and it is a lot of case law.
24 It is a rather intensive legal analysis.

25 MEMBER LUJANO: Could I hear from our general

1 counsel?

2 MS. SHELTON: I'm going to let Ms. Borzelleri
3 respond to this because she does have the analysis in the
4 document.

5 MS. BORZELLERI: Yes. And if you would look at
6 page 23, as Ms. Gmur pointed out, this is a very strict
7 legal analysis of the point. The problem that we have is
8 that the claim is that LAFCOs have additional services
9 under this, but LAFCOs are not the claimant in this
10 claim. So we're not able to draw that conclusion.

11 The section that we're talking about is
12 Government Code sections 56381 and 56381.6. Those
13 statutes do not impose any kind of activities on anyone.
14 They simply require that the payment for the LAFCO which,
15 since 1963, was completely covered by the counties, be
16 split evenly between the cities, the counties, and the
17 special districts that are on the LAFCO. So what we have
18 is no test-claim statute that actually imposes any
19 activities, because that is the one we're analyzing here.
20 And we have no activities associated with it.

21 When we do that analysis, the only possible way
22 they could get any reimbursement is by analyzing the City
23 of San José and the Lucia Mar cases. Those allow for a
24 shift of cost in funding, if you will. But they do focus
25 on the State shifting the costs to the locals. So

1 *Lucia Mar* is absolutely not applicable here.

2 The *City of San José* is applicable because it
3 talks about shifting funds from one local to another, in
4 which case there's no prohibition under Article XIII B,
5 Section 6, for that to occur, such that it requires
6 reimbursement.

7 So, you know, it is sort of a convoluted
8 situation; but by the same token, we can only look at the
9 statute that we're talking about, which is sections 56381
10 and 56381.6, do not impose any activities.

11 Camille, would you like to add anything to
12 that?

13 MS. SHELTON: No.

14 MS. BORZELLERI: Okay.

15 CHAIR SHEEHY: Is there a further discussion on
16 these points from the Members of the Commission?

17 MS. GMUR: And if I may, it was a
18 clarification. I'm taking actually the opposite tact.
19 The *City of San José* does not apply because of the
20 expansion of the program. There's a change in facts.

21 Although this looks similar to the *City of*
22 *San José*, it is actually factually different. And it is
23 factually different in such a way because of the
24 expansion of the program, that the *City of San José*
25 cannot apply. We would get a different result. And,

1 therefore, that leaves *Lucia Mar* applying, and the end
2 result then is a finding -- this is more akin to
3 *Lucia Mar* because it is the expansion of a program in
4 which the costs have been shifted to a local through the
5 expansion of the program by the Legislature.

6 MR. BURDICK: Mr. Chairman and Members, thank
7 you for allowing me to speak. Allan Burdick on behalf of
8 the California State Association of Counties.

9 CHAIR SHEEHY: Thank you, Mr. Burdick. Please
10 continue.

11 MR. BURDICK: One thing I'd like to point out
12 is, as we're getting into this, we're now applying, I
13 think, a recently adopted rule of the Commission to this
14 test claim. And that is, when this test claim was filed,
15 and previously up until recently a test claim was
16 normally felt to be either filed by a local agency, which
17 is a city, county or school district, on behalf of all
18 local agencies, or a school district.

19 Now, this is being narrowed to the fact that
20 this applies to an independent special district.

21 At the time of filing, the intention was
22 Sacramento Metropolitan wanted to step up. It's a local
23 agency. The Commission is always interested in having a
24 single test claimant, a legislative change that was not
25 agreed to or was not felt it was supported by local

1 agencies a long time ago. And as a result now, we're
2 getting back to narrowing this to the point of saying
3 that this is applying only to that independent special
4 district.

5 And I contend that when this was filed back in
6 2000, I believe it was, when we filed this test claim --
7 when this test claim was filed, it was filed with the
8 understanding at that time that Sacramento Metro, as a
9 special district, was representing all local agencies.

10 And so I think that, you know -- and I'm
11 probably going to get in trouble with Carla and Paula for
12 raising this issue and not raising it ahead of time, but
13 it kind of dawned on me as we were listening to this out
14 there that, you know, now, I think it's a requirement
15 that what you would have had to have done is now if this
16 was filed, as an example, newly by Sacramento
17 Metropolitan Fire District, the cities and counties want
18 to be involved, we probably would have gotten
19 declarations included to say to allow for the expansion.

20 You know, so it's -- but at the time, I believe
21 that when this was filed, the feeling was that it was
22 intended to cover all local agencies. It's just that the
23 facts and the arguments from their standpoint, from
24 Sacramento Metropolitan, had to be limited to their
25 particular situation. But, you know, when it was filed,

1 it was not intended to preclude and be limited to an
2 independent special district.

3 So I think in terms of the ruling of saying
4 that it's limited to independent special districts, I
5 mean, this situation has now been bifurcated and it can
6 be only discussed later; but I still think that that
7 is -- that this should have been allowed originally to
8 include all cities, counties -- any local agency under
9 the definition of a local agency under the Commission's
10 regulations.

11 CHAIR SHEEHY: Mr. Burdick, I'm going to ask
12 our counsel to respond.

13 MS. BORZELLERI: Right. Actually, in this
14 case, we have not had that many claims from special
15 districts. And I think as maybe you can see from the
16 analysis, and if you had seen the test claim -- and it is
17 part of this package -- it really was focused on what
18 independent special districts have to do as a result of
19 the LAFCO statutes. And, you know, we do typically have
20 a broader approach; but in this case, because of the way
21 the test claim was filed, because of the particular
22 statutes that are involved that are very focused on what
23 happens with counties, what happens with cities, what
24 happens with special districts, in addition to the fact
25 that special districts in many cases are totally funded

1 by fees, so they're not even eligible for reimbursement
2 under Article XIII B, Section 6, we had to narrow this
3 very carefully. And it was very difficult to do, but we
4 did have to narrow it carefully with the findings,
5 especially since we did not have any declarations from
6 the cities, we had no statements in the test claim as to
7 what the cities might be claiming. So it was very narrow
8 to Sacramento County and Sacramento Metropolitan Fire
9 District and special districts in Sacramento County.

10 MS. HIGASHI: Let me just clarify some of the
11 comments that Mr. Burdick just made regarding the other
12 issues.

13 Those issues are not before you today.

14 Yesterday, an amendment was filed to this test
15 claim. We received the amendment, we accepted it. We
16 have not deemed it complete yet. But I severed it from
17 this test claim so that the hearing could proceed on this
18 matter because the issues are separate and the findings
19 here are limited to independent special districts.

20 So we will have ten days to do a completeness
21 review. And if it is complete, then we would send that
22 out for comment and follow our normal practice.

23 CHAIR SHEEHY: Accordingly, those issues are
24 going to be heard at a subsequent hearing --

25 MS. HIGASHI: Correct.

1 CHAIR SHEEHY: -- and won't affect the issue
2 that is before us today on this item; is that correct?

3 MS. HIGASHI: Correct, they are not before you
4 today.

5 MR. BURDICK: I apologize. I wanted to raise,
6 as I was sitting there listening to that, and it dawned
7 on me at that point in saying -- because if we go back to
8 many of the key cases, like Carmel Valley was a special
9 district and was filed by Carmel Valley on behalf, and
10 was intended to cover all fire districts and city or
11 county fire districts as well as special districts. So,
12 anyway, I look forward to discussing that at a subsequent
13 meeting.

14 CHAIR SHEEHY: Mr. Chavez, did you have
15 additional comments for the record?

16 MR. CHAVEZ: I just wanted to express to the
17 Commission that this is a very important issue for the
18 Sacramento Metropolitan Fire District. Without getting
19 into the specifics of the legal analysis, I can tell you
20 from firsthand experience that the LAFCO requirements do
21 take up our time, our resources. It does impact our
22 day-to-day operations. And I just want to express that
23 to the Commission.

24 And I want to thank the Commission for its
25 consideration in this matter.

1 CHAIR SHEEHY: Thank you, Mr. Chavez.

2 Finance, do you have any comments?

3 MS. GEANACOU: Susan Geanacou, Finance. I just
4 had a question for Ms. Higashi.

5 On the filing that was received by your office
6 yesterday, can you clarify if it's appropriate in this
7 forum what the filing was? Does it raise the issues that
8 Mr. Burdick addressed?

9 MS. HIGASHI: We have not read it
10 substantively, but it does contain a number of code
11 sections that are not before you in this matter.

12 And at the time that it is deemed complete,
13 then it will be sent out to all state agencies, including
14 the Department of Finance. And we'll have time to take a
15 look at it.

16 MS. GEANACOU: Thank you.

17 CHAIR SHEEHY: Is there any further discussion
18 on the item that is before us today in Item Number 9?

19 MEMBER WORTHLEY: Mr. Chairman, I'd like to
20 raise an issue. It has to do with the last part of the
21 analysis concerning municipal service reviews. And I
22 should have made a disclaimer at the beginning of this
23 particular proceeding, in addition to being the local
24 government from the Tulare County representative, I'm
25 also chairman of the Tulare County LAFCO -- that

1 commission. So my issue here has to do with municipal
2 service review and the analysis that indicates that the
3 responsibility of the municipal service review falls on
4 LAFCO as opposed to the special districts.

5 But I have to tell you, without the assistance
6 of the local commissions or the local agencies, the
7 LAFCO -- the service reviews cannot be done. It's
8 impossible for us to do them without their good-faith
9 efforts to provide the information that allows this
10 analysis to be done.

11 So I find there to be a -- what's the term I'm
12 looking for -- it's not expressed in the statute that
13 there's a requirement, but there is a compulsion, a
14 practical compulsion, if you will, that results from
15 creating these performance reviews. Without the
16 assistance of these special districts, they cannot be
17 done. And if we don't allow it to happen and find it to
18 be a reimbursable situation from the standpoint of
19 saying, "Well, they don't have to do it," and there's no
20 draconian measures, I would suggest there are draconian
21 measures. Because without the service reviews, LAFCO
22 could simply say, "We're not going to process your
23 applications." There could be litigation because failure
24 to provide the information and the inability to perform
25 these service reviews would then place the LAFCO in a

1 situation where they might be sued by environmentalists
2 or so forth.

3 So I just think in that situation, you have a
4 practical compulsion. And the concept that we are trying
5 to say that, "You don't have to participate, that's not
6 your responsibility," it is their responsibility because
7 otherwise it won't get done. And we know that LAFCO --
8 it is mandated on LAFCO that they do these reviews.

9 CHAIR SHEEHY: Thank you, Mr. Worthley.

10 Ms. Bryant?

11 MEMBER BRYANT: Can I respond to that?

12 I hear what you're saying, there's compulsion
13 here. But isn't there existing -- prior to this claim,
14 wasn't there existing Government Code statute that
15 required that special districts comply with this? Am I
16 correct about that?

17 I think there was already --

18 MEMBER WORTHLEY: I think there was a limited
19 requirement.

20 MEMBER BRYANT: I think they were already
21 required to comply with LAFCO's needs in terms of
22 working on the municipal services review. So to me, the
23 test-claim statute doesn't really add any new
24 responsibilities. They were already required to do that
25 under preexisting law that predates mandates, if I read

1 everything.

2 MEMBER WORTHLEY: If I read this appropriately,
3 and what you're referring to, it is an enhanced service
4 level because the information that was authorized to be
5 requested from those different agencies has been expanded
6 under the municipal services review, as I understand it.
7 So there's a requirement for a lot more information than
8 we were perhaps authorized to receive before.

9 MEMBER BRYANT: But I read it that the
10 requirement is placed on LAFCO to seek additional
11 information. That's how I read it.

12 I actually disagreed with the staff
13 recommendation on the second part of the analysis. I
14 think that the statute is telling LAFCO to go get that
15 information, and LAFCO had preexisting statute that
16 already requires all the local governments to comply with
17 their requests.

18 I'm happy to be corrected, but I read that that
19 way.

20 CHAIR SHEEHY: Deborah, did you want to comment
21 on that?

22 MS. BORZELLERI: Well, you know, without going
23 through detail, it's my general understanding that LAFCO
24 certainly had authority to require a lot of information
25 from -- they could adopt regulations, they had a lot of

1 authority to do what they needed to do to do a sphere of
2 influence.

3 The municipal service review I believe is
4 something new. But it still -- it's sort of a guideline
5 that OPR has adopted that, you know, explains how they
6 get there and the types of information they need. But
7 certainly there was information that LAFCO could get from
8 districts and cities and whoever they needed to prior to
9 the test claim.

10 MEMBER WORTHLEY: I would use the example,
11 Mr. Chairman, if I may. We used to require on LAFCO that
12 you would receive a will-serve letter from a water
13 district as a condition to an annexation.

14 Now, in a municipal services review, it's a
15 very extensive study that has to be done. Now, it not
16 only talks about will serve, but the capacity of the
17 system, what are the proven resources there. It's a very
18 extensive kind of a product. It is nothing like we had
19 before. And I believe it constitutes an enhanced service
20 level.

21 Anyway, I don't know if anybody else has a
22 response to that.

23 CHAIR SHEEHY: Further discussion on this
24 matter from members of the Commission or from staff?

25 *(No audible response)*

1 CHAIR SHEEHY: At this point, I'd like to ask
2 if we do have a motion for the staff, to approve the
3 staff recommendation on Item Number 9.

4 MEMBER LUJANO: Move approval.

5 MEMBER CHIVARO: Second.

6 CHAIR SHEEHY: Paula, could you please call the
7 roll?

8 MS. HIGASHI: Certainly.

9 Mr. Worthley?

10 MEMBER WORTHLEY: No.

11 MS. HIGASHI: Ms. Bryant?

12 MEMBER BRYANT: I'm going to vote no, for
13 different reasons completely than Mr. Worthley.

14 MS. HIGASHI: Mr. Chivaro?

15 MEMBER CHIVARO: Aye.

16 MS. HIGASHI: Mr. Glaab?

17 MEMBER GLAAB: No.

18 MS. HIGASHI: Mr. Lujano?

19 MEMBER LUJANO: Aye.

20 MS. HIGASHI: Ms. Olsen?

21 MEMBER OLSEN: Aye.

22 MS. HIGASHI: And Mr. Sheehy?

23 CHAIR SHEEHY: Aye.

24 MS. HIGASHI: The motion is adopted.

25 CHAIR SHEEHY: Okay, so we have a motion

1 adopted that adopts the staff recommendation on Item
2 Number 9.

3 MS. HIGASHI: And this takes us now to Item 10,
4 adoption of the proposed Statement of Decision.

5 Ms. Borzelleri?

6 MS. BORZELLERI: Thank you.

7 The only issue before the Commission on this
8 item is whether the Statement of Decision accurately
9 reflects the Commission's decision on Item 9.

10 The staff will make minor changes to the final
11 Statement of Decision to reflect the witnesses' testimony
12 and vote count when issuing the final.

13 CHAIR SHEEHY: Is there any objection to the
14 members of the Commission substituting the prior roll
15 call for the staff recommendation on Item Number 10?

16 MEMBER BRYANT: Yes.

17 CHAIR SHEEHY: Okay, is there a motion to
18 approve the staff recommendation on Item Number 10?

19 MEMBER OLSEN: So moved.

20 MEMBER CHIVARO: Second.

21 CHAIR SHEEHY: Paula, could you please call the
22 roll?

23 MS. HIGASHI: Ms. Bryant?

24 MEMBER BRYANT: Aye.

25 MS. HIGASHI: Mr. Chivaro?

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Government Code Sections 56001, 56326.5, 56381, 56381.6, 56425, 56426.5, and 56430;

LAFCO Municipal Services Review Guidelines (Final Draft, October 3, 2002, Governor's Office of Planning and Research), and

LAFCO Municipal Services Review Guidelines Appendices (Final Draft, October 3, 2002, Governor's Office of Planning and Research);

Statutes 1991, Chapter 439 (AB 748), Statutes 2000, Chapter 761 (AB 2838), and Statutes 2002, Chapter 493 (AB 1948)

Filed on May 29, 2003, by the Sacramento Metropolitan Fire District, Claimant.

Case No.: 02-TC-23

Local Agency Formation Commissions

STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7

(Adopted on September 27, 2007)

STATEMENT OF DECISION

The Commission on State Mandates ("Commission") heard and decided this test claim during a regularly scheduled hearing on September 27, 2007. Juliana Gmur from MAXIMUS, and Joe Chavez, Associate General Counsel for Sacramento Metropolitan Fire District, appeared on behalf of Sacramento Metropolitan Fire District. Allan Burdick appeared on behalf of the CSAC SB 90 Service. Carla Castaneda and Susan Geanacou appeared on behalf of the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis at the hearing by a vote of 4-3 to partially approve this test claim.

Summary of Findings

This test claim addresses changes to Local Agency Formation Commissions ("LAFCOs"), which are statutorily-created local administrative bodies that make determinations regarding formation and development of local agencies. The test claim statutes modify representation on the Sacramento County LAFCO, mechanisms for funding LAFCO operations when independent special districts are represented, and the process for LAFCOs to adopt and update the "sphere of influence" for each local agency within all California counties. The claimant is an independent special district, thus the findings of this test claim apply to independent special districts only and *not* LAFCOs or other local government agencies. Furthermore, only those

independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

The Commission finds that only one of the alleged test claim statutes – Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)) – constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6, and Government Code section 17514. That section requires independent special districts to file written statements with the LAFCO, specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

The Commission concludes that Government Code section 56001 declares legislative findings and is helpful to interpret the test claim statutes, but does not mandate any activities. The Commission further concludes that Government Code sections 56326.5, 56381, 56381.6, 56425 (except subdivision (h)(1), subsequently renumbered to subdivision (i)(1)), 56426.5, and 56430, and the Municipal Service Review Guidelines and Appendices developed by the Governor's Office of Planning and Research, as pled, along with any other test claim statutes, alleged executive orders, guidelines and allegations not specifically approved above, do not mandate a new program or higher level of service subject to article XIII B, section 6.

BACKGROUND

This test claim addresses representation on the Sacramento County Local Agency Formation Commission ("LAFCO"), changes to funding mechanisms for LAFCOs with independent special district representation, and modifications to the process for LAFCOs to adopt and update the "sphere of influence"¹ for each local government agency within a county.

Historical Development of LAFCOs

In light of competing urban, social and economic interests affected by land annexation, and "[a]fter years of failure to cope with these problems to any meaningful extent . . . , the Legislature finally acknowledged 'the need for a supra-local agency to intervene in boundary decisions' affecting local governments, and, in 1963, established a LAFCO in each [California] county to serve this purpose."^{2,3} Thus, LAFCOs are statutorily-created administrative bodies which make quasi-legislative determinations⁴ regarding formation and development of local

¹ "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the LAFCO. (Gov. Code § 56076.)

² *Tillie Lewis Foods, Inc. v. City of Pittsburg (Tillie Lewis)* (1975) 52 Cal.App.3d 983, 995.

³ Statutes 1963, chapter 1808.

⁴ *Sierra Club v. San Joaquin Local Agency Formation Commission* (1999) 21 Cal.4th 489, 495.

agencies.⁵ The courts have referred to LAFCOs as the Legislature's "watchdogs" over local boundaries.⁶

The LAFCOs' purposes have evolved over the years, and in 1985, the laws governing local boundary changes were consolidated into the Cortese-Knox Local Government Reorganization Act ("Cortese-Knox Act"),⁷ which provided the "sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts."⁸ The Cortese-Knox Act stated the following purposes for LAFCOs:

Among the purposes of a [LAFCO] are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the [LAFCO] is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities.⁹

The Cortese-Knox Act charged LAFCOs with a variety of powers and duties, including but not limited to: reviewing proposals for changes of organization or reorganization;¹⁰ approving annexation of unincorporated, noncontiguous territory in certain instances;¹¹ adopting written procedures, regulations and standards;¹² and developing, determining, adopting and periodically updating the sphere of influence of each local governmental agency within the county.¹³

By June 30, 1985, each LAFCO was required to adopt a sphere of influence for each local governmental agency within its jurisdiction,¹⁴ in order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies.¹⁵ In determining the sphere of influence of each local agency,

⁵ Government Code section 56301.

⁶ *Tillie Lewis, supra*, 52 Cal.App.3d 983, 1005.

⁷ Statutes 1985, chapter 541; Government Code sections 56000 et seq.

⁸ Government Code section 56100.

⁹ Government Code section 56301, as enacted by Statutes 1985, chapter 541.

¹⁰ Government Code section 56375, subdivision (a).

¹¹ Government Code section 56375, subdivision (e), subsequently renumbered to subdivision (d).

¹² Government Code section 56375, subdivisions (i), (j), and (k), subsequently renumbered to subdivisions (g), (h), and (i).

¹³ Government Code section 56425.

¹⁴ Government Code section 56426.

¹⁵ Government Code sections 56076 and 56425.

the LAFCO was required to consider and prepare a written statement of its determination with respect to the following points:

- 1) The present and planned land uses in the area, including agricultural and open-space lands.
- 2) The present and probable need for public facilities and services in the area.
- 3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
- 4) The existence of any social or economic communities of interest in the area if the LAFCO determines that they are relevant to the agency.¹⁶

LAFCOs were originally established with representatives from the county, cities in the county and the general public,¹⁷ with the option of adding independent special districts.¹⁸ The term of office for each member is generally four years, but if independent special districts are added to the LAFCO, the first term of one of those members is only two years.¹⁹ The body who originally appointed any member whose term has expired appoints his or her successor for a full term of four years, and any member may be removed at any time and without cause by the body appointing that member.²⁰ The expiration date of all terms of office is the first Monday in May in the year the term expires; vacancies in the membership are required to be filled for the unexpired term by appointment by the body originally appointing the member.²¹ Provision is also made for appointing alternate members in each category, who are allowed to serve and vote in place of their member who is absent or disqualifies himself or herself from participating in a meeting of the LAFCO, and to fill vacancies in unexpired terms until a new member is appointed.²²

LAFCO members and alternates are reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office and the LAFCO may authorize per diem payments to members or alternates for each day of attendance of LAFCO meetings.²³

Any county having or choosing to have independent special district representation on the LAFCO is required to establish an independent special district selection committee to choose such members, which must consist of the presiding officer of the legislative body of each

¹⁶ *Ibid.*

¹⁷ Former Government Code section 54780, repealed and renumbered to Government Code section 56325. (Stats. 1985, ch. 541.)

¹⁸ Government Code section 56332, subdivision (a), as enacted by Statutes 1985, chapter 541.

¹⁹ Government Code section 56334.

²⁰ *Ibid.*

²¹ *Ibid.*

²² Government Code sections 56325, 56331, 56331.3, 56332 and 56335.

²³ *Ibid.*

independent special district.²⁴ Meetings of the independent special district selection committee are required *only* when a vacancy of an independent special district member on the LAFCO occurs,²⁵ or when requested by one or more members of the selection committee representing 10 percent or more of the assessed value of taxable property within the county.²⁶ Where such meetings are not feasible, the executive officer of the committee may conduct the business of the committee in writing.²⁷

LAFCOs are authorized to charge fees for the cost of specified proceedings undertaken by the LAFCO,²⁸ and funding and facilities for LAFCOs have historically been provided by the county served.²⁹

In recognition of the fact that nearly 35 years had passed since a thorough investigation of the policies, practices, and statutes affecting the organization and boundaries of California's local agencies had been conducted, in 1997 the Legislature created the Commission on Local Governance for the 21st Century.³⁰ The 21st Century Commission, as it came to be known, was charged with reviewing current statutes regarding policies, criteria, procedures and precedents for city, county and special district boundary changes, to solicit the views and advice of the public, to propose criteria to increase citizen and community participation in city, county, and special district governments consistent with federal law, and to recommend any appropriate statutory changes.³¹

On January 20, 2000, after extensive hearings and deliberation, the 21st Century Commission released its final report, entitled *Growth Within Bounds*. The report made the following recommendations:

1. LAFCO policies and procedures should be streamlined.
2. LAFCOs should be neutral, independent, and provide balanced representation for counties, cities and special districts, with funding provided from each of those categories.
3. LAFCO powers should be strengthened to prevent sprawl and ensure the orderly extension of government services.

²⁴ Government Code section 56332, subdivision (a), as enacted by Statutes 1985, chapter 541.

²⁵ Government Code section 56332, subdivision (c)(1), as enacted by Statutes 1985, chapter 541, subsequently renumbered to subdivision (b)(1).

²⁶ Government Code section 56332, subdivision (c)(2), as enacted by Statutes 1985, chapter 541, subsequently renumbered to subdivision (b)(2).

²⁷ Government Code section 56332, subdivision (d), as enacted by Statutes 1985, chapter 541, subsequently renumbered to subdivision (c).

²⁸ Government Code section 56383.

²⁹ Government Code section 56381, as enacted by Statutes 1985, chapter 541.

³⁰ AB 1484 (Hertzberg), Statutes 1997, chapter 943.

³¹ Government Code section 56302, subdivision (c), as enacted by Statutes 1997, chapter 943.

4. Policies to protect agricultural and open space lands and other resources should be strengthened.
5. The state-local fiscal relationship should be comprehensively revised.
6. The state should develop incentives to encourage compatibility and coordination of plans and actions of all local agencies, including school districts, within each region as a way to encourage an integrated approach to public service delivery and improve overall governance.
7. Communication, coordination, and procedures of LAFCOs and local governments should be enhanced to promote government efficiency.
8. Opportunities for public involvement, active participation, and information regarding government decision-making should be increased.

The Legislature responded by enacting many of the 21st Century Commission's recommendations into the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.³² The act expands the purposes of the LAFCO to include preserving open space and agricultural lands, efficiently providing government services, and, when formation of a new government entity is proposed, making a determination as to whether existing agencies can feasibly provide the needed services in a more efficient and accountable manner.³³

This Test Claim is Limited to the Following Statutes and Alleged Executive Orders

Sacramento County LAFCO Representation (Stats. 1991, Ch. 439):

- Section 56326.5 was added to the Government Code in 1991 to provide that, for the *Sacramento County LAFCO only*, in addition to the basic representation of five members, — i.e., two county members, two members representing cities in the county, and one general public member³⁴ — one of the city members must be from the City of Sacramento and two members representing independent special districts in the County must sit on the LAFCO. The record for this legislation indicates that Sacramento County LAFCO, *prior to* the enactment of section 56326.5, chose to include special district representation as authorized by Government Code section 56332.³⁵ The independent special district selection committee selects the two independent special district members.

Cortese-Knox-Hertzberg Local Government Reorganization Act (Stats. 2000, Ch. 761):

- The legislative findings and declarations for the Act were amended to include: 1) discouraging urban sprawl; 2) preserving open space and prime agricultural lands; and 3) efficiently extending government services.³⁶

³² AB 2838, Statutes 2000, chapter 761.

³³ Government Code section 56301.

³⁴ Government Code section 56325, as enacted by Statutes 1985, chapter 541.

³⁵ Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis for AB 748, June 18, 1991, page 1.

³⁶ Government Code section 56001.

- Changes were made in funding for LAFCOs; instead of the existing requirement of being entirely funded by the county, LAFCOs with representation by cities and special districts are now funded by a one-third share each from the county, cities and special districts.³⁷ The independent special districts' share was apportioned according to each district's revenues for general purpose transactions, as reported in the most recent edition of the "Financial Transactions Concerning Special Districts" published by the State Controller, or by an alternative method approved by a majority of the independent special districts representing a majority of their combined populations.³⁸
- The provisions regarding the sphere of influence for each local government agency were changed as follows:
 - The LAFCO shall review and update the sphere of influence *not less than once every five years*;³⁹
 - For any sphere of influence or sphere of influence that includes a special district, the LAFCO shall:
 - require existing districts to file written statements specifying functions or classes of service provided;
 - establish the nature, location, and extent of any functions or classes of service provided by existing districts; and
 - determine that, except as otherwise authorized by regulations, no new or different function or class of service shall be provided by any existing district unless approved by the LAFCO.⁴⁰ (Emphasis added.)
 - A review and update to the sphere of influence requires LAFCOs to conduct a municipal service review.⁴¹ In conducting a municipal service review, a LAFCO shall prepare a written statement of its determinations with respect to each of the following nine topics:
 1. infrastructure needs or deficiencies;
 2. growth and population projections for the affected area;
 3. financing constraints and opportunities;
 4. cost avoidance opportunities;
 5. opportunities for rate restructuring;
 6. opportunities for shared facilities;
 7. government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
 8. evaluation of management efficiencies; and

³⁷ Government Code section 56381, subdivision (a).

³⁸ Government Code section 56381, subdivision (b)(1).

³⁹ Government Code section 56425, subdivision (f).

⁴⁰ Government Code section 56425, subdivision (h), as enacted in Statutes 2000, chapter 761, subsequently renumbered to Government Code section 56425, subdivision (i).

⁴¹ Government Code section 56430, subdivision (a).

9. local accountability and governance.⁴²

- o Not later than July 1, 2001, the Governor's Office of Planning and Research (OPR), in consultation with LAFCOs, the California Association of Local Agency Formation Commissions, and other local governments, was required to prepare guidelines for municipal service reviews to be conducted by LAFCOs.⁴³

LAFCO Revenues from Independent Special Districts (Stats. 2002, Ch. 493):

- This statute revised the method for calculating independent special district revenues to be paid to LAFCOs, basing the calculation on nonenterprise revenues and enterprise revenues rather than general purpose transactions.⁴⁴ It also capped the share of any one independent special district to 50% of the total independent special districts' share of operating costs.⁴⁵ Additionally, revenue relief was provided for health care districts with negative net revenue and for those operating under public entity bankruptcy.⁴⁶

Municipal Service Review Guidelines and Municipal Service Review Appendices Issued by the Governor's Office of Planning and Research (Final Drafts Issued 10/03/02):

- OPR developed the Guidelines and Appendices as directed by the test claim statutes,⁴⁷ which require OPR to prepare *guidelines* rather than regulations. Hence the documents should be considered advisory rather than regulatory.
- The Guidelines and Appendices describe the statutory framework and requirements of the municipal service review, and provide guidance on:
 1. how the LAFCO, service provider agencies and the public can prepare to most effectively engage in the process;
 2. integrating municipal service reviews with other LAFCO actions, application of the California Environmental Quality Act (CEQA) and federal and state anti-discrimination statutes, and development of the nine statutorily-required determinations;⁴⁸ and
 3. how to draft the final individual municipal service review report and how to ensure adequate public participation opportunities, including statutory meeting requirements.⁴⁹

⁴² *Ibid.*

⁴³ Government Code section 56430, subdivision (d).

⁴⁴ Government Code section 56381, subdivision (b)(1)(C).

⁴⁵ Government Code section 56381, subdivision (b)(1)(F).

⁴⁶ Government Code section 56381, subdivision (b)(1)(D).

⁴⁷ Government Code section 56430, subdivision (d).

⁴⁸ Government Code section 56430.

⁴⁹ Municipal Service Review Guidelines, Executive Summary, page 2.

Claimant's Position

The claimant states that the test claim statutes and executive orders impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Claimant asserts that the following activities and costs are reimbursable:

1. Time and expense of representing Sacramento Metropolitan Fire District on the Sacramento County LAFCO, if chosen by the independent special district selection committee, pursuant to Government Code section 56326.5.⁵⁰
2. Time and expense of representing Sacramento Metropolitan Fire District on the independent special district selection committee. These activities were mentioned in the narrative section of the test claim, but Government Code section 56332 which governs the independent special district selection committee was not specifically pled by claimant.
3. Costs to fund Sacramento Metropolitan Fire District's share of the operating budget for the Sacramento County LAFCO, pursuant to Government Code sections 56326.5, 56381 and 56381.6, and/or as suggested by the LAFCO Municipal Service Guidelines Appendices, pages 26-27.
4. Time and expense of providing information to the LAFCO when the LAFCO determines a sphere of influence, pursuant to Government Code section 56425, subdivision (g).⁵¹
5. Pursuant to page 12 of the LAFCO Municipal Service Review Guidelines, time and expense of providing the following information, depending on the type of service provided, to the LAFCO when the LAFCO conducts a municipal service review:⁵²

⁵⁰ Test claim, page 3; comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 2.

⁵¹ So claimed; however, subdivision (g) did not require these activities but subdivision (h) had similar language: "For any sphere of influence or a sphere of influence that includes a special district, the [LAFCO] shall do all of the following: (1) Require existing districts to file written statements with the [LAFCO] specifying the functions or classes of service provided by those districts. (2) Establish the nature, location, and extent of any functions or classes of service provided by existing districts. (3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the [LAFCO]." (Emphasis added.)

⁵² Rather than stating that districts must provide the information, page 12 of the Municipal Service Review Guidelines actually states: "Below is a list of the types of information a service provider [i.e., independent special district] may wish to gather to expedite the municipal service review process. It is not necessary to collect all types of data listed below. Select only those items that are relevant to the type of services under review." Furthermore, on page 13 the Guidelines state: "Don't Reinvent the Wheel Service providers [i.e., independent special districts] may regularly submit reports to a regulatory or financing agency which contain the information LAFCO needs to complete the municipal service review. Use the information in these reports to respond to information requests by LAFCO. ... Early

- a list of relevant statutory and regulatory obligations;
 - a copy of the most recent master services plan;
 - a metes and bounds legal description of the agency's boundary;
 - service area maps (to the extent already prepared) including:
 - a service boundary map;
 - a map indicating parcel boundaries (GIS maps may be available from the land use jurisdiction);
 - a vicinity or regional map with provider's boundary, major landmarks, freeways or highways, and adjacent or overlapping service provider boundaries (note: more than one map may need to be prepared to show all data); and
 - maps indicating existing land uses within city or district boundaries and on adjacent properties.
 - applicable excerpts from regional transportation, water, air quality, fair share housing allocation, airport land use, open space or agricultural plans or policies, or other environmental policies or programs;
 - copies of regulatory and operating permits;
 - number of acres or square miles included within the service area;
 - type of sphere or sphere boundaries;
 - assessed valuation;
 - estimate of population within district boundaries;
 - as appropriate, the number of people, households, parcels or units currently receiving service, or the number of service connections;
 - projected growth in service demand or planned new service demand/capacity;
 - special communities of interest or neighborhoods affected by service;
 - capital improvement plans;
 - current service capacity;
 - call volume;
 - response time; and
 - annual operating budget.
6. Pursuant to page 17 of the LAFCO Municipal Service Review Guidelines, time and expense for the LAFCO to prepare a workplan when a LAFCO conducts a municipal service review, which includes the following elements:
- list of services to be reviewed;
 - service providers that will be affected/involved;
 - study area boundaries for the municipal service review;
 - data collection process;
 - public participation process; and
 - public hearing process.
7. Pursuant to Chapter 7, commencing on page 24, of the LAFCO Municipal Service Review Guidelines, time and expense for the LAFCO to prepare an Environmental

consultation with LAFCO and meaningful input by the service provider can reduce the time and cost to both parties."

Impact Report when the municipal services review is considered a "project" which must comply with the California Environmental Quality Act ("CEQA"), and if future land use determinations are to be based on the municipal service review.

8. Pursuant to Government Code section 56430 and pages 29 through 36 of the LAFCO Municipal Service Review Guidelines, time and expense for the LAFCO when conducting a municipal service review to prepare a written statement of its determinations with respect to each of the following nine issues:
 - infrastructure needs or deficiencies;
 - growth and population projections for the affected area;
 - financing constraints and opportunities;
 - cost avoidance opportunities;
 - opportunities for rate restructuring;
 - opportunities for shared facilities;
 - government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
 - evaluation of management efficiencies; and
 - local accountability and governance.

9. Pursuant to page 35 of the Municipal Service Review Guidelines, time and expense of the LAFCO, when conducting a municipal service review and evaluating an agency's or district's management efficiencies, to obtain information from the agency or district with respect to the following factors or issues:⁵³
 - evaluation of the agency's capacity to assist with and/or assume services provided by other agencies;
 - evaluation of agency's spending on mandatory programs;
 - comparison of agency's mission statement and published customer service goals and objectives;
 - availability of master service plan(s);
 - contingency plans for accommodating existing and planned growth;
 - publicized activities;
 - implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement;
 - personnel policies;
 - availability of resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service;
 - available technology to conduct an efficient business;
 - collection and maintenance of pertinent data necessary to comply with state laws and provide adequate services;
 - opportunities for joint powers agreements, Joint Powers Authorities, and/or regional planning opportunities;

⁵³ Leading into the list of factors or issues, the Guidelines actually state: "In evaluating an agency's management efficiencies, LAFCO may wish to address the following factors in its review: ..."

- evaluation of agency's system of performance measures;
 - capital improvement projects as they pertain to Government Code sections 65401 and 65103, subdivision (c);
 - accounting practices;
 - maintenance of contingency reserves;
 - written policies regarding the accumulation and use of reserves and investment practices;
 - impact of agency's policies and practices on environmental objectives and affordable housing;
 - environment and safety compliance; and
 - current litigation and/or grand jury inquiry involving the service under LAFCO review.
10. Pursuant to Government Code section 56820.5⁵⁴ and the LAFCO Municipal Service Review Guidelines Appendices, time and expense of the Sacramento Metropolitan Fire District to provide information regarding the municipal service review required under regulations adopted by the LAFCO. This provision was mentioned in the narrative but was not specifically pled by claimant.
11. Costs paid to the LAFCO for reviewing the District's component of a municipal service review.

Claimant estimates the following costs to implement the program: 1) \$20,000 - \$30,000 for claimant's portion of the annual LAFCO budget for the period January 1, 2001 through December 31, 2001; 2) \$50,000 - \$80,000 for claimant's portion of the annual LAFCO budget for the period of January 1, 2002 and beyond; 3) in excess of \$20,000 to provide to the LAFCO the information required for a municipal service review; and 4) \$5,000 to the LAFCO for its review of claimant's component of the municipal service review.

Claimant filed additional comments in response to the Department of Finance's comments and the draft staff analysis, which are addressed, as necessary, in the analysis.

Position of Department of Finance

The Department of Finance states that the test claim statutes may have resulted in costs mandated by the state, but points out the following:

- A special district may lawfully decline to sit as a member of its LAFCO.
- Although LAFCO independent special district selection committee membership is required by law, special districts are not required to participate in the committee's activities; many are members in name only.
- LAFCOs have existing statutory fee authority that may be used to cover their operating costs. To the extent that LAFCOs elect to make use of this authority, LAFCO members would be relieved of the need to contribute toward the LAFCO's annual budget.

⁵⁴ Government Code section 56820.5, renumbered from Government Code section 56451 in Statutes 2000, chapter 761.

- LAFCOs have had statutory authority to require information of local agencies since 1965.
- OPR's Municipal Service Review Guidelines and Appendices do not carry the force of law.

The Department filed additional comments concurring with the draft staff analysis.

COMMISSION FINDINGS

The courts have found that article XIII B, section 6 of the California Constitution⁵⁵ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁵⁶ “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”⁵⁷

A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁵⁸ In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.⁵⁹

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.⁶⁰ To determine if the program is new or imposes a higher level of service, the test claim requirements must be compared with the legal requirements in effect immediately before the enactment of the test claim statutes.⁶¹ A “higher level of service” occurs when there is “an increase in the actual level or quality of governmental services provided.”⁶²

⁵⁵ Article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides: “Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.”

⁵⁶ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

⁵⁷ *County of San Diego v. State of California (County of San Diego)* (1997) 15 Cal.4th 68, 81.

⁵⁸ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

⁵⁹ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

⁶⁰ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 (*County of Los Angeles*); *Lucia Mar, supra*, 44 Cal.3d 830, 835).

⁶¹ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

⁶² *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 877.

Finally, the newly required activity or increased level of service must impose costs mandated by the state.⁶³

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.⁶⁴ In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."⁶⁵

The analysis addresses the following issues:

- Which independent special districts are eligible claimants under article XIII B, section 6 of the California Constitution?
- Do the test claim statutes or alleged executive orders mandate a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution?
- Do Government Code sections 56326.5, subdivision (d), and 56425, subdivision (h)(1), impose "costs mandated by the state" within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514?

Issue 1: Which independent special districts are eligible claimants under article XIII B, section 6 of the California Constitution?

Not all independent special districts are subject to article XIII B, section 6. Article XIII B, section 6 was adopted in recognition of the state constitutional restrictions on the powers of local government to tax and spend, and requires a subvention of funds to reimburse local agencies when the state imposes a new program or higher level of service upon those agencies. The Third District Court of Appeal in *County of Placer v. Corin* (1980) 113 Cal.App.3d 443 explained the reasoning behind Article XIII B as follows:

Article XIII B was adopted less than 18 months after the addition of article XIII A to the state Constitution, and was billed as "the next logical step to Proposition 13" [article XIII A]. While article XIII A was generally aimed at controlling ad valorem property taxes and the imposition of new "special taxes" [citations], the thrust of article XIII B is toward placing certain limitations on the growth of appropriations at both the state and local government level ...⁶⁶

⁶³ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

⁶⁴ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

⁶⁵ *County of Sonoma, supra*, 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817 (*City of San Jose*).

⁶⁶ *County of Placer, supra*, 113 Cal.App.3d 443, 446.

The court further described this concept:

[A]rticle XIII B does not limit the ability to expend government funds collected from all sources. Rather, the appropriations limit is based on "appropriations subject to limitation," which consists primarily of the authorization to expend during a fiscal year the "proceeds of taxes." (§ 8, subd. (a).) As to local governments, limits are placed only on the authorization to expend the proceeds of taxes levied by that entity, in addition to the proceeds of state subventions (§ 8, subd. (c)); no limitation is placed on the expenditure of those revenues that do not constitute "proceeds of taxes."⁶⁷

Thus, since taxing and spending limitations are placed only on the proceeds of taxes, "[n]o state duty of subvention is triggered where the local agency is not required [by the test claim statutes] to expend the proceeds of taxes."⁶⁸ Section 9 of Article XIII B sets forth specific circumstances wherein the costs in question *are not* "appropriations subject to limitation," and therefore subvention is not required. One such exclusion to the limitation is found in subdivision (c), which applies to special districts:

Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 ½ cents per \$100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.

The claimant, Sacramento Metropolitan Fire District, is a special district that was formed by reorganization of the Sacramento County Fire District and the American River Fire District on December 1, 2000.⁶⁹ Therefore, the district did not exist on January 1, 1978 and its appropriations do not meet the first criteria that excludes their appropriations from the spending limit of article XIII B.

The claimant's revenues consist of, among other things, property taxes, fines, and fees for services.⁷⁰ Thus, the claimant is not a district "which is totally funded by other than the proceeds of taxes" and its appropriations do not meet the second criteria. Consequently, the article XIII B, section 9, subdivision (c), exclusion to the appropriations limit is not applicable to the appropriations of Sacramento Metropolitan Fire District. The District is therefore an eligible claimant within the meaning of article XIII B, section 6.

For any other independent special district in California to be an eligible claimant under this test claim, that district must be subject to the tax and spend limitations of article XIII A and

⁶⁷ *Id.* at 447.

⁶⁸ *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987.

⁶⁹ *Department History*, <http://www.smfd.ca.gov/>.

⁷⁰ Sacramento Metropolitan Fire District, Final Budget for Fiscal Year 2007, page A-29.

article XIII B, and *not* subject to the appropriations limit exclusions in article XIII B, section 9, subdivision (c).

Issue 2: Do the test claim statutes or alleged executive orders mandate a “new program or higher level of service” within the meaning of article XIII B, section 6 of the California Constitution?

Courts have recognized the purpose of article XIII B, section 6 is “to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill-equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”⁷¹ The cases have held that a test claim statute may impose a reimbursable state-mandated program in two ways.

First is where the test claim statute orders or commands a local agency or school district to engage in an activity or task,⁷² and the required activity or task is new, constituting a “new program,” or creates a “higher level of service” over the previously required level of service.⁷³

Second, in light of the intent of article XIII B, section 6, a reimbursable state-mandated program has been found to exist in some instances when the state shifts fiscal responsibility for a mandated program to local agencies but no actual activities have been imposed by the test claim statute or executive order.⁷⁴ Additionally, as of November 3, 2004, article XIII B, section 6, subdivision (c), of the California Constitution defines a “mandated new program or higher level of service” as including “a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.”⁷⁵

Thus, a mandated “new program or higher level of service” may be found under either circumstance cited above, that is, where the test claim statutes mandate *activities* that are new in comparison to the preexisting scheme that result in providing a service to the public, *or* where the state shifts from itself to local agencies the *cost* for a required program but no activities are imposed.

Claimant is seeking reimbursement for the following:

1. time and expense of representing Sacramento Metropolitan Fire District on the Sacramento LAFCO, if that district is chosen by the independent special district selection committee;
2. time and expense of representing Sacramento Metropolitan Fire District on the independent special district selection committee;

⁷¹ *County of San Diego, supra*, 15 Cal. 4th 68, 81 (citing *Lucia Mar, supra*, 44 Cal.3d 830).

⁷² *Long Beach, supra*, 225 Cal.App.3d 155, 174.

⁷³ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835-836.

⁷⁴ *Lucia Mar, supra*, 44 Cal.3d 830, 836.

⁷⁵ Enacted by the voters as Proposition 1A, November 2, 2004.

3. costs for the Sacramento Metropolitan Fire District to fund its share of the operating budget for the Sacramento LAFCO;
4. time and expense of providing information to the LAFCO when the LAFCO determines a sphere of influence;
5. time and expense of providing information to the LAFCO when the LAFCO conducts a municipal service review;
6. time and expense for the LAFCO to prepare a workplan when the LAFCO conducts a municipal service review;
7. when the municipal service review is considered a "project" under the California Environmental Quality Act, time and expense for the LAFCO to prepare an Environmental Impact Report;
8. when the LAFCO conducts a municipal service review, the LAFCO shall prepare a written statement with regard to nine specified issues;
9. when the LAFCO conducts a municipal service review and the LAFCO is evaluating an agency's or district's management efficiencies, time and expense for the LAFCO to obtain specified information from the agency or district;
10. time and expense of providing information required under regulations adopted by the LAFCO and by the Municipal Service Review Guidelines Appendices; and
11. costs paid to the LAFCO for reviewing the District's component of a municipal service review.

In the analysis below, the alternative tests for a "new program or higher level of service" are applied as appropriate to the test claim statutes and to the items identified by claimant. However, any activities of the *LAFCO itself* are not addressed since LAFCOs are not represented in this claim; instead, the claimant is an independent special district and represents only independent special districts in the claim.

Legislative Findings and Declarations (Gov. Code, § 56001)

Government Code section 56001 sets forth the legislative findings and declarations with regard to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This section is helpful in understanding the purposes for LAFCOs and the scope of LAFCO operations, but does not mandate any activities on local agencies in California. Therefore, Government Code section 56001 does not mandate a "new program or higher level of service" on independent special districts.

Representation on LAFCO and Independent Special District Selection Committee in Sacramento County (Gov. Code, § 56326.5, subd. (d))

The Government Code sets forth provisions for the composition and selection of members of LAFCOs. There are general provisions for most counties,⁷⁶ and some counties have specific

⁷⁶ Government Code section 56325.

statutory provisions for the composition of their LAFCOs.⁷⁷ The test claim statute pled by the claimant, section 56326.5, enacted in 1991, specifies the composition of the Sacramento County LAFCO. The analysis is limited to subdivision (d) of that section, since it is the only subdivision dealing with independent special districts.

For this test claim statute, the question is whether subdivision (d) mandates new activities that constitute a "new program or higher level of service" over an existing program. For the reasons stated below, the Commission finds that representation by two independent special districts on the Sacramento County LAFCO, selected by the independent special district selection committee pursuant to section 56332, mandates a "new program or higher level of service" on those independent special districts that serve on the LAFCO.

The Commission further finds that since the section of the Government Code which sets forth the requirements for the committee that selects the independent special districts for the LAFCO – Government Code section 56332 – was not pled in the test claim, the Commission does not have jurisdiction to make any findings with regard to that provision.⁷⁸

Prior to the test claim statute, Sacramento County was governed by Government Code section 56325 which provided that the LAFCO shall consist of five or seven members, seven if there was special district representation. The addition of special districts to LAFCOs pursuant to that section was *voluntary* on the part of the LAFCO.⁷⁹

Because of the test claim statute enacted in 1991, Sacramento County is now one of the counties with a statutory provision setting forth a more specific composition of members on its LAFCO. Government Code section 56326.5, as added by the test claim statute in 1991, states:

In Sacramento County, the [LAFCO] *shall consist of seven members*, selected as follows:

- (a) Two representing the county, appointed by the board of supervisors from their own membership. ...
- (b) One representing the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. ...
- (c) One representing the cities in the county, who is a city officer appointed by the city selection committee. ...
- (d) *Two representing special districts selected by an independent special district selection committee pursuant to Section 56332. ...*⁸⁰

⁷⁷ Counties with LAFCO membership and selection criteria set forth in *special* provisions of the Government Code: Kern County (section 56328.5), Los Angeles County (section 56326), Sacramento County (56326.5), Santa Clara County (sections 56327 and 56327.3), and San Diego County (section 56328).

⁷⁸ Nor did claimant plead any costs associated with section 56332.

⁷⁹ Government Code section 56332, as enacted by Statutes 1985, chapter 541.

⁸⁰ This subdivision was amended by Statutes 2000, chapter 761, pled in the test claim, to state: "(d) Two presiding officers or members of legislative bodies of independent special districts selected by an independent special district selection committee pursuant to Section 56332."

(e) One representing the general public, appointed by the other six members of the [LAFCO]. ... (Emphasis added.)

The plain language of subdivision (d) *requires* two members representing independent special districts in Sacramento County, selected by the independent special district selection committee pursuant to Government Code section 56332, to sit on the Sacramento County LAFCO. In Sacramento County there are 66 independent special districts eligible to be represented on the LAFCO.⁸¹ However, there is no other requirement specifying a *particular* independent special district is required to sit on the Sacramento County LAFCO.

Claimant argues that choosing the district via the independent special district selection committee is merely a mechanism by which the members are selected.⁸² “[A]nd, use of this mechanism does not change the mandatory language of the statute that ensures that two special districts must be members of the LAFCO.”⁸³

The Department of Finance states that, in the event a district is chosen by the selection committee, “[a] district may lawfully decline to sit as a member of its LAFCO.”⁸⁴ In response, claimant argues that “[e]ven if each district in turn makes the voluntary decision not to participate, eventually some district will be forced to become a member,” which amounts to legal compulsion.⁸⁵

The Commission finds that section 56326.5, subdivision (d), constitutes a state mandate. Since the independent special district selection committee selects the members, there is discretion at the local level as to which independent special districts will be selected to serve on the LAFCO. And there are no statutory requirements stating that a chosen independent special district must actually sit as a member of the LAFCO or participate in LAFCO proceedings. Nevertheless, the Commission finds the plain language of the test claim statute legally compels two independent special districts in Sacramento County to be represented on the LAFCO, regardless of which two are selected.

The legislative history for Statutes 1991, chapter 439, indicates that the Sacramento County LAFCO chose to add independent special district representatives⁸⁶ *prior to* enactment of the test claim statute.⁸⁷ However, Government Code section 17565 addresses this issue:

If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the

⁸¹ <http://www.saclafco.org/>.

⁸² Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 2.

⁸³ *Ibid.*

⁸⁴ Letter from Connie Squires, Program Budget Manager, Department of Finance, submitted July 18, 2003, page 2.

⁸⁵ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 2.

⁸⁶ Pursuant to Government Code section 56332, which establishes the independent special district selection committee and sets forth its operating procedures.

⁸⁷ Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis for AB 748, June 18, 1991, page 1.

local agency or school district for those costs incurred after the operative date of the mandate.

Thus, the prior voluntary action of the Sacramento County LAFCO to include independent special district representation on its LAFCO does not preclude a state-mandate finding for the activity.

Moreover, the new requirement of having independent special district representation on the Sacramento LAFCO provides an enhanced service to the public by improving the process for ensuring orderly growth and development in Sacramento County, efficiently extending governmental services and ensuring fair representation of special districts in those processes.⁸⁸ Therefore, this activity mandates a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

Therefore, the Commission finds that Government Code section 56326.5, subdivision (d), requiring two representatives of independent special districts to be Sacramento County LAFCO members, mandates a "new program or higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

Independent Special Districts' Costs to Fund LAFCOs (Gov. Code, §§ 56381 and 56381.6)

Government Code section 56381, subdivision (b)(1)(A), as added by Statutes 2000, chapter 761, provides that in counties in which there is a city and independent special district representation on the LAFCO, the county, cities, and independent special districts are required to pay a one-third share of the LAFCO's operational costs.⁸⁹ Section 56381.6 establishes how those costs are apportioned among classes of public agencies for certain LAFCOs, including the Sacramento County LAFCO, but allows for an alternative cost apportionment by the affected LAFCOs.

The Commission finds that LAFCOs with independent special district representation pursuant to their discretionary authority in Government Code sections 56325, 56332, and 56332.5, have made a discretionary decision to include special districts on the LAFCO. As a consequence, the requirement for districts to pay a proportionate share of costs for funding the LAFCO pursuant to sections 56381 and 56381.6 flows from that initial local discretionary decision and does not impose a state-mandated new program or higher level of service.⁹⁰

The Commission further finds that sections 56381 and 56381.6 require independent special districts in counties that are required to have independent special districts on the LAFCO to pay their proportionate share of costs for funding the LAFCO. These are the LAFCOs in Los Angeles County (section 56326), San Diego County (section 56328) and Sacramento County (56326.5).

The Commission finds, however, that Government Code sections 56381 and 56381.6 do not mandate a new program or higher level of service on these independent special districts. The

⁸⁸ Government Code sections 56001, 56301 and 56326.5.

⁸⁹ If the county has no cities, then the county and independent special districts each pay a one-half share of the LAFCO's budget. (Gov. Code, § 56381, subd. (b)(3).)

⁹⁰ *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 743 (citing *City of Merced*, *supra*, 153 Cal.App.3d 777).

plain language of sections 56381 and 56381.6 does not require independent special districts to engage in any activity or task. Moreover, as described below these statutes do not shift fiscal responsibility from the *state* to independent special districts.

In the case of *Lucia Mar*, the Supreme Court recognized that a “new program or higher level of service” within the meaning of article XIII B, section 6 could include a shift in costs from the state to a local entity for a required program.⁹¹ As of November 3, 2004, Article XIII B, section 6, subdivision (c), also requires reimbursement when the Legislature transfers from the state to local agencies “complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.”

However, the cost shift here is not from the *state* to the districts but from the *county* to the districts. Since 1963, prior to adoption of article XIII B, section 6, counties have been responsible for providing the entire budget for LAFCOs.⁹² The Sixth District Court of Appeal in *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, specifically addressed the issue of a cost shift among local agencies. In that case, the test claim statutes authorized counties to charge cities and other local agencies the costs of booking into county jails persons who had been arrested by employees of the cities or local agencies.⁹³ The court rejected the City’s reliance on the holding of *Lucia Mar*, stating:

The flaw in City’s reliance on *Lucia Mar* is that in our case the shift in funding is not from the State to the local entity but from county to city. In *Lucia Mar*, prior to the enactment of the statute in question, the program was funded and operated entirely by the state. Here, however, at the time [the test claim statute] was enacted, and indeed long before that statute, the financial and administrative responsibility associated with the operation of county jails and detention of prisoners was borne entirely by the county.⁹⁴

The City of San Jose also unsuccessfully argued that, although counties have traditionally borne those expenses, “they do so only in their role as agents of the State.”⁹⁵ However, the court noted that characterizing the county as an agent of the state “is not supported by recent case authority, nor does it square with definitions particular to subvention analysis.”⁹⁶ The court found it relevant to point out that fiscal responsibility for the program in question had

⁹¹ *Lucia Mar*, *supra*, 44 Cal.3d 830, 836.

⁹² Former Government Code sections 54771 (Stats. 1963, ch.1810), 54776 (Stats. 1965, ch.587), and 54776.1 (Stats. 1969, ch. 1301).

⁹³ *City of San Jose*, *supra*, 45 Cal.App.4th 1802, 1806.

⁹⁴ *Id.* at 1812.

⁹⁵ *Id.* at 1814.

⁹⁶ *Ibid.*

long rested with the county and not with the state.⁹⁷ In the instant case, counties have similarly had sole fiscal responsibility for LAFCOs since their inception.⁹⁸

With regard to definitions peculiar to subvention analysis, the *San Jose* court stated:

... [I]n analyzing a question involving reimbursement under section 6, the definitions contained in California Constitution, article XIII B and in the legislation enacted to implement it must be deemed controlling. Article XIII B treats cities and counties alike as "local government." Under section 8, subdivision (d), this term means "any city, county, city and county, school district, special district, authority or other political subdivision of or within the state." Furthermore, Government Code section 17514 defines "costs mandated by the state" to mean any increased costs that a "local agency" or school district is required to incur. "Local agency" means "any city, county, special district, authority, or other political subdivision of the state." (Gov. Code § 17518.) Thus for purposes of subvention analysis, it is clear that counties and cities were intended to be treated alike as part of "local government"; both are considered local agencies or political subdivisions of the State. Nothing in article XIII B prohibits the shifting of costs between local governmental entities.⁹⁹

Since the definitions for "local government" in the Constitution and "local agency" in the Government Code also include "special districts," the same principles apply to special districts. Therefore, a shift of funding from a county to a special district is likewise not subject to state subvention.

Claimant argues that *City of San Jose* is inapplicable in this instance because there is an increased level of service in the LAFCO which did not occur in the funding shift from the county to the City of San Jose.¹⁰⁰ Citing background language in the draft staff analysis regarding historical development of LAFCOs, claimant concludes that "the scope and authority of LAFCO has been expanding" and "the members of LAFCO have been providing an increasing higher level of service" which has resulted in new costs.¹⁰¹ Then claimant argues: "The fact that this higher level of service and associated costs have been spread amongst many new claimants is not relevant. The legislation required a higher level of service and then established the manner in which the costs from the services are to be paid."¹⁰²

The Commission finds claimant's argument inapposite for this test claim, since the assertion is that actual activities were imposed on the LAFCO, yet the LAFCO is not a claimant here. Only

⁹⁷ *Id.* at 1815.

⁹⁸ Former Government Code sections 54771 (Stats. 1963, ch.1810), 54776 (Stats. 1965, ch.587), and 54776.1 (Stats. 1969, ch. 1301).

⁹⁹ *City of San Jose, supra*, 45 Cal.App.4th 1802, 1815.

¹⁰⁰ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 4.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

independent special districts are represented in this test claim. Thus, the Commission has no jurisdiction to make any findings with regard to the assertion that a new program or higher level of service was imposed on LAFCOs. Moreover, as previously noted, Government Code sections 56381 and 56381.6 do not impose any actual activities on *special districts*. The cases are clear that increasing costs of providing services cannot be equated with requiring an increased level of service under a section 6 analysis,¹⁰³ and no activities are imposed on special districts in relation to their share of funding the LAFCO.

Thus, the only alternative to finding a new program or higher level of service for affected special districts is under the cost-shift analysis established in *Lucia Mar* and *City of San Jose*, and article XIII B, section 6, subdivision (c). Under this alternative, the test for determining whether a new program or higher level of service was imposed centers upon whether the state or the local agency previously had primary responsibility for the program.¹⁰⁴ Here, LAFCO operations have been funded by the counties since 1963. Therefore, the primary holding of *City of San Jose* is directly on point for this analysis: "Nothing in article XIII B prohibits the shifting of costs between local governmental entities."¹⁰⁵

Accordingly, any independent special district's share of costs to fund the LAFCO pursuant to Government Code sections 56381 and 56381.6 does not mandate a "new program or higher level of service" within the meaning of article XIII B, section 6.

Costs Paid to LAFCO for Reviewing District's Component of Municipal Service Review

There is no requirement in statute, nor is there any other evidence in the record, to support claimant's assertion that Sacramento County independent special districts are required by the state to pay the LAFCO for reviewing the district's component of the municipal service review. Any such requirement would have been established by the LAFCO itself, not the state via the test claim statutes. Therefore, the alleged costs do not result from a state-mandated "new program or higher level of service" within the meaning of article XIII B, section 6.

Gather and Provide Information to the LAFCO for Sphere of Influence Review and Municipal Service Review (Gov. Code, §§ 56425, 56426.5 and 56430; Municipal Service Review Guidelines and Appendices)¹⁰⁶

Claimant asserts that various activities are required of independent special districts when the LAFCO conducts a sphere of influence review or a municipal service review, as set forth in Government Code sections 56425, 56426.5 and 56430, as well as the Municipal Service Review Guidelines and Appendices, resulting in a reimbursable state-mandated program being imposed on independent special districts. However, the Commission finds that, with one

¹⁰³ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 876-877 (citing *City of Richmond v. Commission on State Mandates* (1998) 64 Cal.App.4th 1190).

¹⁰⁴ *City of San Jose*, *supra*, 45 Cal.App.4th 1802, 1813.

¹⁰⁵ *Id.* at 1815.

¹⁰⁶ Claimant mentioned Government Code section 56820.5 in the narrative section of the test claim with regard to information the LAFCO requires of districts. However, claimant did not specifically plead the section, and, therefore, the Commission makes no findings with regard to it.

exception addressed below, the claimed activities are *not* imposed on independent special districts, but rather on the *LAFCO* itself. Moreover, as discussed further below, the Municipal Service Review Guidelines and Appendices, to the extent that they do address special districts, do not meet the definition of “executive order” found in Government Code section 17516, since they do not “order” special districts to do anything.

Government Code section 56425:

Government Code section 56425, subdivision (f), as enacted by the test claim statutes, states the following:

- (f) Upon determination of a sphere of influence, the [LAFCO] shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years.

Pre-existing law required LAFCOs to “develop and determine the sphere of influence of each local governmental agency within the county”¹⁰⁷ and, upon determination of a sphere of influence, the LAFCO was required to adopt the sphere and periodically review and update the adopted sphere.¹⁰⁸ Although this review must now occur every five years, it is the *LAFCO* that is required to review and update the sphere of influence. Thus, the plain language of this provision does not mandate any activities on independent special districts.

Government Code section 56425, subdivision (h),¹⁰⁹ as enacted by the test claim statutes, states the following:

- (h) For any sphere of influence or a sphere of influence that includes a special district, the [LAFCO] shall do all of the following:
- (1) *Require existing districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts.*
 - (2) Establish the nature, location, and extent of any functions or classes of service provided by existing districts.
 - (3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the LAFCO. (Emphasis added.)

Based on the plain language of this provision, only subdivision (h)(1) imposes a state-mandated requirement for LAFCOs to require *special districts* to file written statements with the LAFCO specifying the functions or classes of service provided by the districts. The plain language of subdivisions (h)(2) and (h)(3) does not mandate any activities on independent special districts.

The prior law authorized LAFCOs to adopt, amend or repeal regulations affecting the functions and services of special districts, including the ability to enact regulations to require existing

¹⁰⁷ Government Code section 56425, subdivision (a), as enacted by Statutes 1985, chapter 541.

¹⁰⁸ Government Code section 56425, subdivision (b), as enacted by Statutes 1985, chapter 541.

¹⁰⁹ Government Code section 56425, subdivision (h), as enacted by Statutes 2000, chapter 761, subsequently renumbered to section 56425, subdivision (i), by Statutes 2005, chapter 347.

districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts.¹¹⁰ Because of this prior law, the Department of Finance states that LAFCOs had pre-existing statutory authority to require information of local agencies. The Commission agrees, but notes that *having authority* to require the information be provided by existing districts is not the same as *being required* to require the information. The pre-existing statutory authority gave LAFCOs discretion as to whether to enact regulations to require the information. Here, as a result of enacting subdivision (h)(1), it is the *state* that has made the decision to require the LAFCO to require existing districts to provide the information.¹¹¹

Hence, the activity of an independent special district filing written statements to the LAFCO, which specify the functions or classes of service provided by the district, is state-mandated. The activity was authorized but not required by the pre-existing statutory scheme. Furthermore, the activity provides an enhanced service to the public by improving the process for ensuring orderly growth and development in California, efficiently extending governmental services,¹¹² and advantageously providing for the present and future needs of the county and its communities.¹¹³ Therefore, this activity mandates a “new program or higher level of service” within the meaning of article XIII B, section 6 of the California Constitution.

In comments on the draft staff analysis, the claimant requested clarification as to whether the requirement to provide information under Government Code section 56425, subdivision (h)(1), includes *updates* that are necessary for the reviews by the LAFCO under subdivision (f).¹¹⁴ As modified by the test claim statutes,¹¹⁵ subdivision (f) stated:

Upon determination of a sphere of influence, the [LAFCO] shall adopt that sphere, and shall, as necessary, *review and update* the adopted sphere not less than once every five years. (Emphasis added.)

Since subdivision (f) required the LAFCO to adopt, and review and update spheres of influence, the question is whether the spheres of influence identified in subdivision (h), i.e., “any sphere of influence” or “a sphere of influence that includes a special district,” include updates to the identified spheres of influence.

In statutory construction cases, the fundamental task is to determine the Legislature’s intent so as to effectuate the purpose of the statute.¹¹⁶ The first step is to examine the statutory

¹¹⁰ Government Code section 56451, subdivision (b), as enacted by Statutes 1985, chapter 541.

¹¹¹ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at 880, found that a provision in the Education Code constituted a state mandate, “in that it establishes conditions under which the state, rather than local officials, has made the decision requiring a school district to incur the costs ...”

¹¹² Government Code sections 56001 and 56301.

¹¹³ Government Code section 56425, subdivision (a).

¹¹⁴ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 5.

¹¹⁵ Statutes 2000, chapter 761.

¹¹⁶ *Estate of Griswold* (2001) 25 Cal.4th 904, 910 (citing *Day v. City of Fontana* (2001) 25 Cal.4th 268, 272.).

language, "giving the words their usual and ordinary meaning," and if the terms of the statute are unambiguous, it is presumed the lawmakers meant what they said and the plain meaning of the language governs.¹¹⁷ However, if there is ambiguity in the plain language the inquiry must go further to extrinsic sources, including the objects to be achieved and the legislative history.¹¹⁸ In that case, courts must select the construction that "comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences."¹¹⁹

Here, "any" sphere of influence, given its ordinary meaning in this context would include "one or another [sphere of influence] without restriction or exception."¹²⁰ Thus, "any sphere of influence" would include updated spheres of influence, since updated spheres of influence are a type of sphere of influence contemplated by the statute pursuant to subdivision (f).

Furthermore, "a sphere of influence that includes a special district" must also be updated pursuant to subdivision (f), since nothing in the statute excludes such a sphere of influence from the requirement for updating. Therefore, "a sphere of influence that includes a special district" likewise includes *updated* spheres of influence.

The time frame for the above requirements is limited, however, because section 56425 was changed the following year. Statutes 2001, chapter 667,¹²¹ narrowed the spheres of influence affected by the requirements of subdivision (h). The 2001 statute replaced "any sphere of influence or a sphere of influence that includes a special district" with "a sphere of influence for a special district." Thus, beginning January 1, 2002, the subdivision (h)(1) requirement – that LAFCOs require special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts – is *only* applicable when LAFCOs adopt or update a sphere of influence for a special district, and not any other sphere of influence.

Therefore, for the six-month period of July 1, 2001, through December 31, 2001, Government Code section 56425, subdivision (h)(1), mandates a new program or higher level of service for independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts for any sphere of influence or sphere of influence that included a special district, including any *update* to a sphere of influence or any *update* to a sphere of influence that included a special district. On and after January 1, 2002, subdivision (h)(1) mandates a new program or higher level of service for independent special districts to file written statements to the LAFCO specifying the functions or classes of service provided by the districts, but only when LAFCOs adopt or update *a sphere of influence for a special district*.

¹¹⁷ *Id.* at 911

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ Webster's II New College Dictionary (1999) page 51, column 2.

¹²¹ This statute was not pled by claimant.

Government Code section 56426.5:

Although the claimant pled Government Code section 56426.5, the statutes that added and amended it were not pled. Section 56426.5 was added by Statutes 1989, chapter 1384, and repealed and added again in Statutes 2002, chapter 614. Therefore, the Commission does not have jurisdiction to make any findings with regard to it.

Government Code section 56430:

Section 56430, as enacted by the test claim statutes, addresses developing and updating the sphere of influence, and states the following:

(a) In order to prepare and to update spheres of influence in accordance with section 56425, the [LAFCO] shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the [LAFCO]. The [LAFCO] shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Infrastructure needs or deficiencies.
- (2) Growth and population projections for the affected area.
- (3) Financing constraints and opportunities.
- (4) Cost avoidance opportunities.
- (5) Opportunities for rate restructuring.
- (6) Opportunities for shared facilities.
- (7) Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
- (8) Evaluation of management efficiencies.
- (9) Local accountability and governance.

(b) In conducting a service review, the [LAFCO] shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) The [LAFCO] shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5 or to update a sphere of influence pursuant to Section 56425.

...

The plain language of this section does not mandate any activities on independent special districts.

Municipal Service Review Guidelines and Appendices:

With regard to the Municipal Service Review Guidelines and Appendices, as the Department of Finance notes, these documents do not have the force of law. Government Code section 17516 defines executive order as "any order, plan, requirement, rule or regulation" issued by the Governor, any officer or official serving at the pleasure of the Governor, or any

agency, department, board, or commission of state government. Government Code section 56430, subdivision (d), states:

(d) Not later than July 1, 2001, the Office of Planning and Research, in consultation with [LAFCOs], the California Association of Local Agency Formation Commissions, and other local governments, shall prepare guidelines for the service review to be conducted by [LAFCOs] pursuant to this section.

The Executive Summary of the Guidelines states the following:

Existing law requires OPR to prepare guidelines, not regulations. This document should therefore be considered advisory and not regulatory. ...

This document provides general guidance. LAFCOs may need to modify these recommendations to reflect local conditions, circumstances and types of services which are being reviewed. ...

Throughout the Guidelines, OPR has identified those actions which are required by law and those where OPR recommends a particular process or policy when undertaking the municipal service review.

The Guidelines do not order independent special districts to engage in any activities. The Appendices to the Municipal Service Review support the Guidelines and likewise do not order special districts to engage in any activities. Thus, the Guidelines and Appendices are not "executive orders" pursuant to Government Code section 17516, and are not subject to article XIII B, section 6.

Claimant argues, however, that *all* activities necessary for independent special districts to cooperate with the LAFCO when it conducts a municipal service review should be reimbursed:

For LAFCO to "conduct service reviews of the municipal services provided in the county" and to "comprehensively review all of the agencies that provide ... services", it requires the co-operation of those entities. The participation of District in these reviews is not a voluntary act: It is mandated upon District as it is upon LAFCO. To hold otherwise is to void the purpose of the law.¹²²

Here, claimant is asserting that special districts are "practically compelled" – if not legally compelled – to cooperate with the LAFCO in providing information the LAFCO requests. The appropriate test for "voluntariness," according to claimant, is found in *San Diego Unified School Dist.*,¹²³ wherein the Supreme Court cautioned "there is reason to question an extension of the holding of *City of Merced* so as to preclude reimbursement ... whenever an entity makes an initial discretionary decision that in turn triggers mandated costs."¹²⁴ In that passage, the court referenced the case of *Carmel Valley Fire Protection Dist. v. State of California* (1987)

¹²² Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 5.

¹²³ Comments by Sacramento Metropolitan Fire District, submitted August 9, 2007, page 5 referencing pages 3-4.

¹²⁴ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 887.

190 Cal.App.3d 521, which found a reimbursable state mandate was created by an executive order that required county firefighters to be provided with protective clothing and safety equipment.¹²⁵ The *San Diego* court theorized that, because the local agency possessed discretion concerning how many firefighters it would employ and could in that sense control costs, a strict application of the *City of Merced* rule could foreclose reimbursement in such a situation “for the simple reason that the local agency’s decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc.”¹²⁶ The court found it “doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result...”¹²⁷

The Commission finds, however, the *San Diego Unified School Dist.* citation is not on point. The *Carmel Valley* case involved actual legal compulsion for fire districts to provide fire safety equipment; the *San Diego* court warned prohibiting reimbursement based on the original discretionary decisions by the fire district on how many firefighters to employ, which could theoretically control costs, would not likely carry out the intent of article XIII B, section 6. In this case there is neither an initial discretionary decision at issue, nor actual legal compulsion. It is the *LAFCO* that is required to conduct the service review and obtain the information, and in only one instance, set forth above, does the statute actually require anything of the independent special district.

Instead, the test here for practical compulsion lies with *Kern High School Dist.*, i.e., whether “certain or severe” penalties or other “draconian” consequences would result if the district failed to provide information that is not statutorily required to the LAFCO for municipal service reviews.¹²⁸ There is nothing in law or the record to indicate any such consequences would ensue if a special district does not provide all information requested by the LAFCO, nor is there anything in the record to indicate that all information must be obtained directly from the affected special district.

Summary:

The following statutes mandate a “new program or higher level of service” in an existing program on independent special districts that are subject to the tax and spend limitations in article XIII A and article XIII B:

1. Two representatives of independent special districts selected by the independent special district selection committee must be members of the Sacramento County LAFCO (Government Code section 56326.5, subdivision (d)).
2. File written statements to the LAFCO, when required by the LAFCO, specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

¹²⁸ *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 751.

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

(Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1).)

Issue 3: Do Government Code sections 56326.5, subdivision (d), and 56425, subdivision (h)(1), impose “costs mandated by the state” within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514?

For these statutes to impose a reimbursable, state-mandated program, two additional elements must be satisfied. First, the statutes must impose “costs mandated by the state” pursuant to Government Code section 17514. Second, the statutory exceptions to reimbursement listed in Government Code section 17556 cannot apply.

Government Code section 17514 defines “costs mandated by the state” as any increased cost a local agency is required to incur as a result of a statute that mandates a new program or higher level of service. The claimant alleged in the test claim:

The Sacramento Metropolitan Fire District does not have the total estimate of costs for discharging this program. However, the claimant is informed and believes that with the enactment of Chapter 761, Statutes of 2000, it cost between \$20,000 to \$30,000 to defray its portion of the LAFCO’s annual budget, and it is estimated that because of the changes wrought by Chapter 493, Statutes of 2002, it will cost between \$50,000 and \$80,000 per year to so fund. Regarding the municipal services review, the LAFCO has indicated it will charge the claimant upwards of \$5,000 to review its component, and it will cost the claimant in excess of \$20,000 to provide the information required to the LAFCO.

Thus, there is evidence in the record, signed under penalty of perjury, that there are increased costs for the activities mandated by Government Code section 56425, subdivision (h)(1) – providing specified information to the LAFCO as required by the LAFCO for specified sphere of influence reviews.

However, there is *no* evidence in the record that there are increased costs for the activities mandated by Government Code section 56326.5, subdivision (d) – representation by two independent special districts on the Sacramento County LAFCO. The test claim citation above alleging estimated costs does not reference the 1991 test claim statute. And, even if costs are subsequently alleged, Government Code section 56334 provides that members and alternates are reimbursed by the LAFCO for their actual reasonable and necessary expenses:

[LAFCO] members and alternates shall be reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office. The [LAFCO] may authorize payment of a per diem to [LAFCO] members and alternates for each day while they are at meetings of the [LAFCO].

Therefore, the Commission finds Government Code section 56326.5, subdivision (d), does not impose "costs mandated by the state" pursuant to Government Code section 17514 and no reimbursement is required.

With regard to the activities mandated by Government Code section 56425, subdivision (h)(1), for the reasons stated below, the Commission finds that none of the statutory exceptions to reimbursement listed in Government Code section 17556 are applicable to deny reimbursement for these activities.

The Department of Finance states that LAFCOs have existing fee authority that may be used to cover their operating costs. The Department further states that, to the extent that LAFCOs elect to make use of this authority, LAFCO members would be relieved of the need to contribute toward the LAFCO's annual budget.

Government Code section 17556 states that:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency ..., if, after a hearing, the commission finds that:

... (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

Government Code section 56383 allows *LAFCOs* to establish a schedule of fees for the *costs of proceedings* such as filing and processing applications filed with the LAFCO, proceedings undertaken by the LAFCO and any reorganization committee, amending a sphere of influence or reconsidering a resolution. LAFCOs, however, are not represented in this claim, and the state-mandated program is imposed on independent special districts. Moreover, section 56383, subdivision (b), prohibits the schedule of fees from exceeding "the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016."¹²⁹ Thus, authority for charging fees under section 56383 for *costs of proceedings* does not equate to authority for charging fees to cover *operating costs*. Instead, Government Code section 56381 establishes the funding mechanisms for LAFCO's operating costs, i.e., one third from counties, one third from cities, and one third from special districts. Thus, the LAFCO's fee authority under section 56383 is not designed to pay for the mandated program and therefore is not "sufficient to pay for the mandated program or increased level of service" pursuant to section 17556, subdivision (d).

Although many independent special districts, including Sacramento Metropolitan Fire District, have fee authority for specified purposes as well as the ability to levy special taxes,¹³⁰ the

¹²⁹ Government Code section 66016 requires local agencies to hold a public meeting prior to levying a new fee or service charge or increasing an existing fee or service charge, and the fees or service charges cannot exceed the estimated amount required to provide the service for which the service charge or fee is levied.

¹³⁰ Although some districts have the ability to levy special taxes, article XIII B was "intended to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues... [and] requires subvention only when the costs in question can be recovered solely from tax revenues." (*County of Fresno v. State of California* (1991))

question here is whether the claimant has authority to levy service charges or fees that can be used to pay for the mandated activity of filing written statements to the LAFCO specifying the functions or classes of service provided by the district, and, if so, whether those fees are sufficient to pay for that mandated activity.

The authority to charge fees or service charges varies by special district, and fire districts have authority to charge fees for "any service which the district provides or the cost of enforcing any regulation for which the fee is charged"¹³¹ in addition to other specified fees.¹³² These fees are likewise limited, however, to the costs of providing the specified services.¹³³ More importantly, there are no fees authorized specifically for the *purpose* of the mandated activity of filing written statements to the LAFCO under Government Code section 56425, subdivision (h)(1). Therefore, section 17556, subdivision (d) is not applicable to deny the test claim.

CONCLUSION

The Commission finds that Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)), constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6, and Government Code section 17514, in that it requires independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

Only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

The Commission concludes that Government Code section 56001 declares legislative findings and is helpful to interpret the test claim statutes, but does not mandate any activities. The Commission further concludes that Government Code sections 56326.5, 56381, 56381.6, 56425 (except subdivision (h)(1), subsequently renumbered to subdivision (i)(1)), 56426.5, and 56430, and the Municipal Service Review Guidelines and Appendices developed by OPR, as

53 Cal.3d 482, 487, in determining the constitutionality of Government Code section 17556, subdivision (d).) Therefore, any special taxes that can be levied by the special district are protected by article XIII B, whereas fees or service charges for specified purposes are not.

¹³¹ Health and Safety Code section 13916, subdivision (a).

¹³² Health and Safety Code sections 13143.5, 13146, 13146.2 and 13869.7.

¹³³ Health and Safety Code section 13916, subdivision (a) states in relevant part: "No fee shall exceed the costs reasonably borne by the district in providing the service or enforcing the regulation for which the fee is charged." See also Health and Safety Code sections 13143.5, 13146 and 13869.7 for similar limitations.

pled, along with any other test claim statutes, alleged executive orders, guidelines and allegations not specifically approved above, do not mandate a new program or higher level of service subject to article XIII B, section 6.

169 Cal.App.3d 301
 169 Cal.App.3d 301, 215 Cal.Rptr. 14, Med & Med GD (CCH) P 34,844
 (Cite as: 169 Cal.App.3d 301)

▷ Department of Health Services v. Fontes
 Cal.App. 1 Dist., 1985.

Court of Appeal, First District, Division 3, California.
 DEPARTMENT OF HEALTH SERVICES, Plaintiff
 and Respondent,

v.

Edward J. FONTES, as Executor, etc., Defendant and
 Appellant.
 A028019.

May 13, 1985.

Review Denied July 31, 1985.

Executor of Medi-Cal recipient's estate appealed from judgment of the Superior Court, Santa Clara County, Peter Stone, J., requiring the estate to reimburse the Department of Health Services for Medi-Cal benefits received by decedent. The Court of Appeal, Scott, J., held that the Department was authorized by statute to claim reimbursement for benefits received before effective date of the statute.

Affirmed.

West Headnotes

[1] Statutes 361 ↪ 278.7

361 Statutes

361VI Construction and Operation
361VI(D)Retroactivity

361k278.7 k. Express Retroactive Provisions. Most Cited Cases
 (Formerly 361k263)

Statutes 361 ↪ 278.5

361 Statutes

361VI Construction and Operation
361VI(D)Retroactivity

361k278.4 Prospective Construction
361k278.5 k. In General. Most Cited

Cases

(Formerly 361k263)

Unless Legislature has clearly expressed an intention

that a statute be applied retroactively, that statute must be given prospective application only.

[2] Statutes 361 ↪ 278.2

361 Statutes

361VI Construction and Operation

361VI(D)Retroactivity

361k278.2 k. Nature and Scope. Most Cited

Cases

(Formerly 92k188)

A statute is not retroactive in its application merely because it draws upon antecedent facts for its operation; ultimate test is whether the statute as applied changes legal effect of past transactions.

[3] Statutes 361 ↪ 278.9

361 Statutes

361VI Construction and Operation

361VI(D)Retroactivity

361k278.9 k. Statutes Affecting Vested

Rights. Most Cited Cases

(Formerly 92k190)

Statutes 361 ↪ 278.5

361 Statutes

361VI Construction and Operation

361VI(D)Retroactivity

361k278.4 Prospective Construction

361k278.5 k. In General. Most Cited

Cases

(Formerly 92k191)

Application of a statute which changes existing rights would be "retroactive" because legal effects of past events would be changed, but a statute's application which merely affects procedures to be followed in the future is "prospective" because it does not deprive a person of any right which he or she had prior to effective date of the statute.

[4] Statutes 361 ↪ 278.31

361 Statutes

361VI Construction and Operation

361VI(D)Retroactivity

361k278.24 Validity of Particular
Retroactive Statutes

361k278.31 k. Wills, Estates, and
Trusts. Most Cited Cases
(Formerly 92k190)

Statutes 361 ↪ 278.37

361 Statutes

361VI Construction and Operation

361VI(D) Retroactivity

361k278.24 Validity of Particular
Retroactive Statutes

361k278.37 k. Government Benefits.

Most Cited Cases

(Formerly 92k190)

Health 198H ↪ 456

198H Health

198HIII Government Assistance

198HIII(A) In General

198Hk452 Constitutional and Statutory
Provisions

198Hk456 k. Retroactive Operation.

Most Cited Cases

(Formerly 356Ak241.70)

Health 198H ↪ 494

198H Health

198HIII Government Assistance

198HIII(B) Medical Assistance in General;
Medicaid

198Hk490 Recovery Back or Recoupment
of Payments

198Hk494 k. Estate of Aid Recipient,
Recovery From. Most Cited Cases

(Formerly 356Ak241.70)

Section 14009.5 of the Welfare and Institutions Code
authorized the Department of Health Services to
claim reimbursement for Medi-Cal benefits from
estate of a Medi-Cal recipient who died after but who
received benefits before effective date of the statute;
such application had no impermissibly retroactive
effect because it did not affect any existing rights.
West's Ann.Cal.Welf. & Inst.Code § 14009.5.

**14*303 Machado & Machado, Robert A.
Machado, San Jose, for defendant and appellant.

John K. Van de Kamp, State Atty. Gen., Charlton G.
Holland, Catherine M. Van Aken, Dep. Attys. Gen.,
San Francisco, for plaintiff and respondent.
SCOTT, Associate Justice.

The sole question in this appeal is whether
Welfare and Institutions Code section 14009.5^{FN1}
authorizes respondent Department of Health Services
to claim reimbursement for Medi-Cal benefits from
the estate of a Medi-Cal recipient, when the recipient
died after the effective date of the statute, but the
benefits were received before the effective date of the
statute.

FN1. Unless otherwise indicated, all
statutory references are to the Welfare and
Institutions Code.

The facts here are not in dispute, Evelyn Fontes
received \$20,501.01 in Medi-Cal benefits from May
1, 1977, to June 28, 1981, and \$3,402.02 in Medi-Cal
benefits from June 28, 1981, until her death on
November 16, 1981. Then respondent filed a
creditor's claim against the Fontes estate for
\$23,903.03, the total amount of Medi-Cal benefits
received by the decedent. This claim was rejected by
appellant executor of the estate and the present action
was filed by respondent to enforce that claim. The
**15 trial court granted summary judgment in
respondent's favor; this appeal followed.

Section 14009.5 was enacted effective June 28,
1981. (Stats.1981, ch. 102, § 101, p. 738; amended
by Stats.1981, ch. 1163, § 3, pp. 4654-4655, eff. Oct.
2, 1981.) It created a right in respondent to claim
against *304 the estates of Medi-Cal recipients an
amount equal to payments for health care services
received; except where the recipient was under age
65 when services were received or where there is a
surviving spouse or a blind, disabled, or minor
surviving child.

Respondent claims that all Medi-Cal benefits,
whenever received, are subject to this legislation
where the recipient dies, and the estate comes into
existence, after the effective date of the statute.
Appellant contends that only Medi-Cal benefits
received after the effective date of the statute are
subject to the claim for reimbursement.

[1] "The construction of a statute by the officials
charged with its administration must be given great

weight." (*Worthington v. Unemployment Ins. Appeals Bd.* (1976) 64 Cal.App.3d 384, 389, 134 Cal.Rptr. 507.) But unless the Legislature has clearly expressed an intention that a statute be applied retroactively, that statute must be given prospective application only. (*DiGenova v. State Board of Education* (1962) 57 Cal.2d 167, 172-174, 18 Cal.Rptr. 369, 367 P.2d 865.) In this instance, the Legislature did not express any intention to make this statute retroactive. Therefore, the question before us is whether application of section 14009.5 to benefits received before the effective date of the statute, claimed from an estate which arose after the effective date of the statute, constitutes an unauthorized retroactive application.

[2][3] A statute is not retroactive in its application merely because it draws upon antecedent facts for its operation. (*Burks v. Poppy Construction Co.* (1962) 57 Cal.2d 463, 474, 20 Cal.Rptr. 609, 370 P.2d 313; *Gordon H. Ball, Inc. v. State of California ex rel. Dept. Pub. Wks.* (1972) 26 Cal.App.3d 162, 168, 102 Cal.Rptr. 637.) The "ultimate test" is whether the statute as applied changes the legal effect of past transactions. (*Coast Bank v. Holmes* (1971) 19 Cal.App.3d 581, 595, 97 Cal.Rptr. 30; *Aetna Cas. & Surety Co. v. Ind. Acc. Com.* (1947) 30 Cal.2d 388, 394, 182 P.2d 159.) Application of a statute which changes existing rights would be retroactive because the legal effects of past events would be changed. (*Aetna Cas. & Surety Co., supra*, at p. 394, 182 P.2d 159; *Perry v. Heavenly Valley* (1985) 163 Cal.App.3d 495, 503-504, 209 Cal.Rptr. 771.) But a statute's application which merely affects procedures to be followed in the future, is prospective because it does not deprive a person of any right which he or she had prior to the effective date of the statute. (*Perry, supra*, at p. 504, 209 Cal.Rptr. 771; *Hogan v. Ingold* (1952) 38 Cal.2d 802, 812, 243 P.2d 1.)

In this case, appellant concedes that section 14009.5 did not impose any liability on the Medi-Cal recipient, but contends that it unconstitutionally impaired a contract for receipt of those benefits. (*305Cal. Const. art. I, § 9.) However, section 14002 expressly provides that no Medi-Cal recipient shall have any claim for compensation or otherwise because his or her service is affected in any way by any amending, repealing, or supplemental legislative act. There is, therefore, no contractual right to those benefits.

This statute merely affected the distribution of a Medi-Cal recipient's estate. Testamentary disposition, as well as intestate succession, is a creature of statute and is controlled by the law in effect as of the date of the death. (*Estate of Phillips* (1928) 203 Cal. 106, 109-110, 263 P. 1017; *Estate of Barton* (1925) 196 Cal. 508, 514, 238 P. 681; *Estate of Carlson* (1970) 9 Cal.App.3d 479, 481, 88 Cal.Rptr. 229.) Therefore, any right which the Medi-Cal recipient had in the disposition of her estate was *defined*, in part, by section 14009.5, in effect at the time of her death. Moreover, this statute did not affect any existing rights held by the Medi-Cal recipient's estate because such an entity did not even **16 come into existence until the time of her death.

[4] The application of this statute to estates which arose after its effective date did not affect any existing rights and accordingly, had no impermissibly retroactive effect, even where the benefits had been received prior to its effective date. Appellant's contentions to the contrary are unpersuasive.

Judgment is affirmed.

WHITE, P.J., and MERRILL, J., concur.
Cal.App. 1 Dist., 1985.
Department of Health Services v. Fontes
169 Cal.App.3d 301, 215 Cal.Rptr. 14, Med & Med
GD (CCH) P 34,844

END OF DOCUMENT

Tapia v. Superior Court (People)
 Cal., 1991.

Supreme Court of California, In Bank.
 Robert Alan TAPIA, Petitioner,

v.

SUPERIOR COURT of Tulare County, Respondent;
 The PEOPLE, Real Party in Interest.
 No. S016614.

April 1, 1991.

Defendant was charged with first-degree No. 27650, murder with special circumstances. The Superior Court, Tulare County, Robert C. Van Auken, J., ruled that it would conduct voir dire under Proposition 115, the "Crime Victim's Justice Reform Initiative." Defendant petitioned for writ of mandate. The Court of Appeal summarily denied relief. Review was granted, superseding opinion of the Court of Appeal. The Supreme Court, Panelli, J., held that provisions of Proposition 115 addressing conduct of trials and changing law to benefit of defendants applied to prosecutions of crimes committed before measure's effective date, but remainder of its provisions did not.

Alternative writ discharged; Court of Appeal judgment affirmed.

Mosk, J., dissented and filed opinion.

Broussard, J., dissented and filed opinion.

West Headnotes

11 Statutes 361 ↪ 278.6

361 Statutes

361VI Construction and Operation

361VI(D) Retroactivity

361k278.4 Prospective Construction

361k278.6 k. Presumptions. Most Cited

Cases

(Formerly 361k263)

New statute is presumed to operate prospectively, absent express declaration of retrospectivity or clear

indication that electorate, or legislature, intended otherwise.

2 Constitutional Law 92 ↪ 2785

92 Constitutional Law

92XXIII Ex Post Facto Prohibitions

92XXIII(A) Constitutional Prohibitions in General

92k2785 k. Relationship to Retroactive Laws. Most Cited Cases
 (Formerly 92k199)

Criminal Law 110 ↪ 13.2

110 Criminal Law

110I Nature and Elements of Crime

110k12 Statutory Provisions

110k13.2 k. Retroactive Operation. Most Cited Cases

Law is "retrospective" if it defines past conduct as a crime, increases punishment for such conduct or eliminates defense to criminal charge based on such conduct, and application of such a law to past crimes violates constitutional rule against ex post facto legislation. U.S.C.A. Const. Art. 1, § 10, cl. 1; West's Ann. Cal. Const. Art. 1, § 9.

3 Criminal Law 110 ↪ 633(1)

110 Criminal Law

110XX Trial

110XX(B) Course and Conduct of Trial in General

110k633 Regulation in General

110k633(1) k. In General. Most Cited Cases

Law governing conducts of trials is being applied "prospectively" when it applied to trial occurring after law's effective date, regardless of when underlying crime was committed or when cause of action arose.

4 Assault and Battery 37 ↪ 55

37 Assault and Battery

37II Criminal Responsibility

37II(A) Offenses

37k55 k. Assault with Intent to Do Great Bodily Harm. Most Cited Cases

Criminal Law 110 ↪ 13.2

110 Criminal Law

110I Nature and Elements of Crime

110k12 Statutory Provisions

110k13.2 k. Retroactive Operation. Most Cited Cases

Homicide 203 ↪ 576

203 Homicide

203III Homicide in Commission of or with Intent to Commit Other Unlawful Act

203III(A) In General

203k576 k. Constitutional and Statutory Provisions. Most Cited Cases
(Formerly 203k8)

Homicide 203 ↪ 1564

203 Homicide

203XIV Sentence and Punishment

203k1561 Constitutional and Statutory Provisions

203k1564 k. Retroactive Operation. Most Cited Cases

(Formerly 203k351)

Provisions of Proposition 115, the "Crime Victim's Justice Reform Initiative," changing legal consequences of criminal behavior to detriment of defendants do not apply to prosecutions of crimes before June 6, 1990, the measure's effective date; applicable provisions add crimes to list of felonies supporting conviction of first-degree murder, add new special circumstances, provide that accomplice, for felony-murder special circumstance to be found true, must have been participant and have acted with reckless indifference to human life, provide that corpus delicti of felony-based special circumstance need not be proven independently of defendant's extrajudicial statement, subject persons between ages of 16 and 18 to penalty of life without possibility of parole for first-degree murder with special circumstances, define new crime of torture, and preclude judge from striking special circumstance that has been admitted or found to be true. West's

Ann.Cal.Penal Code §§ 189, 190.2, 190.2(d), 190.5, 190.41, 206, 206.1, 1385.1.

15] Criminal Law 110 ↪ 13.2

110 Criminal Law

110I Nature and Elements of Crime

110k12 Statutory Provisions

110k13.2 k. Retroactive Operation. Most Cited Cases

Criminal Law 110 ↪ 1005

110 Criminal Law

110XXIV Review

110XXIV(A) Nature and Form of Remedy

110k1005 k. Constitutional and Statutory Provisions. Most Cited Cases

Provisions of Proposition 115, the "Crime Victim's Justice Reform Initiative," addressing conduct of trials apply to prosecutions of crimes committed before measure's effective date of June 6, 1990; applicable provisions eliminate postindictment preliminary hearings, give People the right to due process and speedy trial, provide that Constitution shall not be construed to prohibit joinder, make hearsay evidence admissible at preliminary hearings and discovery reciprocal, reform voir dire and preliminary hearing procedures, provide that absence of cross admissibility is not a ground for severance, require appointment of counsel who is ready to proceed, provide that felony trials shall take place within 60 days of arraignment, authorize continuances to maintain joinder, reform discovery procedures and provide for reciprocal discovery, and provide for appellate review of trial dates and continuances. West's Ann.Cal. Const. Art. 1, §§ 14.1, 29, 30; West's Ann.Cal.C.C.P. § 223; § 223.5 (Repealed); West's Ann.Cal.Evid.Code § 1203.1; West's Ann.Cal.Penal Code §§ 859, 866, 871.6, 872, 954.1, 987.05, 1049.5, 1050.1, 1054-1054.7, 1511; §§ 1102.5, 1102.7, 1430 (Repealed).

16] Homicide 203 ↪ 1564

203 Homicide

203XIV Sentence and Punishment

203k1561 Constitutional and Statutory Provisions

203k1564 k. Retroactive Operation. Most

Cited Cases

(Formerly 203k351)

Provisions of Proposition 115, the "Crime Victim's Justice Reform Initiative," which clearly benefit only defendants, apply to prosecutions of crimes committed before measure's operative date of June 6, 1990; applicable sections provide that killing of prosecutor or judge, to constitute special circumstance, must be intentional and that accomplice, for nonfelony-murder special circumstance to be found true, must have had intent to kill. West's Ann.Cal.Penal Code § 190.2(a)(11, 12). (c).

[7] Homicide 203 1564

203 Homicide

203XIV Sentence and Punishment

203k1561 Constitutional and Statutory Provisions

-- 203k1564 k. Retroactive Operation. Most

Cited Cases

(Formerly 203k351)

Provision of Proposition 115, the "Crime Victim's Justice Reform Initiative," codifying case law to effect that actual killer, for special circumstance to be found true, need not have the intent to kill unless the applicable special circumstance specifically so requires does not change existing law and may be applied to crimes committed before Proposition's effective date of June 6, 1990. West's Ann.Cal.Penal Code §§ 3, 190.2(b).

***593*286**435 Neal Pereira, Public Defender, Tim Bazar, Asst. Public Defender, and Hugo Loza, Visalia, for petitioner.

John T. Philipsborn, San Francisco, Quin Denvir, Tito Gonzales, Michael E. Cantrall, Sacramento, Linda F. Robertson, Burlingame, Thomas Havlena, Santa Ana, and Jean R. Sternberg, San Francisco, as amici curiae on behalf of petitioner.

No appearance for respondent.

John K. Van de Kamp, Daniel E. Lungren, Attys. Gen., Richard B. Iglehart, Chief Asst. Atty. Gen., Arnold O. Overoye, Asst. Atty. Gen., J. Robert Jibson, Ward Campbell and Karen L. Ziskind, Deputy Attys. Gen., for real party in interest.

Patricia Toole Castle, Deputy Dist. Atty., as amicus curiae on behalf of real party in interest.

PANELLI, Justice.

Proposition 115, the "Crime Victims Justice

Reform Act," changed criminal law in several respects on June 6, 1990. We granted review to determine whether the measure's provisions should be applied to prosecutions of crimes committed before its effective date. We conclude that certain provisions addressing the conduct of trials, and certain other provisions changing the law to the benefit of defendants, may be applied to such prosecutions. The remainder of the measure's provisions may not.

FACTS

The People have accused petitioner Robert Alan Tapia of committing first degree murder with special circumstances on February 12, 1989. The prosecution is pending in the Superior Court of Tulare County. Voir dire has not yet commenced.

Proposition 115 took effect on June 6, 1990, the day after the voters approved the measure. Shortly thereafter, the superior court ruled that it would apply the measure's procedural provisions to the case before it and, accordingly, conduct voir dire under the new statute. The new voir dire statute provides that the court rather than the attorneys "shall conduct the examination of prospective jurors" and that the examination "shall be conducted*287 only in ***594 aid **436 of the exercise of challenges for cause." (Prop. 115, § 7, codified as Code Civ.Proc., § 223.) Seeking to have the superior court's order vacated, Tapia petitioned the Court of Appeal for a writ of mandate. The Court of Appeal summarily denied relief. We granted review and directed issuance of an alternative writ. We also stayed proceedings in the superior court pending our decision.

DISCUSSION

As stated, we granted review to determine whether the provisions of Proposition 115 should be applied to prosecutions of crimes committed before its effective date. To answer this question we must address two issues. The first is whether the presumption of prospectivity applies to this initiative. (See Evangelatos v. Superior Court (1988) 44 Cal.3d 1188, 1206-1209, 246 Cal.Rptr. 629, 753 P.2d 585(Evangelatos).) The second concerns the meaning of the terms "prospective" and "retrospective." We do not address any other issue concerning the applicability or validity of the

measure's provisions.^{FN1}

FN1. In *Raven v. Deukmejian* (1990) 52 Cal.3d 336, 276 Cal.Rptr. 326, 801 P.2d 1077, we held that Proposition 115 did not violate the single-subject rule. (*Id.*, at pp. 346-349, 276 Cal.Rptr. 326, 801 P.2d 1077; see Cal. Const., art. II, § 8, subd. (d).) We also held that section 3 of Proposition 115, which purported to amend the state Constitution to require courts to construe certain of its provisions in a manner consistent with the federal Constitution, was invalid for failure to comply with the procedural requirements for constitutional revisions. (*Id.*, at pp. 349-356, 276 Cal.Rptr. 326, 801 P.2d 1077; see Cal. Const., art. XVIII, §§ 1, 2.)

I.

[1] We may quickly dispose of the first issue. It is well settled that a new statute is presumed to operate prospectively absent an express declaration of retrospectivity or a clear indication that the electorate, or the Legislature, intended otherwise. (See *People v. Hayes* (1989) 49 Cal.3d 1260, 1274, 265 Cal.Rptr. 132, 783 P.2d 719; *Evangelatos, supra*, 44 Cal.3d at pp. 1206-1209, 246 Cal.Rptr. 629, 753 P.2d 585; *Aetna Cas. & Surety Co. v. Ind. Acc. Com.* (1947) 30 Cal.2d 388, 393, 182 P.2d 159 (*Aetna Casualty*); *Jones v. Union Oil Co.* (1933) 218 Cal. 775, 777, 25 P.2d 5; cf. *In re Estrada* (1965) 63 Cal.2d 740, 746, 48 Cal.Rptr. 172, 408 P.2d 948.)^{FN2} Both the text of Proposition 115 and the related ballot arguments are entirely silent on the question of retrospectivity. Thus, as to most of Proposition 115's provisions we see no reason to depart from the ordinary rule of construction that new statutes are intended to operate prospectively.^{FN3}

FN2. Various statutes codify this rule of interpretation. (See, e.g., Code Civ.Proc., § 3 ["No part of [this code] is retroactive, unless expressly so declared"]; Pen.Code, § 3 [same].)

FN3. As we shall explain, other considerations affect the application of certain provisions which benefit defendants. (See part V.C., *post*.)

*288 II.

[2] There remains the question of what the terms "prospective" and "retrospective" mean. Tapia argues that a law is being applied retrospectively if it is applied to the prosecution of a crime committed before the law's effective date. For some types of laws, the test which Tapia proposes is clearly appropriate. Certainly a law is retrospective if it defines past conduct as a crime, increases the punishment for such conduct, or eliminates a defense to a criminal charge based on such conduct. Such a law, as applied to a past crime, "change[s] the legal consequences of an act completed before [the law's] effective date," namely the defendant's criminal behavior. (*Weaver v. Graham* (1981) 450 U.S. 24, 31, 101 S.Ct. 960, 965, 67 L.Ed.2d 17; see also *People v. Weidert* (1985) 39 Cal.3d 836, 851, 218 Cal.Rptr. 57, 705 P.2d 380, quoting *Weaver v. Graham, supra*; cf. *Aetna Casualty, supra*, 30 Cal.2d at p. 394, 182 P.2d 159 [a law is retrospective if it changes "the legal effects of past events"].) Application of such a law to past crimes would also violate the constitutional rule against ex post facto legislation. (U.S. Const., art. I, § 10, cl. 1; Cal. Const., art. I, § 9.)

Tapia's proposed test is not appropriate, however, for laws which address the conduct***595**437 of trials which have yet to take place, rather than criminal behavior which has already taken place. Even though applied to the prosecution of a crime committed before the law's effective date, a law addressing the conduct of trials still addresses conduct in the future. This is a principle that courts in this state have consistently recognized. Such a statute "is not made retroactive merely because it draws upon facts existing prior to its enactment.... [Instead,] [t]he effect of such statutes is actually prospective in nature since they relate to the procedure to be followed in the future." (*Strauch v. Superior Court* (1980) 107 Cal.App.3d 45, 49, 165 Cal.Rptr. 552, quoting *Olivas v. Weiner* (1954) 127 Cal.App.2d 597, 600-601, 274 P.2d 476.) For this reason, we have said that "it is a misnomer to designate [such statutes] as having retrospective effect." (*Morris v. Pacific Electric Ry. Co.* (1935) 2 Cal.2d 764, 768, 43 P.2d 276.)

We previously addressed this issue in *Estate of*

Patterson (1909) 155 Cal. 626, 102 P. 941. The case involved the proof of a will that was destroyed in the great San Francisco fire of 1906. The testatrix died later that year, unaware that her will was gone. In 1907, the Legislature amended the Civil Code to permit proof of a will " 'shown to have been ... by public calamity destroyed in the lifetime of the testator, without his knowledge....' " (Estate of Patterson, supra, 155 Cal. at p. 634, 102 P. 941, quoting former Code Civ.Proc., § 1339, added by Stats.1907, ch. 100, § 1, p. 122.) Holding the new statute applicable, we stated that "[i]t is a mistake to characterize the amendment of section 1339 as a retrospective law. It relates wholly to what *289 shall be done upon the trial of the application for probate, the proof that must be furnished and the facts which must be established. It applies only to trials which take place after its enactment. It can have no effect whatever on previous trials or enactments. It is prospective only in its nature." (Estate of Patterson, supra, 155 Cal. at p. 638, 102 P. 941.)

Courts came to the same conclusion in subsequent decisions. In Strauch v. Superior Court, supra, 107 Cal.App.3d 45, 165 Cal.Rptr. 552, the court held to be prospective a statute which imposed on plaintiffs in malpractice suits the requirement of filing a certificate of merit, even as applied to causes of action that accrued before the statute's effective date. The new statute operated prospectively because it did not "create a new cause of action or deprive a malpractice defendant of any defense on the merits or affect vested rights." (Id., at p. 49, 165 Cal.Rptr. 552.) Similarly, in Andrus v. Municipal Court (1983) 143 Cal.App.3d 1041, 192 Cal.Rptr. 341 (disapproved on other grounds, Evangelatos, supra, 44 Cal.3d at p. 1207, fn. 11, 246 Cal.Rptr. 629, 753 P.2d 585), the court immediately applied a new statute eliminating the right to appeal from certain orders of the superior court denying extraordinary relief. Noting that "[r]etroactive is not an apt word, of course," the court found it "absurd" to "subscribe to the notion that the Legislature desired to postpone the demise of a procedural loophole...." (Andrus v. Municipal Court, supra, 143 Cal.App.3d at p. 1047, 192 Cal.Rptr. 341.) Once again, the court in Republic Corp. v. Superior Court (1984) 160 Cal.App.3d 1253, 207 Cal.Rptr. 241 immediately applied a new, mandatory statute requiring dismissal for prolonged failure to prosecute and making the plaintiff's diligence irrelevant. The court observed that application of the new statute to a case filed before its

enactment was not "retroactive" because the statute's effect was " 'actually prospective in nature....' " (Id., at p. 1257, 207 Cal.Rptr. 241, quoting Strauch v. Superior Court, supra, 107 Cal.App.3d at pp. 48-49, 165 Cal.Rptr. 552.)

[3] From these cases, it is evident that a law governing the conduct of trials is being applied "prospectively" when it is applied to a trial occurring after the law's effective date, regardless of when the underlying crime was committed or the underlying cause of action arose. Tapia challenges this conclusion, arguing that we previously rejected it in Aetna Casualty, supra, in Evangelatos, supra, and in People v. Hayes, supra, 49 Cal.3d 1260, 265 Cal.Rptr. 132, 783 P.2d 719. Those opinions, ***596**438 however, do not support his argument. In each opinion, we refused to apply a statute so as to change the legal consequences of the parties' past conduct. In determining whether such statutes changed "the legal effects of past events" (Aetna Casualty, supra, 30 Cal.2d at p. 394, 182 P.2d 159) we sometimes used the terms "substantive" and "procedural." (Id., at p. 395, 182 P.2d 159; Evangelatos, supra, 44 Cal.3d at p. 1226, fn. 26, 246 Cal.Rptr. 629, 753 P.2d 585.) However, we also made it clear that it is the law's effect, not its form or label, which is important. (Aetna Casualty, supra, 30 Cal.2d at p. 394, 182 P.2d 159; Evangelatos, supra, 44 Cal.3d at pp. 1225-1226, fn. 26, 246 Cal.Rptr. 629, 753 P.2d 585.)

*290 In Aetna Casualty, supra, we annulled an award of the Industrial Accident Commission. The commission had erroneously applied a statute which increased the amount of compensation for disabilities in a case involving injuries which had occurred prior to the statute's effective date. Defending its award before this court, the commission argued that the statute in question "relate[d] solely to matters of procedure or remedy." (30 Cal.2d at p. 393, 182 P.2d 159.) We acknowledged both the rule articulated in Estate of Patterson, supra, 155 Cal. 626, 102 P. 941, and our previous observation that " 'it is a misnomer to designate [procedural changes] as having retrospective effect.' " (Aetna Casualty, supra, 30 Cal.2d at p. 394, 182 P.2d 159; quoting Morris v. Pacific Electric Ry. Co., supra, 2 Cal.2d at p. 768, 43 P.2d 276.) We offered the further explanation that "[i]n such cases the statutory changes are said to apply not because they constitute an exception to the

general rule of statutory construction [i.e., the presumption of prospectivity], but because they are not in fact retroactive. There is then no problem as to whether the Legislature intended the changes to operate retroactively." (*Aetna, supra*, 30 Cal.2d at p. 394, 182 P.2d 159.) However, we did not apply this reasoning to the statute at issue because the statute was "substantive in its effect, and its operation would be retroactive, since it imposes a new or additional liability and substantially affects existing rights and obligations." (*Id.* at p. 395, 182 P.2d 159.) The law in question increased employers' liability for industrial disabilities and, thus, changed the legal consequences of their past conduct.

We confronted a similar situation in *Evangelatos, supra*, 44 Cal.3d 1188, 246 Cal.Rptr. 629, 753 P.2d 585. The initiative at issue in that case, Proposition 51, limited an individual tortfeasor's liability for noneconomic damages to his proportionate share of fault. Misconstruing the rule derived from *Estate of Patterson, supra*, 155 Cal. 626, 102 P. 941, several amici curiae contended that the measure should be applied retrospectively on the ground that it was "procedural" rather than "substantive." We rejected the argument because "retroactive application of Proposition 51 to preexisting causes of action would have a very definite substantive effect" on both plaintiffs and defendants. (*Evangelatos, supra*, 44 Cal.3d at pp. 1225-1226, fn. 26, 246 Cal.Rptr. 629, 753 P.2d 585.) Like the law at issue in *Aetna Casualty, supra*, Proposition 51 changed the legal consequences of the parties' past conduct. Specifically, Proposition 51 reduced the amount of damages which a plaintiff could recover from a particular defendant and made it impossible for defendants to recover contribution for noneconomic damages.^{FN4}

^{FN4} While Proposition 51 also included procedural provisions, we did not in our opinion discuss a single such provision. Instead, our entire discussion was directed to Civil Code section 1431.2, the proportionate limitation on noneconomic damages, which we called "the heart of Proposition 51." (*Evangelatos, supra*, 44 Cal.3d at p. 1198, fn. 4, 246 Cal.Rptr. 629, 753 P.2d 585.)

Thus, contrary to Tapia's argument, it is clear that neither *Aetna Casualty, supra*, nor *Evangelatos,*

supra, repudiated the general rule that statutes *291 addressing the conduct of trials are prospective. Instead, in each case we held the rule inapplicable to statutes which changed the legal consequences of past conduct by imposing new or different liabilities based upon such conduct. (*Aetna Casualty, supra*, 30 Cal.2d at p. 395, 182 P.2d 159.***597**439*Evangelatos, supra*, 44 Cal.3d at p. 1226, fn. 26, 246 Cal.Rptr. 629, 753 P.2d 585.)

Tapia also interprets our opinion in *People v. Hayes, supra*, 49 Cal.3d 1260, 265 Cal.Rptr. 132, 783 P.2d 719, as supporting his position. It does not. In *Hayes* we considered the effect of Evidence Code section 795, which requires the exclusion of prehypnotic testimony unless certain statutory procedures were followed at the time of hypnosis. As in our previous cases, we began by reaffirming the presumption that new statutes operate prospectively and proceeded to determine what "prospective" operation meant in the case before us. We did not hold that the statute would apply, or not, based upon the date the alleged crime was committed. Instead, we looked to the date of the conduct regulated by the statute. Because the prehypnotic evidence in question predated the statute, we held that "[t]o invoke section 795 to exclude such evidence ... would be tantamount to giving the statute retroactive effect." (*People v. Hayes, supra*, 49 Cal.3d at p. 1274, 265 Cal.Rptr. 132, 783 P.2d 719.) The past conduct to which the statute attached legal consequences was the use of hypnosis; the date of the offense was irrelevant.

III.

Tapia next argues that a definition of "retrospective law" originally formulated in *American States W.S. Co. v. Johnson* (1939) 31 Cal.App.2d 606, 613, 88 P.2d 770 (*American States*), encompasses—and thus prohibits—the application of a new law to the prosecution of crimes committed before the law's effective date. In *American States*, the Court of Appeal defined a retrospective law "[as] one which affects rights, obligations, acts, transactions and conditions which are performed or exist prior to the adoption of the statute." We repeated the *American States* formulation in *Evangelatos, supra*, 44 Cal.3d at page 1206, 246 Cal.Rptr. 629, 753 P.2d 585, and in *Aetna Casualty, supra*, 30 Cal.2d at page 391, 182 P.2d 159. Based upon this formulation, Tapia argues that a law

addressing the conduct of trials, such as the new voir dire provision, "affects [a] right [] ... which ... exist[ed] prior to the adoption of the statute," the right in question being the supposed right to have voir dire conducted under the law existing at the time of the offense.

As the foregoing examination of our opinions demonstrates, however, we have not invoked the *American States* formulation to justify such a result.^{FN5}*292 Tapia's argument appears to be an effort to incorporate into the definition of "retrospectivity" the now obsolete concept of "substantial protections." It was formerly held that a law violated the constitutional prohibition against ex post facto legislation if it eliminated a "substantial protection," whether substantive or procedural, existing at the time of the offense. However, the United States Supreme Court has repudiated that analysis. (*Collins v. Youngblood* (1990) 497 U.S. 37, ---, 110 S.Ct. 2715, 2719, 111 L.Ed.2d 30(*Collins*).) Although we have employed the federal concept of "substantial protections" in deciding questions under the ex post facto clause (*People v. Smith* (1983) 34 Cal.3d 251, 260, 193 Cal.Rptr. 692, 667 P.2d 149;*People v. Ward* (1958) 50 Cal.2d 702, 707, 328 P.2d 777; see part IV, *post*), the concept has never formed a part of the definition of "retrospectivity" in the context of statutory construction.

FN5. Nor does the opinion in *American States, supra*, justify such a result. The court in that case upheld the application of a new law increasing from 2 to 4 percent the tax rate on businesses' net income for the year 1935, as applied to a business which had already paid, prior the law's effective date, a nominal tax for the privilege of doing business in 1935. (31 Cal.App.2d at pp. 608-609, 88 P.2d 770.)

IV.

Finally, Tapia argues that our opinion in *People v. Smith, supra*, 34 Cal.3d 251, 193 Cal.Rptr. 692, 667 P.2d 149(*Smith*), dictates a contrary result. In *Smith* we held that the provisions of Proposition 8, the "Victims Bill of Rights," would apply only to prosecutions of offenses committed after the measure's effective date. We did not distinguish between provisions which addressed***598**440

the defendant's criminal behavior and provisions which addressed the conduct of trials.

The defendant in *Smith* was found guilty of robbery after the trial court denied his motion to suppress a confession. On appeal, defendant argued that his confession had been obtained in violation of the California Constitution. Proposition 8 took effect after we granted review and long after the defendant's crime and trial. One provision of that measure amended the California Constitution to provide that "relevant evidence shall not be excluded in any criminal proceeding." (Cal. Const., art. I, § 28, subd. (d).) We held that Proposition 8 could not be applied to validate the trial court's ruling, erroneous at the time it was made, denying the motion to suppress. Thus, the narrow question immediately before us in *Smith* was truly one of retrospectivity, that is, whether a new rule should be applied to change "the legal effects of past events." (*Aetna Casualty, supra*, 30 Cal.2d at p. 394, 182 P.2d 159; see also *Weaver v. Graham, supra*, 450 U.S. at pp. 30-31, 101 S.Ct. at p. 965.)

In *Smith*, going beyond the facts of the case, we also held that Proposition 8 in its entirety would apply only to crimes committed after the measure's effective date. Because Proposition 115, like Proposition 8, includes *293 various types of provisions, Tapia argues that we should follow the same approach in this case. However, the reasons supporting our decision in *Smith* do not dictate the same result in the case now before us.

The first reason we gave for our decision was that the "primary stated purpose of Proposition 8 [was] to deter the commission of crimes." (*Smith, supra*, 34 Cal.3d at p. 258, 193 Cal.Rptr. 692, 667 P.2d 149, italics added.) Based on that purpose, we concluded that the electorate "must have intended the measure to apply only to offenses that *could* be deterred, i.e., that had not already been committed by the time Proposition 8 was adopted." ^{FN6}(*Smith, supra*, 34 Cal.3d at pp. 258-259, 193 Cal.Rptr. 692, 667 P.2d 149, italics in original.) In contrast, the voters in adopting Proposition 115 expressly declared that their purposes were to reduce the unnecessary "costs of criminal cases" and to "create a system in which justice is swift and fair..." (Prop. 115, § 1, subds. (b), (c).) ^{FN7} We can best effectuate this purpose by giving the earliest possible application to

reforms designed to accelerate the adjudication of criminal cases.

FN6. While it is true that one cannot deter crimes which have already been committed, one may be able to deter future crimes by increasing the speed and certainty of conviction in pending cases.

FN7. In further contrast to Proposition 8, Proposition 115 refers only once to the concept of deterrence: "We the people of the State of California hereby find that ... the death penalty is a deterrent to murder...." (Prop. 115, § 1, subd. (a).)

The second reason we gave for our decision in Smith was the desire to avoid resolving doubts about the initiative's constitutionality arising from the rule against ex post facto legislation. (Smith, supra, 34 Cal.3d at p. 259, 193 Cal.Rptr. 692, 667 P.2d 149.) In 1983, when we decided Smith, some authorities suggested that even procedural reforms might violate the rule against ex post facto legislation unless they left "untouched all the *substantial protections* with which existing law surround[ed] the person accused of crime" at the time the crime was committed. (Thompson v. Utah (1898) 170 U.S. 343, 352, 18 S.Ct. 620, 623, 42 L.Ed. 1061, italics added; see Smith, supra, 34 Cal.3d at p. 260, 193 Cal.Rptr. 692, 667 P.2d 149.) The vagueness inherent in the term "substantial protections," which the high court did not define, led us to observe that "[a]s to all but the most obvious examples of ex post facto legislation, ... the general rule is that there is no general rule." (Smith, supra, 34 Cal.3d at p. 260, 193 Cal.Rptr. 692, 667 P.2d 149.) For this reason, we concluded that case-by-case analysis of Proposition 8's provisions under the ex post facto clause was not practical.

The United States Supreme Court has greatly simplified ex post facto law since Smith. In ***599**441Collins, supra, 497 U.S. 37, 110 S.Ct. 2715, the high court endorsed its earlier formulation of the law in Calder v. Bull (1798) 3 U.S. (3 Dall.) 386, 390, 1 L.Ed. 648 (Calder), and Beazell v. Ohio (1925) 269 U.S. 167, 169-170, 46 S.Ct. 68, 68-69, 70 L.Ed. 216*294 (Beazell), as "faithful to our best knowledge of the original understanding" of the ex post facto clause. (Collins, supra, 497 U.S. at p. ---, 110 S.Ct. at p. 2719.) Under that exclusive

formulation, " 'any statute [1] which punishes as a crime an act previously committed, which was innocent when done; [2] which makes more burdensome the punishment for a crime, after its commission, or [3] which deprives one charged with crime of any defense available according to law at the time when the act was committed, is prohibited as *ex post facto*.' " FN8 (Collins, supra, 497 U.S. at p. ---, 110 S.Ct. at p. 2719, quoting Beazell, supra, 269 U.S. at pp. 169-170, 46 S.Ct. at pp. 68-69.)

FN8. In Calder, the Supreme Court also suggested, as a fourth category of ex post facto law, that a legislative act would be ex post facto if it "alters the *legal rules of evidence*, and receives less, or different, testimony, than the law required at the time of the commission of the offense, *in order to convict the offender*." (Calder, supra, 3 U.S. at p. 391, italics in original; see Collins, supra, 497 U.S. at p. ---, 110 S.Ct. at p. 2719.) However, "[a]s cases subsequent to Calder make clear, this language was not intended to prohibit the application of new evidentiary rules in trials for crimes committed before the changes." (Collins, supra, 497 U.S. at p. ---, fn. 3, 110 S.Ct. at p. 2719, fn. 3.)

In People v. Bradford (1969) 70 Cal.2d 333, 74 Cal.Rptr. 726, 450 P.2d 46, we described the fourth Calder category as "dictum" and declined to give it literal effect. Relying on cases in which the high court had also declined to apply the fourth category (Hopt v. Utah (1884) 110 U.S. 574, 588-589, 4 S.Ct. 202, 209-210, 28 L.Ed. 262; Thompson v. Missouri (1898) 171 U.S. 380, 386, 18 S.Ct. 922, 924, 43 L.Ed. 204), we held it "unmistakably clear ... that changes in the rules of evidence which broaden the class of persons competent to testify are not deemed ex post facto in operation." (People v. Bradford, supra, 70 Cal.2d at p. 344, fn. 5, 74 Cal.Rptr. 726, 450 P.2d 46.)

In Collins the Supreme Court also rejected the proposition that a law violates the ex post facto clause simply because it eliminates a "substantial protection" existing at the time an offense was committed.FN9 According to the high court, references in its earlier cases "to 'substantial protections' and 'personal rights' should not be read to adopt without explanation an undefined enlargement of the [ex post

facto clause].” (*Collins, supra*, 497 U.S. at p. ----, 110 S.Ct. at p. 2721.) While the Legislature, or the electorate, cannot immunize a law from scrutiny under the ex post facto clause simply by labelling it “procedural,” “the prohibition which may not be evaded is the one defined by the *Calder* categories.” (*Ibid.*)

FN9. The high court overruled *Kring v. Missouri* (1883) 107 U.S. 221, 2 S.Ct. 443, 27 L.Ed. 506, and *Thompson v. Utah, supra*, 170 U.S. 343, 18 S.Ct. 620, 42 L.Ed. 1061, which had been cited as support for the proposition. (*Collins, supra*, 497 U.S. at pp. ----, 110 S.Ct. at pp. 2723-2724.)

Accordingly, the United States Supreme Court has resolved the analytical difficulty which led us to conclude in *Smith* that it would be impractical to consider ex post facto challenges to Proposition 8's provisions on a case-by-case basis. After *Collins*, we need not determine “how substantial is the *295 right that the statute impairs and how significant is that impairment.” (*Smith, supra*, 34 Cal.3d at p. 260, 193 Cal.Rptr. 692, 667 P.2d 149.) Instead, we can resolve such challenges by applying the exclusive *Calder* categories.

Lastly on this point, Tapia argues that we should perpetuate “substantial protection” analysis by adopting it as a matter of state law. We decline to do so. While we unquestionably have the power to interpret a provision of the state Constitution differently than its federal counterpart (Cal. Const., art. I, § 24), neither the language nor the history of the state ex post facto clause supports a different interpretation.

The language of the state and federal clauses is identical in relevant part: each declares that no “ex post facto law” shall be passed. (Cal. Const., art. I, § 9; U.S. Const., art. I, § 10, cl. 1.) The state clause was first proposed in the constitutional convention of 1849 as an amendment to a committee draft of article I, the “Declaration of Rights,” apparently as an afterthought. (Report of the Debates in the ***600**442 Convention of California on the Formation of the State Constitution, in September and October, 1849 (1850) at p. 43.) The record of the debates does not include any discussion of the amendment.^{FN10} In 1879, the delegates to the second

constitutional convention voted to preserve the language adopted in 1849, again without any recorded debate on its meaning.^{FN11} In 1971, as part of an ongoing project of constitutional reform, the Constitution Revision Commission proposed to change the wording of the clause from the negative (“No ... ex post facto law ... shall ever be passed”) to the positive (“A [n] ... ex post facto law ... may not be passed”). However, the Commission did not propose any substantive change.^{FN12} The voters approved the provision, as reworded, in the 1974 general election.

FN10. As adopted, article I, section 16, of the Constitution of 1849 provided that: “No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.”

According to the dissent, the delegates to the 1849 convention must have intended to adopt “substantial protection” analysis because it had already become a part of federal law. (Dis. opn. of Mosk, J., *post*, at pp. 609-610 of 279 Cal.Rptr., at pp. 451-452 of 807 P.2d.) The dissent's argument is based on a misinterpretation of *United States v. Hall* (C.C.D.Pa.1809) 26 F.Cas. 84, 86, which the high court corrected in *Collins*. (See *Collins, supra*, 497 U.S. at p. ----, 110 S.Ct. at pp. 2722-2723.)

FN11. The only recorded debate on article I, section 16, concerned a proposal to prohibit statutes of limitation, which the convention rejected. (1 Debates and Proceedings of the Constitutional Convention of the State of California Convened at the City of Sacramento, Saturday, September 28, 1878 (1880) at p. 268.)

FN12. We do not view the change in wording as significant. Part of the “task of the drafting committee [was] to rephrase [each article of the Constitution] in more modern, concise language and if necessary to organize it in a more logical framework.” (Assembly Interim Committee on Constitutional Amendments, Special Report on Constitutional Revision: Report to the Legislature, 1969 Regular Session (1969) at p. 11.)

In its report to the Legislature, the Commission had only this comment on its proposal to amend article I, section 16, of the former Constitution (now

article I, section 9): "An ex post facto law is one which retroactively affects legal relationships.... The application of these classic prohibitions [against bills of attainder, ex post facto laws, and law impairing the obligation of contracts] in changing fact situations is a source of chronic litigation. The Commission recommends that they be retained." (California Constitution Revision Commission, Proposed Revision of the California Constitution, Part 5 (1971) at p. 27.)

*296 Nor does an independent meaning for the state ex post facto clause emerge from our own opinions. Although this court has often cited the state clause together with the federal, we have never given the state clause an independent interpretation or held, in any case, that the state clause required a different result than the federal clause. Moreover, nothing in our opinions supports the notion that "substantial protection" analysis has an independent footing in the state Constitution. The United States Supreme Court introduced "substantial protection" analysis in 1883 with its opinion in *Kring v. Missouri*, supra, 107 U.S. 221, 2 S.Ct. 443, 27 L.Ed. 506. California, however, was not quick to follow. It was not until 1930 that we cited *Kring* (*People v. Dawson* (1930) 210 Cal. 366, 368, 292 P. 267), and not until 1958 that we clearly followed "substantial protection" analysis (*People v. Ward*, supra, 50 Cal.2d 702, 707, 328 P.2d 777) as the supremacy clause required us to do. (U.S. Const., art. VI, clause 2.)

Before *Kring*, this court's understanding of the rule against ex post facto laws was inconsistent with "substantial protection" analysis. Before us in *People v. Mortimer* (1873) 46 Cal. 114 was a new statute giving the prosecution, for the first time, the right to open and to close the argument to the jury in criminal cases. The issue was whether the trial court had erred by applying the statute to the trial of a crime committed before the statute's effective date. (*Id.*, at pp. 114, 116.) We considered the claim of error under Penal Code section 6,^{FN12} which we said was "intended ... to steer clear of any difficulty arising from the enactment of *ex post facto* laws, which are ***601**443 prohibited by the Constitution of the United States. But laws changing the mere forms of procedure in a criminal action" do not fall within the ex post facto clause's prohibition. (*Id.*, at p. 118.) We also stated that "[i]t is clear ... that no constitutional difficulty would be encountered in requiring past

offenses to be tried under new forms of procedure...." (*Ibid.*) We did not even cite the state Constitution, let alone suggest that it dictated a different result or required us to consider whether the particular procedural law in question eliminated a "substantial protection." As already mentioned, we would not clearly follow "substantial protection" analysis for another 75 years. (See *People v. Ward*, supra, 50 Cal.2d at p. 707, 328 P.2d 777.)

FN13. Penal Code section 6 provides, in relevant part, that "[a]ny act or omission commenced prior to [January 1, 1873, the date on which the Penal Code took effect] may be inquired of, prosecuted, and punished in the same manner as if this code had not been passed."

As the high court's recent opinion in *Collins*, supra, 497 U.S. 37, 110 S.Ct. 2715, demonstrates, our apparent reluctance to *297 employ "substantial protection" analysis was justified. Federal law had compelled us to follow that analysis, since we were never free to adopt an ex post facto rule less favorable to the defense than the federal rule.^{FN14} After *Collins*, there is no reason not to return to the original understanding of the scope of the rule against ex post facto laws expressed in both federal and state constitutions.

FN14. Although we cited the California Constitution in *People v. Smith*, supra, 34 Cal.3d at page 259, 193 Cal.Rptr. 692, 667 P.2d 149, we did not give it a different interpretation than the federal Constitution; we discussed the two ex post facto clauses as if they were one and the same. To support the proposition that ex post facto principles prohibited the "[a]lteration of a substantial right," we cited only *Weaver v. Graham*, supra, 450 U.S. at pages 29-31, 101 S.Ct. at pages 964-65. *Smith* can be read as suggesting that our opinion in *People v. Ward*, supra, foreshadowed the high court's own rulings. (See *Smith*, supra, 34 Cal.3d at p. 260, 193 Cal.Rptr. 692, 667 P.2d 149.) But the truth is that we had in *Ward* merely followed the now-overruled *Thompson v. Utah*, supra, 170 U.S. 343, 18 S.Ct. 620, 42 L.Ed. 1061 (see *People v. Ward*, supra, 50 Cal.2d at p. 707, 328 P.2d 777), as the

supremacy clause required. (U.S. Const., art. VI, cl. 2.)

The third reason we gave for our decision in *Smith* was the desire to "avoid a number of practical consequences adverse to the administration of justice and the right of fair trial." (*Smith, supra*, 34 Cal.3d at p. 262, 193 Cal.Rptr. 692, 667 P.2d 149.) As we have already discussed, the intervening simplification of ex post facto law eliminates the major administrative difficulty that we foresaw in *Smith*. Although we cannot altogether avoid further litigation concerning Proposition 115's application in particular cases, we must weigh that administrative burden against the substantial benefits that immediate application of the measure offers by reducing time spent in voir dire and preliminary hearings, among other things. On balance, considerations of administrative efficiency, as well as the electorate's stated goals of reducing delay and unnecessary cost, favor giving Proposition 115 the earliest possible application.

V.

It remains to be determined which of Proposition 115's provisions may and may not be applied to the prosecution of crimes committed before the measure's effective date. The provisions fall into four categories: (A) provisions which change the legal consequences of criminal behavior to the detriment of defendants; (B) provisions which address the conduct of trials; (C) provisions which clearly benefit defendants; and (D) a single provision which codifies existing law.

A.

[4] The first category of provisions, those which change the legal consequences of criminal behavior to the detriment of defendants, cannot be applied to crimes committed before the measure's effective date. These *298 provisions include section 9^{FN15} (amending Pen.Code, § 189), which adds crimes to the list of felonies supporting a conviction of first degree murder; those portions of section 10 (amending Pen.Code, § 190.2) which add new special circumstances; that portion of section 10 (codified at Pen.Code, § 190.2, subd. (d)), which provides that an accomplice, for a ***602 felony-murder***444 special circumstance to be found true, must have been a major participant and have acted with reckless

indifference to human life; ^{FN16} section 11 (adding Pen.Code, § 190.41), which provides that the corpus delicti of a felony-based special circumstance need not be proved independently of the defendant's extrajudicial statement; section 12 (amending Pen.Code, § 190.5), which subjects persons between the ages of 16 and 18 to the penalty of life without possibility of parole for first degree murder with special circumstances; sections 13 and 14 (adding Pen.Code, §§ 206 and 206.1), which define the new crime of torture; and section 26 (adding Pen.Code, § 1385.1), which precludes a judge from striking a special circumstance that has been admitted or found to be true.

^{FN15}. All undesignated section references are to Proposition 115.

^{FN16}. This subdivision brings state law into conformity with Tison v. Arizona (1987) 481 U.S. 137, 158, 107 S.Ct. 1676, 1688, 95 L.Ed.2d 127, and, thus, changes state law to the detriment of defendants. (Compare ibid. with People v. Anderson (1987) 43 Cal.3d 1104, 1147, 240 Cal.Rptr. 585, 742 P.2d 1306.)

Application of these provisions to crimes committed before the measure's effective date would be "retrospective" because each would change the legal consequences of the defendant's past conduct. (Weaver v. Graham, supra, 450 U.S. at p. 31, 101 S.Ct. at p. 965; see also People v. Weidert, supra, 39 Cal.3d at p. 851, 218 Cal.Rptr. 57, 705 P.2d 380, quoting Weaver v. Graham; cf. Aetna Casualty, supra, 30 Cal.2d at p. 394, 182 P.2d 159.) Such application would also likely violate the rule against ex post facto legislation, since each of these provisions appears to define conduct as a crime, to increase punishment for a crime, or to eliminate a defense.^{FN17}*299(Collins, supra, 497 U.S. at p. ---, 110 S.Ct. at p. 2719.) Accordingly, these provisions may only be applied to prosecutions of crimes committed on or after June 6, 1990.

^{FN17}. This conclusion is obvious as to most of the enumerated provisions but requires further explanation as to sections 11 and 26.

Section 11 (adding Pen.Code, § 190.41), provides that "the corpus delicti of a felony-based special circumstance ... need not be proved

independently of a defendant's extra-judicial statement." Although the electorate or the Legislature may, in general, change the rules of evidence without violating the rule against ex post facto laws (*Collins, supra*, 497 U.S. at p. ---, fn. 3, 110 S.Ct. at p. 2719, fn. 3), they may not "alter the degree, or lessen the amount or measure of the proof which was made necessary to convictions when the crime was committed." (*Hopt v. Utah, supra*, 110 U.S. at pp. 588-589, 4 S.Ct. at pp. 209-10.) Laws which have such an effect are analogous to laws which change the definition of offenses.

Section 26 (adding Pen.Code, § 1385.1) provides that "a judge shall not strike or dismiss any special circumstance which is admitted by a plea of guilty or nolo contendere or is found by a jury or court...." This section appears to be a direct response to our opinion in *People v. Williams* (1981) 30 Cal.3d 470, 179 Cal.Rptr. 443, 637 P.2d 1029, in which we held that a trial court had power to dismiss a special circumstance finding "in furtherance of justice" in order to modify a sentence of life imprisonment without the possibility of parole. In light of this history, section 26 could arguably be said to increase the punishment for crime.

B.

[5] Other provisions of Proposition 115 address the conduct of trials rather than the definition of, punishment for, or defenses to crimes. These provisions include section 2 (adding Cal. Const., art. I, § 14.1), which eliminates postindictment preliminary hearings; section 4 (adding Cal. Const., art. I, § 29), which gives the People the right to due process and a speedy trial; section 5 (adding Cal. Const., art. I, § 30), which provides that the Constitution shall not be construed to prohibit joinder, makes hearsay evidence admissible at preliminary hearings, and makes discovery reciprocal; sections 6, 7, and 7.5 (repealing Code Civ.Proc., §§ 223 and 223.5, and adding a new § 223), which reform voir dire; sections 8, 15, 16, 17, and 18 (adding Evid.Code, § 1203.1; amending Pen.Code, §§ 859, 866, and 872, and adding § 871.6), which reform preliminary hearing procedures; section 19 (adding Pen.Code, § 954.1), which provides that the absence of cross-admissibility is not a ground for severance; section 20 (adding Pen.Code, § 987.05), which requires appointment of counsel who is ready to proceed; section 21 (adding Pen.Code, § 1049.5),

which provides that felony trials shall take place within 60 days of arraignment; section 22 (adding **445**603 Pen.Code, § 1050.1), which authorizes continuances to maintain joinder; sections 23, 24, 25, and 27 (adding Pen.Code, §§ 1054 to 1054.7, and repealing §§ 1102.5, 1102.7, and 1430), which reform discovery procedures and provide for reciprocal discovery; and section 28 (adding Pen.Code, § 1511), which provides for appellate review of trial dates and continuances.

Tapia has advanced several arguments in an effort to show that application of such provisions in his case, even though addressed on their face to the conduct of future trials and not to past criminal behavior, will nevertheless be "retrospective" as applied to him. First, he argues that the new voir dire provisions will limit his counsel's ability to explore potential jurors' exposure to pretrial publicity. If counsel had known of the new rule, to complete the argument, he might have sought an earlier ruling on a motion to change venue rather than waiting for the results of voir dire. The flaw in this argument is the premise. There is no reason to believe that the new voir dire rules will be applied to deprive Tapia's counsel of any information to which voir dire is legitimately directed. Under the new provisions, "the court may permit the parties, upon a showing of good cause, to supplement the examination by such further inquiry as it deems proper, or shall itself *300 submit to the prospective jurors upon such a showing, such additional questions by the parties as it deems proper." (§ 7, codified as Code Civ.Proc., § 223.)

Next, Tapia argues that the new provisions for reciprocal discovery would be retrospective as applied to him because his counsel has conducted his investigation based upon the assumption that discovery would not be reciprocal. In this case the objection is purely hypothetical because the prosecutor has informed the trial court that he does not intend to utilize the reciprocal discovery provisions. All parties and amici, however, have stressed the importance of an early resolution of issues concerning Proposition 115's application and have asked us to address such issues in this case.

Application of the discovery provisions to compel production of evidence obtained by defense counsel before Proposition 115's effective date would be retroactive under the principles we have already

discussed. This is because counsel can only be guided, while conducting an investigation, by the discovery rules then in force. In contrast, the date on which the crime was committed has no bearing on the discoverability of the results of counsel's investigation. Discovery rules address trial preparation, not criminal behavior. Trial courts are able to determine, in camera if necessary, whether particular evidence claimed to be subject to discovery was obtained before or after Proposition 115's effective date.

Finally, Tapia argues that counsel might not have permitted the trial to be continued if he had known that to do so would have required him to defend the case under the new provisions which Proposition 115 introduced. In this way, to complete the argument, the new provisions change the legal consequences of counsel's past conduct. In our view, this argument does not demonstrate that the new provisions are retrospective. In view of the many reasons that can affect the decision to seek a continuance, to say that any such decision was motivated by reliance on the state of the law unaffected by Proposition 115 is speculative in the extreme. Moreover, it has always been understood in this state that the rules governing the conduct of trials are subject to change by the Legislature, or the electorate, insofar as the Constitution permits. (*People v. Mortimer, supra*, 46 Cal. at pp. 118-119.)

Accordingly, the provisions enumerated above may be applied to pending cases regardless of when the charged offense is alleged to have occurred.

C.

[6] The third category of new provisions consists of those which clearly benefit only defendants. Each of these provisions is contained in section 10. *301 Specifically, the section provides that the killing of a prosecutor or judge, to constitute a special circumstance, must be ***604 intentional. (§ 10, **446 codified at Pen.Code, § 190.2, subds. (a)(11) and (a)(12).) The section also provides that an accomplice, for a non-felony-murder special circumstance to be found true, must have had the intent to kill. (§ 10, codified at Pen.Code, § 190.2, subd. (c).)

Application of these provisions to trials of

crimes committed before Proposition 115's operative date may change the legal consequences of a defendant's criminal conduct. Such application is permissible, however, because the provisions favor defendants. Although we usually presume that new statutes are intended to operate prospectively, that presumption "is not a straitjacket." (*In re Estrada, supra*, 63 Cal.2d at p. 746, 48 Cal.Rptr. 172, 408 P.2d 948.) In past cases we have not applied the presumption to statutes changing the law to the benefit of defendants. Instead, we have assumed that "[w]hen the Legislature amends a statute so as to lessen the punishment it has obviously expressly determined that its former penalty was too severe and that a lighter punishment is proper as punishment for the commission of the prohibited act" and "sufficient to meet the legitimate ends of the criminal law." (*Id.*, at p. 745, 48 Cal.Rptr. 172, 408 P.2d 948, quoting *People v. Oliver* (1956) 1 N.Y.2d 152, 151 N.Y.S.2d 367, 372-373, 134 N.E.2d 197, 201-202.) We have applied the same reasoning to statutes which redefine, to the benefit of defendants, conduct subject to criminal sanctions. (*People v. Rossi* (1976) 18 Cal.3d 295, 134 Cal.Rptr. 64, 555 P.2d 1313.)^{FN18} These authorities compel the conclusion that the provisions listed above may be applied to pending cases.

FN18. We have not interpreted Penal Code section 3 to require a different conclusion because section 3 simply embodies the general, common law presumption that new statutes operate prospectively. (*In re Estrada, supra*, 63 Cal.2d at p. 746, 48 Cal.Rptr. 172, 408 P.2d 948; cf. *Evangelatos, supra*, 44 Cal.3d at pp. 1207-1208, 246 Cal.Rptr. 629, 753 P.2d 585.) It is also a "universal common-law rule that when the legislature repeals a criminal statute or otherwise removes the State's condemnation from conduct that was formerly deemed criminal," "such legislation is presumed to apply to pending cases. (*People v. Rossi, supra*, 18 Cal.3d at p. 304, 134 Cal.Rptr. 64, 555 P.2d 1313, quoting *Bell v. Maryland* (1964) 378 U.S. 226, 230, 84 S.Ct. 1814, 1817, 12 L.Ed.2d 822.)

D.

[7] Finally, section 10 also codifies the rule of People v. Anderson, supra, 43 Cal.3d 1104, 240 Cal.Rptr. 585, 742 P.2d 1306, to the effect that an actual killer, for a special circumstance to be found true, need not have had the intent to kill unless the applicable special circumstance specifically so requires. (§ 10, codified at Pen.Code. § 190.2, subd. (b); see People v. Anderson, supra, at p. 1147, 240 Cal.Rptr. 585, 742 P.2d 1306, overruling Carlos v. Superior Court (1983) 35 Cal.3d 131, 197 Cal.Rptr. 79, 672 P.2d 862; see also People v. Hendricks (1987) 43 Cal.3d 584, 596, fn. 3, 238 Cal.Rptr. 66, 737 P.2d 1350.) This provision, which does not change *302 existing law, may be applied to crimes committed before Proposition 115's effective date.

DISPOSITION

The alternative writ is discharged. The judgment of the Court of Appeal is affirmed.

LUCAS, C.J., and KENNARD, ARABIAN and BAXTER, JJ., concur.
MOSK, Justice, dissenting.
I dissent.

The issue on review is "whether the provisions of Proposition 115 should be applied to prosecutions of crimes committed before its effective date."

Although it may be difficult to discern from the majority opinion, the primary and indeed dispositive question is what did the electorate intend in this regard. The presumption here—long settled in both statutory and decisional law—is that the voters determined that the measure in its entirety would apply prospectively, specifically, only to offenses occurring on or after its effective date. Since the voters did not speak on the subject, that presumption remains un rebutted.

It is simply inconceivable that the electorate could have been as subtle and ***605**447 indeed perverse as the majority suggest—that the voters could have intended that certain specific sections and clauses and phrases and words would apply prospectively, and that others would not.

Manifestly, the intent that appears in the majority opinion is not that of the electorate—but only that of

the majority.

The majority compound their error by a continuing, callous lack of concern for the rule of article II, section 8, subdivision (d), of the California Constitution. That provision prohibits initiative measures—such as Proposition 115—from embracing more than one subject. In our sister states, the single-subject rule is not a dead letter. (Cf. Porten Sullivan Corp. v. State (1990) 318 Md. 387, 403-409, 568 A.2d 1111 [sustaining a single-subject challenge to a statute]; Brookfield v. Milw. Sewerage (1988) 144 Wis.2d 896, 921-922, 426 N.W.2d 591 [same].) Regrettably, it is here.

Perhaps unwittingly, however, the majority belatedly confirm the view I expressed in dissent in Raven v. Deukmejian (1990) 52 Cal.3d 336, 276 Cal.Rptr. 326, 801 P.2d 1077—that Proposition 115 does in fact violate the single-subject rule. Indeed, they now all but expressly concede the point, as *303 their distinction of individual provisions within larger groups within still broader categories plainly reveals. To hold, as a majority of this court did in Raven, that such a "grabbag" measure comprises one subject strains credulity and makes a mockery of the constitutional prohibition. By now recognizing the multitudinous and discrete parts and subparts and sub-subparts of the measure, the majority here impliedly admit that Raven's rejection of the single-subject challenge was erroneous. In the interest of candor, they should do so explicitly. The words of the aphorism quoted by Justice Rutledge in his dissent in Wolf v. Colorado (1949) 338 U.S. 25, 47, 69 S.Ct. 1359, 1368, 93 L.Ed. 1782, are appropriate: "Wisdom too often never comes, and so one ought not to reject it merely because it comes late."

I

Petitioner, Robert Alan Tapia, stands accused in the Tulare Superior Court of having committed certain crimes on February 12, 1989, including first degree murder under special circumstances.

At the June 5, 1990, Primary Election, the voters approved an initiative constitutional amendment and statute that was designated on the ballot as Proposition 115—the self-styled "Crime Victims Justice Reform Act." On June 6 the measure purportedly became effective. (See Cal. Const., art.

II, § 10, subd. (a) [statutory provisions]; *id.*, art. XVIII, § 4 [constitutional provisions].)

Subsequently, Tapia moved the superior court for an order that Proposition 115 was not applicable in his case. He argued that the measure operated prospectively, specifically, only to crimes committed on or after its effective date. He addressed Proposition 115 as a whole. He also focused on certain specific sections, which relate to voir dire and discovery. Section 6 repeals former Code of Civil Procedure section 223 (Stats.1988, ch. 1245, § 2, No. 11 West's Cal.Legis.Service, p. 3153), which granted the parties the right to conduct voir dire. Section 7 adds a new Code of Civil Procedure section 223, which deprives the parties of that right. Sections 5, 15, 23, 24, 25, and 27 deal in whole or in part, directly or indirectly, with the separate subject of reciprocal discovery. The People responded to the motion. Their argument was directed solely to the voir dire provisions. They later represented that they would not invoke the reciprocal discovery provisions. The superior court denied the motion, ruling that Proposition 115 was applicable in its entirety, including specifically the provisions relating to voir dire.

Thereafter, Tapia submitted to the Fifth District Court of Appeal a petition for writ of mandate and/or prohibition against Proposition 115 *304 with a request for a stay. Its grounds included, among others, the prospectivity claim presented to the superior court. The Court of Appeal summarily denied relief solely on the procedural ground that this court was the appropriate forum.

***606**448 Coming here, Tapia sought review and a stay of proceedings in the superior court *pendente lite*. We stayed the proceedings as prayed. Shortly thereafter, we granted review as to "whether the provisions of Proposition 115 should be applied to prosecutions of crimes committed before its effective date." We then caused an alternative writ of mandate to issue.

II

After careful consideration, I would resolve the issue on review in the negative and award Tapia the relief he seeks. To properly explain my reasons, I must first set out the pertinent legal and factual

background.

There is a long-standing presumption in California-and generally (see *United States v. Security Industrial Bank* (1982) 459 U.S. 70, 79-80, 103 S.Ct. 407, 413, 74 L.Ed.2d 235)-that new nondecisional law operates prospectively. (See generally *Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1205-1209, 246 Cal.Rptr. 629, 753 P.2d 585, and cases cited therein, including *Aetna Cas. & Surety Co. v. Ind. Acc. Com.* (1947) 30 Cal.2d 388, 393, 182 P.2d 159 (hereafter sometimes *Aetna Casualty*); *People v. Hayes* (1989) 49 Cal.3d 1260, 1274, 265 Cal.Rptr. 132, 783 P.2d 719; 7 Witkin, Summary of Cal.Law (9th ed. 1988) Constitutional Law, §§ 495-496, pp. 685-690 (hereafter 7 Witkin); see also, e.g., Pen.Code, § 3 [stating that "No part of" Pen.Code "is retroactive, unless expressly so declared"]; Code Civ.Proc., § 3 [stating same as to Code Civ.Proc.-which, as its name indicates, deals with procedure].)

"Prospective operation" means that the measure in question applies only to conduct that occurs, or conditions that arise, on or after its effective date. (See, e.g., *Evangelatos v. Superior Court*, *supra*, 44 Cal.3d at p. 1206, 246 Cal.Rptr. 629, 753 P.2d 585; *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at p. 391, 182 P.2d 159; *Russell v. Superior Court* (1986) 185 Cal.App.3d 810, 814, 230 Cal.Rptr. 102; see also *People v. Hayes*, *supra*, 49 Cal.3d at p. 1274, 265 Cal.Rptr. 132, 783 P.2d 719.) By contrast, "retroactivity" implicates such prior conduct or conditions in some significant way. (See, e.g., *Evangelatos v. Superior Court*, *supra*, 44 Cal.3d at p. 1206, 246 Cal.Rptr. 629, 753 P.2d 585; *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at p. 391, 182 P.2d 159; *Russell v. Superior Court*, *supra*, 185 Cal.App.3d at p. 814, 230 Cal.Rptr. 102; see also *People v. Hayes*, *supra*, 49 Cal.3d at p. 1274, 265 Cal.Rptr. 132, 783 P.2d 719.)

The presumption of prospectivity is not narrowly cabined by constitutional concerns about *ex post facto* effects, but is broadly based on policy *305 considerations involving fairness. (See *Russell v. Superior Court*, *supra*, 185 Cal.App.3d at p. 814, 230 Cal.Rptr. 102 ["Retroactive laws are generally disfavored because the parties affected have no notice of the new law affecting past conduct. '[S]uch laws disturb feelings of security in past transactions.' "];

see also *Calder v. Bull* (1798) 3 U.S. (3 Dall.) 386, 390, 1 L.Ed. 648 (lead opn. of Chase, J.) ["Every *ex post facto* law must necessarily be retrospective; but every retrospective law is not an *ex post facto* law...."] This proposition is firmly established. Otherwise, untenable results would follow. For example, prospectivity would be reducible to the *ex post facto* prohibition-and would therefore be nothing in itself. Also, prospectivity could not be "presumed" but would in fact be mandated as a result of constitutional compulsion.

The presumption arises whether the law is constitutional (see, e.g., *Willcox v. Edwards* (1912) 162 Cal. 455, 460, 123 P. 276) or statutory (see, e.g., *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at p. 393, 182 P.2d 159), and whether the lawgiver is the people (see, e.g., *Evangelatos v. Superior Court*, *supra*, 44 Cal.3d at pp. 1205-1209, 246 Cal.Rptr. 629, 753 P.2d 585) or their representatives (see, e.g., *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at p. 393, 182 P.2d 159).

The presumption extends to procedural law as well as substantive. (E.g., *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at pp. 393-394, 182 P.2d 159; ***607**449 *Russell v. Superior Court*, *supra*, 185 Cal.App.3d at p. 815, 230 Cal.Rptr. 102; 7 *Witkin*, *supra*, Constitutional Law, § 495, at p. 686; see, e.g., *Evangelatos v. Superior Court*, *supra*, 44 Cal.3d at pp. 1205-1206, 246 Cal.Rptr. 629, 753 P.2d 585.) This is because both procedure and substance can implicate considerations of fairness. (See *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at pp. 393-394, 182 P.2d 159; *Russell v. Superior Court*, *supra*, 185 Cal.App.3d at pp. 814-815, 230 Cal.Rptr. 102.) Moreover, the presumption is not automatically satisfied whenever a procedural law is applied to proceedings on or after its effective date. (See, e.g., *People v. Hayes*, *supra*, 49 Cal.3d at p. 1274, 265 Cal.Rptr. 132, 783 P.2d 719; *Evangelatos v. Superior Court*, *supra*, 44 Cal.3d at pp. 1205-1206, 246 Cal.Rptr. 629, 753 P.2d 585; *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at pp. 393-394, 182 P.2d 159.) Such application in futuro may nevertheless affect conduct or conditions in the past. (See, e.g., *People v. Hayes*, *supra*, 49 Cal.3d at p. 1274, 265 Cal.Rptr. 132, 783 P.2d 719; *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at p. 394, 182 P.2d 159.)

The presumption, of course, is not irrebuttable. But "in the absence of an express retroactivity provision, a [law] will not be applied retroactively unless it is very clear from extrinsic sources that the Legislature or the voters must have intended a retroactive application." (*Evangelatos v. Superior Court*, *supra*, 44 Cal.3d at p. 1209, 246 Cal.Rptr. 629, 753 P.2d 585; accord, *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at p. 393, 182 P.2d 159 [stating that "statutes are not to be given a retrospective operation unless it is clearly made to appear that such was the legislative intent"].)

*306 At the June 8, 1982, Primary Election, the voters approved an initiative constitutional amendment and statute that was designated on the ballot as Proposition 8-the self-styled "Victims' Bill of Rights." On June 9 the measure purportedly became effective. (See Cal. Const., art. II, § 10, subd. (a) [statutory provisions]; *id.*, art. XVIII, § 4 [constitutional provisions].) Proposition 8 was a complex enactment containing several provisions, some substantive, some procedural, and some both.

In *People v. Smith* (1983) 34 Cal.3d 251, 193 Cal.Rptr. 692, 667 P.2d 149 (hereafter sometimes *Smith*), we held that Proposition 8 applied prospectively, specifically, only to crimes committed on or after its effective date.

Our first reason was to effectuate the intent of the voters insofar as it could be ascertained. "[T]he primary stated purpose of Proposition 8 is to deter the commission of crimes." (34 Cal.3d at p. 258, 193 Cal.Rptr. 692, 667 P.2d 149.) "It is obvious that no such reform, no matter how effective, can deter criminal behavior or avert disruption of life if that behavior or disruption has already taken place.... Accordingly, by declaring the purpose of Proposition 8 to be the deterrence of crime the voters must have intended the measure to apply only to offenses that could be deterred, i.e., that had not already been committed by the time Proposition 8 was adopted." (*Id.* at pp. 258-259, 193 Cal.Rptr. 692, 667 P.2d 149, italics in original.)

Our second-and clearly dispositive-reason was to interpret Proposition 8 in such a way as to avoid doubts as to its constitutionality under the *ex post facto* clause of the state charter.

"In the present context, the potential constitutional defect in Proposition 8 is that if construed to apply to crimes committed before its adoption, it may amount to an ex post facto law. Our state Constitution, upon which we rely, prohibits such laws. (Cal. Const., art. I, § 9.) The general guidelines for enforcing the ex post facto prohibition are well known, but its specific applications may present difficult questions." (34 Cal.3d at p. 259, 193 Cal.Rptr. 692, 667 P.2d 149.)

"Beyond [the] two manifest constraints [against criminalizing an act that was innocent when done and increasing punishment for a crime after its commission], the picture is much less clear." (34 Cal.3d at p. 259, 193 Cal.Rptr. 692, 667 P.2d 149.)

"As to all but the most obvious examples of ex post facto legislation, ... the general ***608**450 rule is that there is no general rule. Each new statute challenged on this ground must be individually weighed in the constitutional scales, in the context of a specific case, and the outcome will often depend on matters of degree....

*307 "This task is difficult enough to perform with consistency when, as usually occurs, the Legislature adopts one statute at a time or a multisection act that is either all 'substantive' or all 'procedural.' It is even more problematic when the legislation is a seemingly random mixture of provisions of both kinds. Viewed functionally, Proposition 8 is such a composite." (34 Cal.3d at p. 260, 193 Cal.Rptr. 692, 667 P.2d 149.)

"To avert ... uncertainties, to minimize multiplicity of litigation, to forestall inconsistency of results in the inevitable close cases, and in general to avoid doubts as to the constitutionality of this measure under the ex post facto clause, we construe Proposition 8 to apply only to criminal proceedings arising out of offenses committed on or after the date it took effect." (34 Cal.3d at p. 262, 193 Cal.Rptr. 692, 667 P.2d 149.)

Our third and final reason was simply to draw a line that would "avoid a number of practical consequences adverse to the administration of justice and the right of fair trial." (34 Cal.3d at p. 262, 193 Cal.Rptr. 692, 667 P.2d 149.)

Next, in *Evangelatos v. Superior Court*, supra, 44 Cal.3d 1188, 1205-1209, 246 Cal.Rptr. 629, 753 P.2d 585, we reaffirmed the presumption of prospectivity "on an elaborate review of the case law." (7 Witkin, *supra*, Constitutional Law, § 496, at p. 688.)

Subsequently, the drafters of what would become Proposition 115 set out to do their work. They comprised "50 prosecutors." (Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Primary Elec. (June 5, 1990), rebuttal to argument against Prop. 115, p. 35, "prosecutors" emphasized in original.)

Finally, as noted, at the June 5, 1990, Primary Election the voters approved Proposition 115.

I turn now to the issue on review, viz., "whether the provisions of Proposition 115 should be applied to prosecutions of crimes committed before its effective date." Considering that question against the legal and factual background set out above, I believe that the answer must be negative.

To begin with, *People v. Smith*, supra, 34 Cal.3d 251, 193 Cal.Rptr. 692, 667 P.2d 149, is controlling. As stated, Proposition 8-the so-called "Victims' Bill of Rights"-was a complex measure containing several provisions, some substantive, some procedural, and some both. Proposition 115-the so-called "Crime Victims Justice Reform Act"-is an even more complex measure containing more than three times as many provisions, many substantive, many procedural, and many both. In *Smith*, we concluded that Proposition 8 applied only to crimes committed on or after its effective date. In this case, under the *308 authority of *Smith*, we should come to the same conclusion as to Proposition 115. Certainly, in *Raven v. Deukmejian*, supra, 52 Cal.3d at pages 346 to 349, 276 Cal.Rptr. 326, 801 P.2d 1077, a majority of this court held that Proposition 8 and Proposition 115 were virtually indistinguishable-at least for purposes of single-subject review. Consistency would seem to require them to adopt a similar interpretation on the issue before us. But no, they are of a contrary view this time.

Curiously, the majority now claim in substance that *Smith* is not controlling because its reasoning is

not applicable.

Specifically, the majority assert that Smith's "intent" ground is absent because "the primary stated purpose" of Proposition 115 is *not* "to deter the commission of crimes." (People v. Smith, supra, 34 Cal.3d at p. 258, 193 Cal.Rptr. 692, 667 P.2d 149.) But clearly, one of the primary purposes of the measure is such. As declared in subdivision (c) of section 1 of Proposition 115, among the express "goals of the people in enacting this measure" was "to create a system ... in which society as a whole can be free from the fear of crime in our homes, neighborhoods, and schools." Whether or not deterrence was "the primary***609**451stated purpose" (People v. Smith, supra, 34 Cal.3d at p. 258, 193 Cal.Rptr. 692, 667 P.2d 149, italics added) seems of no consequence here.

The majority next assert that Smith's "constitutional construction" ground is absent because on June 21, 1990, more than two weeks after Proposition 115 was approved, the law under the ex post facto clause was simplified by the United States Supreme Court in Collins v. Youngblood (1990) 497 U.S. 37, 110 S.Ct. 2715, 111 L.Ed.2d 30 (hereafter Youngblood).

In Youngblood, I acknowledge, the court did indeed simplify the law under the ex post facto clause of the United States Constitution. (U.S. Const., art. I, § 10, cl. 1.) It generally repudiated the 19th-century interpretation of the provision—the ultimate source of "the general rule ... that there is no general rule" (People v. Smith, supra, 34 Cal.3d at p. 260, 193 Cal.Rptr. 692, 667 P.2d 149)—which traces its roots to the beginning of that century, if not before. (See United States v. Hall (C.C.D.Pa.1809) 26 F.Cas. 84, 86, affd. (1810) 10 U.S. (6 Cranch) 171, 3 L.Ed. 189 ["An ex post facto law is one ... which, in relation to the offence, or its consequences, alters the situation of a party, to his disadvantage."]; see also Calder v. Bull, supra, 3 U.S. (3 Dall.) at p. 390 (lead opn. of Chase, J.) [Ex post facto laws are "those that create or aggravate the crime; or increase the punishment, or change the rules of evidence, for the purpose of conviction." (Italics added.)].) In addition, it overruled two of its own decisions that reflected that interpretation, *309Kring v. Missouri (1883) 107 U.S. 221, 2 S.Ct. 443, 27 L.Ed. 506, and Thompson v. Utah (1898) 170 U.S. 343, 18 S.Ct. 620, 42 L.Ed.

1061.

But in Smith—contrary to the majority's implication—we were simply *not* concerned with the ex post facto clause of the United States Constitution. Rather, we expressly relied on the ex post facto clause of the California Constitution (Cal. Const., art. I, § 9)—and on that clause alone. (See People v. Smith, supra, 34 Cal.3d at p. 259, 193 Cal.Rptr. 692, 667 P.2d 149.)

There is no sufficient reason to believe that the federal and state provisions are coterminous. Indeed, article 1, section 24, of the state instrument declares: "Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution."

The framers of the California Constitution of 1879—our present state charter—derived their ex post facto clause from the Constitution of 1849—our original organic law. (Compare Cal. Const. of 1879, art. I, § 16, reprinted in 1 Swindler, Sources and Documents of United States Constitutions (1973) p. 471 (hereafter 1 Swindler), with Cal. Const. of 1849, art. I, § 16, reprinted in 1 Swindler, *supra*, at p. 448.) The framers of the Constitution of 1849, in turn, evidently derived their clause from previously adopted constitutions of sister states. (See generally Fritz, *More Than "Shreds and Patches": California's First Bill of Rights* (1989) 17 Hastings Const.L.Q. 13, 16-20.)

To be sure, in seeking the original understanding of the ex post facto clause of the California Constitution, we cannot neglect the 19th-century interpretation of its federal counterpart. There is no evidence that the original understanding of our provision was contrary to the 19th-century interpretation of the federal. Nor is there any evidence that the subsequent construction of the former was somehow "compelled" by the construction of the latter.

In spite of the foregoing, the majority evidently believe that the ex post facto clauses of the United States and California Constitutions are in fact of similar scope and content. But if, as they suggest, the framers of the state instruments simply adopted the federal provision as their own, they must have adopted it *as then interpreted*. (Cf. State of California

ex rel. Van de Kamp v. Texaco, Inc. (1988) 46 Cal.3d 1147, 1162, 252 Cal.Rptr. 221, 762 P.2d 385 [making such an inference with regard to the Cartwright Act, Stats.1907, ch. 530, pp. 984-987].) That, however, is the very fact they seek to disprove. Contrary to their implication, as noted above the 19th-century interpretation of the federal***610**452 ex post facto clause traces its roots to the *310 beginning of the century, not its end. In Youngblood, the court held only that this interpretation *should not* have arisen—not that it *did not*.

The majority finally assert that Smith's "administrative concerns" ground is absent essentially because Youngblood has simplified the law under the ex post facto clause of the United States Constitution. But as explained above, such recent simplification is irrelevant.

In any event, even if arguing People v. Smith, supra, 34 Cal.3d 251, 193 Cal.Rptr. 692, 667 P.2d 149, were not controlling, I believe that Proposition 115 must be applied only to crimes committed on or after its effective date. Indeed, the legal and factual background presented above virtually compels the conclusion.

It is axiomatic that when we set about to construe any law, our first and last obligation is to effectuate the intent of the lawgiver insofar as we are able to determine its object and to accomplish its goal. In many circumstances, that task is difficult to perform and uncertain of result. Here, it is not.

When those who drafted what would become Proposition 115 commenced their labor, they did so with notice of the presumption of prospectivity, which had recently been reaffirmed in Evangelatos v. Superior Court, supra, 44 Cal.3d 1188, 246 Cal.Rptr. 629, 753 P.2d 585, and also with notice of the prospective application of Proposition 8, which had been adopted in People v. Smith, supra, 34 Cal.3d 251, 193 Cal.Rptr. 692, 667 P.2d 149. In the typical case, we would have to be content to declare that the drafters had constructive knowledge of these matters. But in this case—in which the measure was "written" by "50 prosecutors" (Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Primary Elec. (June 5, 1990), rebuttal to argument against Prop. 115, p. 35, "written" and "prosecutors" emphasized in original)—we can confidently infer that

those who framed the language had *actual* knowledge.

On completing their labor, the drafters of Proposition 115 had produced a measure that was similar to Proposition 8. As noted, the latter was a complex measure containing several provisions, some substantive, some procedural, and some both. The former is an even more complex measure containing more than three times as many provisions, many substantive, many procedural, and many both.

In view of these facts, the following conclusions are practically inescapable.

First, it must be presumed that Proposition 115 was intended to operate prospectively, specifically, only to crimes committed on or after its effective date.

*311 Second, this presumption can be rebutted only if Proposition 115 contains "an express retroactivity provision" or if "it is very clear from extrinsic sources" that retroactivity was indeed intended. (Evangelatos v. Superior Court, supra, 44 Cal.3d at p. 1209, 246 Cal.Rptr. 629, 753 P.2d 585.)

Third and final, the presumption is in fact *not* rebutted: Proposition 115 does not contain any express retroactivity provision, and the extrinsic sources do not reveal—clearly or otherwise—any intent in that regard.

Again, the majority are of the opposite view. To be sure, they recognize that the presumption of prospectivity operates and concede that it is not rebutted. But they then go on to state in substance that the "prospective/retroactive" distinction turns solely on whether the legal consequences of past conduct are changed, and that the application of a procedural provision to proceedings on or after its effective date is ipso facto prospective.

The majority's discussion, however, does not meet the analysis of intent presented above. Therefore, even if it were sound, it would nevertheless be insufficient.

But the fact is that the majority's discussion is simply not sound. Both of the premises on which it is

based are unsupported.

It is not the case that the "prospective/retroactive" distinction turns solely on ***611**453 whether the legal consequences of past conduct are changed. If it did, prospectivity would be reducible to the ex post facto prohibition-and would therefore be nothing in itself. The majority are surely right in stating that a change in the legal consequences of past conduct is a *sufficient* condition of retroactivity. But they are just as surely wrong in implying that such a change is a *necessary* condition. "Every *ex post facto* law must necessarily be retroactive; but every retrospective law is not an *ex post facto* law...." (*Calder v. Bull*, *supra*, 3 U.S. (3 Dall.) at p. 390 (lead opn. of Chase, J).)

Neither is it the case that the application of a procedural provision to proceedings on or after its effective date is ipso facto prospective. Indeed, settled law is to the contrary. (See *People v. Hayes*, *supra*, 49 Cal.3d at p. 1274, 265 Cal.Rptr. 132, 783 P.2d 719; *Evangelatos v. Superior Court*, *supra*, 44 Cal.3d at pp. 1205-1206, 246 Cal.Rptr. 629, 753 P.2d 585; *Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at pp. 393-394, 182 P.2d 159.)

The text of *Aetna Casualty*, which is the leading authority on this point, undermines the majority's premise. I quote it below in extenso.

*312 "It is an established canon of interpretation that statutes are not to be given a retrospective operation unless it is clearly made to appear that such was the legislative intent. [Citations.] It is contended ... that this rule of statutory construction has no application to procedural statutes....

"*Davis & McMillan v. Industrial Acc. Com.* [(1926) 198 Cal. 631] at page 638 [246 P. 1046], contains language ... to the effect that the presumption against retrospective construction does not apply to statutes relating merely to remedies and modes of procedure. [Citation.] A different theory is offered to reach the same result in *Morris v. Pacific Electric Ry. Co.* [(1935)] 2 Cal.2d 764, 768 [43 P.2d 276], wherein this court stated that procedural changes 'operate on existing causes of action and defenses, and it is a misnomer to designate them as having retrospective effect.' (See, also, *Estate of Patterson* [(1909)] 155 Cal. 626, 638 [102 P. 941];

[citation].) In other words, procedural statutes may become operative only when and if the procedure or remedy is invoked, and if the trial postdates the enactment, the statute operates in the future regardless of the time of occurrence of the events giving rise to the cause of action. [Citation.] In such cases the statutory changes are said to apply not because they constitute an exception to the general rule of statutory construction, but because they are not in fact retrospective. There is then no problem as to whether the Legislature intended the changes to operate retroactively.

"This reasoning, however, assumes a clear-cut distinction between purely 'procedural' and purely 'substantive' legislation. In truth, the distinction relates not so much to the form of the statute as to its effects. If substantial changes are made, even in a statute which might ordinarily be classified as procedural, the operation on existing rights would be retroactive because the legal effects of past events would be changed, and the statute will be construed to operate only in futuro unless the legislative intent to the contrary clearly appears." (*Aetna Cas. & Surety Co. v. Ind. Acc. Com.*, *supra*, 30 Cal.2d at pp. 393-394, 182 P.2d 159, italics added.)

Not only does the text from *Aetna Casualty* quoted above undermine the majority's premise that the application of a procedural provision to proceedings on or after its effective date is ipso facto prospective, so too does the reasoning and result in *People v. Hayes*, *supra*, 49 Cal.3d 1260, 265 Cal.Rptr. 132, 783 P.2d 719. There, we squarely held that the application of such a provision to such proceedings could be-and under the relevant facts actually was-"retroactive." (*Id.* at p. 1274, 265 Cal.Rptr. 132, 783 P.2d 719.)^{FN1}

FN1. The pertinent discussion in *People v. Hayes*, *supra*, 49 Cal.3d at page 1274, 265 Cal.Rptr. 132, 783 P.2d 719, is as follows.

"A new statute is generally presumed to operate prospectively absent an express declaration of retroactivity or a clear and compelling implication that the Legislature intended otherwise. (*Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1206-1209, 246 Cal.Rptr. 629, 753 P.2d 585.) We find nothing to overcome that presumption in this case.

"... The prehypnotic evidence in question here predates the statute by several years.... It would be

manifestly unfair to apply the regulatory provisions of [Evidence Code] section 795 to retrial of this case.... To invoke [Evidence Code] section 795 to exclude such evidence on retrial would be tantamount to giving the statute retroactive effect."

***612*313**454 In an attempt to support their position, the majority quote from Aetna Casualty. The language they set out, however, does not state the court's own view-but instead that of one of the parties, which the court proceeds to reject. (See Aetna Cas. & Surety Co. v. Ind. Acc. Com. *supra*, 30 Cal.2d at pp. 393-394, 182 P.2d 159.) They also rely on People v. Hayes, *supra*, 49 Cal.3d 1260, 265 Cal.Rptr. 132, 783 P.2d 719, but miss the point of that case. Finally, they cite Estate of Patterson (1909) 155 Cal. 626, 102 P. 941; Morris v. Pacific Electric Ry. Co. (1935) 2 Cal.2d 764, 43 P.2d 276; Olivas v. Weiner (1954) 127 Cal.App.2d 597, 274 P.2d 476; Strauch v. Superior Court (1980) 107 Cal.App.3d 45, 165 Cal.Rptr. 552; Andrus v. Municipal Court (1983) 143 Cal.App.3d 1041, 192 Cal.Rptr. 341; and Republic Corp. v. Superior Court (1984) 160 Cal.App.3d 1253, 207 Cal.Rptr. 241. This court's old decisions in Estate of Patterson and Morris are of no effect. They were impliedly but clearly disapproved in Aetna Casualty in the above-quoted text. Of less effect still are Olivas, Strauch, Andrus, and Republic Corp. To the extent they are inconsistent with Aetna Casualty-of which, inexplicably, they take no notice-they are obviously without force.

III

For all the reasons stated above, I conclude that Proposition 115 applies only to crimes committed on or after its effective date.

I would therefore discharge the alternative writ, vacate the stay, and reverse the order of the Court of Appeal with directions to cause the issuance of a peremptory writ as prayed.
BROUSSARD, Justice, dissenting.

I dissent for the reasons stated by Justice Mosk in part II of his dissenting opinion.

I must also dissent for an additional reason. It is manifestly unfair for the majority to change the rules after the votes are in. In People v. Smith (1983) 34 Cal.3d 251, 193 Cal.Rptr. 692, 667 P.2d 149, we

established that multifaceted criminal law reform initiatives would be applied only to crimes committed on or after the effective date of the initiative. There is no ambiguity, uncertainty or confusion as to the application of the Smith rule to Proposition 115.

*314 Our Smith decision in effect told the proponents and the opponents of Proposition 115 that its provisions would apply prospectively and would not apply to crimes committed prior to its effective date. More importantly, we in effect told the voters that they need not consider whether some provisions might be applied to pending matters and, if so, the fairness of such application.

We break faith with the voters when we repudiate the Smith rule and apply new rules after the voters have adopted the initiative.

We must presume that the voters fully understood that the provisions of Proposition 115 would not apply to crimes committed before its effective date. Certainly the drafter so understood. That understanding is repudiated by today's decision.

Many people object to changing rules in the midst of the game. But all should object to changing the rules after the game is over-after the votes are in.

Cal., 1991.
Tapia v. Superior Court
53 Cal.3d 282, 807 P.2d 434, 279 Cal.Rptr. 592

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HMurphy v. City of Alameda
 Cal.App. 1 Dist., 1992.

Court of Appeal, First District, Division 1, California.
 Edward J. MURPHY et al., Plaintiffs and Appellants,
 v.

CITY OF ALAMEDA et al., Defendants and
 Respondents.
 No. A056245.

Dec. 14, 1992.

Review Denied March 11, 1993.

Plaintiffs brought action against city challenging constitutionality of city charter amendment adopted by initiative prohibiting construction of new multiple dwelling units and ordinance implementing amendment. Plaintiffs moved for summary adjudication. The Superior Court, Alameda County, No. 620918-8, James R. Lambden, J., denied motion. Plaintiffs appealed. The Court of Appeal, Strankman, P.J., held that: (1) ordinance fell within scope of statute requiring that city or county enacting growth control ordinance bear burden of proof that ordinance is necessary for protection of public health, safety, or welfare of its population in any action challenging validity of ordinance, despite contention that amendment and ordinance did not impose any numerical limits on permits or lots but simply regulated type of units which could be constructed; (2) statute was not retroactive as applied to ordinance, which was enacted before effective date of statute; and (3) even assuming application of statute to ordinance was retroactive, Legislature intended statute to apply retroactively.

Reversed and remanded.

West Headnotes

[1] Municipal Corporations 268 ↪ 122.1(2)

268 Municipal Corporations

268IV Proceedings of Council or Other
 Governing Body

268IV(B) Ordinances and By-Laws in
 General

268k122.1 Evidence

268k122.1(2) k. Presumptions and
 Burden of Proof. **Most Cited Cases**
 (Formerly 268k122(2))

Under traditional rule, party challenging constitutionality of ordinance has burden to present evidence and documentation that the legislation is not reasonably related to public welfare of those whom it significantly affects.

[2] Zoning and Planning 414 ↪ 683

414 Zoning and Planning

414X Judicial Review or Relief

414X(C) Scope of Review

414X(C)3 Presumptions

414k680 Burden of Showing Grounds
 for Review

414k683 k. Public Health, Safety, or
 Welfare, Burden as To. **Most Cited Cases**
 In enacting statute requiring that city or county enacting growth control ordinance bear burden of proof that ordinance is necessary for protection of public health, safety, or welfare of its population in any action challenging validity of ordinance, Legislature intended as matter of public policy to shift burden of proof in actions challenging validity of certain growth control ordinances to proponents of those ordinances, to counteract unjustified limitations on supply of local housing sufficient to meet local entity's share of regional housing needs. West's Ann.Cal.Evid.Code § 669.5.

[3] Zoning and Planning 414 ↪ 683

414 Zoning and Planning

414X Judicial Review or Relief

414X(C) Scope of Review

414X(C)3 Presumptions

414k680 Burden of Showing Grounds
 for Review

414k683 k. Public Health, Safety, or
 Welfare, Burden as To. **Most Cited Cases**
 City ordinance implementing city charter amendment prohibiting construction of new multiple dwelling units fell within scope of statute requiring that city or county enacting growth control ordinance bear

burden of proof that ordinance is necessary for protection of public health, safety, or welfare of its population in any action challenging validity of ordinance, despite contention that amendment and ordinance did not impose any numerical limits on permits or lots but simply regulated type of units which could be constructed; city had limited number of permits that could be issued for certain kinds of residential construction to zero. West's Ann.Cal.Evid.Code § 669.5.

[4] Zoning and Planning 414 ↪ 683

414 Zoning and Planning

414X Judicial Review or Relief

414X(C) Scope of Review

414X(C)3 Presumptions

414k680 Burden of Showing Grounds for Review

414k683 k. Public Health, Safety, or Welfare, Burden as To. Most Cited Cases
Practical effect of ordinances which severely restrict number of available housing units, not their literal terms, dictates applicability of statute requiring that city or county enacting growth control ordinance bear burden of proof that ordinance is necessary for protection of public health, safety, or welfare of its population in any action challenging validity of ordinance. West's Ann.Cal.Evid.Code § 669.5.

[5] Zoning and Planning 414 ↪ 10

414 Zoning and Planning

414I In General

414k7 Constitutional and Statutory Provisions

414k10 k. Retroactive Operation. Most

Cited Cases

Statute requiring that city or county enacting growth control ordinance bear burden of proof that ordinance is necessary for protection of public health, safety, or welfare of its population in any action challenging validity of ordinance was not retroactive as applied to city ordinance, which was enacted before effective date of statute, implementing city charter amendment prohibiting construction of new multiple dwelling units; statute addressed conduct of trials and did not change legal consequences of parties' past conduct. West's Ann.Cal.Evid.Code § 669.5.

[6] Statutes 361 ↪ 278.13

361 Statutes

361VI Construction and Operation

361VI(D)Retroactivity

361k278.12 Statutes Relating to Remedies and Procedures

361k278.13 k. In General. Most Cited

Cases

(Formerly 361k267(1))

New statute addressing conduct of trials may actually be prospective in nature when applied to trial occurring after its effective date, even though trial deals with facts existing prior to that date.

[7] Statutes 361 ↪ 278.13

361 Statutes

361VI Construction and Operation

361VI(D)Retroactivity

361k278.12 Statutes Relating to Remedies and Procedures

361k278.13 k. In General. Most Cited

Cases

(Formerly 361k267(1))

Operation of statute addressing conduct of trials is prospective in nature when applied to trial occurring after its effective date, even though trial deals with facts existing prior to that date, when statute does not deprive person of any right which he or she had at time of commencement of suit, but instead only prescribes condition upon which suit may be brought and maintained.

[8] Statutes 361 ↪ 278.22(1)

361 Statutes

361VI Construction and Operation

361VI(D)Retroactivity

361k278.18 Repealing Acts

361k278.22 Actions and Other Proceedings Pending

361k278.22(1) k. In General. Most

Cited Cases

(Formerly 361k276(1))

Principle, that new statute addressing conduct of trials may actually be prospective in nature when applied to trial occurring after its effective date, does not include statutes which do not simply address conduct of trials, but which change legal consequences of parties' past conduct, as by imposing new and different liabilities based on that conduct.

[9] Statutes 361 ↪ 278.13

361 Statutes

361VI Construction and Operation

361VI(D) Retroactivity

361k278.12 Statutes Relating to Remedies and Procedures

361k278.13 k. In General. Most Cited

Cases

(Formerly 361k267(1))

Although courts at times use terms "substantive" and "procedural" to determine whether statute alters legal consequences of past events, law's effect, not its label or form, is important in determining applicability of principle that new statute addressing conduct of trials may actually be prospective in nature when applied to trial occurring after its effective date even though trial deals with facts existing prior to that date.

[10] Zoning and Planning 414 ↪ 10

414 Zoning and Planning

414I In General

414k7 Constitutional and Statutory Provisions

414k10 k. Retroactive Operation. Most

Cited Cases

Even assuming application of statute, requiring that city or county enacting growth control ordinance bear burden of proof of necessity of ordinance, to city ordinance, which was enacted before effective date of statute and which implemented city charter amendment adopted by initiative prohibiting construction of new multiple dwelling units, was retroactive, Legislature intended statute to apply retroactively; by expressly declaring that statute should not apply only to certain ordinances adopted by initiative or referendum adopted prior to its effective date, Legislature impliedly indicated that statute should apply to all other ordinances. West's Ann.Cal.Evid.Code § 669.5.

[11] Statutes 361 ↪ 278.6

361 Statutes

361VI Construction and Operation

361VI(D) Retroactivity

361k278.4 Prospective Construction

361k278.6 k. Presumptions. Most Cited

Cases

(Formerly 361k263)

Statute is presumed to operate prospectively absent express legislative declaration of retroactivity or some other clear indication that retroactive application was intended.

[12] Statutes 361 ↪ 278.5

361 Statutes

361VI Construction and Operation

361VI(D) Retroactivity

361k278.4 Prospective Construction

361k278.5 k. In General. Most Cited

Cases

(Formerly 361k263)

Absence of explicit retroactivity provision is not controlling on question of whether statute operates retroactively, as legislative intent may be suggested or implied by other wording in statute.

[13] Courts 106 ↪ 92

106 Courts

106II Establishment, Organization, and Procedure

106II(G) Rules of Decision

106k88 Previous Decisions as Controlling or as Precedents

106k92 k. Dicta. Most Cited Cases

Cases are not authority for propositions not considered and decided.

[14] Zoning and Planning 414 ↪ 683

414 Zoning and Planning

414X Judicial Review or Relief

414X(C) Scope of Review

414X(C)3 Presumptions

414k680 Burden of Showing Grounds for Review

414k683 k. Public Health, Safety, or Welfare, Burden as To. Most Cited Cases

Statute requiring that city or county enacting growth control ordinance bear burden of proof that ordinance is necessary for protection of public health, safety, or welfare of its population in any action challenging validity of ordinance applied to city ordinance implementing city charter amendment adopted by initiative prohibiting construction of new multiple dwelling units, despite fact that statute by its express terms referred only to "ordinances" and contention

that statute was inapplicable to charter amendment and necessarily to ordinance implementing amendment as well. West's Ann.Cal.Evid.Code § 669.5.

****331*909**David A. Self, Stuart A. McIntosh, David A. Self & Associates, Oakland, for plaintiffs and appellants.

Douglas Y. Dang, Dang & Trachuk, Oakland, Carol Korade, City Atty., Alameda, for defendants and respondents.

STRANKMAN, Presiding Justice.

Evidence Code section 669.5 requires that in any action challenging the validity of certain growth control ordinances, the city or county enacting the ordinance must bear the burden of proof that the ordinance is "necessary for the protection of the public health, safety, or welfare" of its population.^{FN1} The question in this appeal is whether section 669.5 is applicable in an action attacking a city charter amendment adopted by initiative and an ordinance implementing the amendment, both enacted ****332** before the effective date of the statute. We conclude that the statute applies, reverse the judgment, and remand for trial.

FN1. Unless otherwise indicated, all further statutory references are to the Evidence Code.

FACTUAL AND PROCEDURAL BACKGROUND

In March 1973 the voters of the City of Alameda (the City) amended its charter with a policy declaration that no multiple dwelling units should be built in the City, except for the replacement of certain existing low cost *910 housing units and a proposed senior citizens low cost housing complex. (Alameda City Charter, art. XXVI, §§ 26-1, 26-2.) The City Council implemented the charter amendment, which was commonly known as Measure A, by adding to the Municipal Code chapter 4 of title 11 (the ordinance). The ordinance defines the prohibited multiple dwelling unit as a residential building to be used by three or more families or living groups, living independently of each other. (Alameda Mun.Code, tit. XI, ch. 4, § 11-421(b).)

In 1987 plaintiffs Edward J. Murphy, Madlyn K. Murphy, and Elisabeth Lillie filed an amended complaint for declaratory and injunctive relief against

the City and others; their first two counts attacked Measure A and the ordinance as unconstitutional.

Plaintiffs moved for summary adjudication of issues, seeking a determination that section 669.5, which became effective in January 1981, applied to those counts. The trial court found no indication that the Legislature intended the statute to be retroactive and concluded it did not apply. Thereafter, the parties stipulated to entry of judgment in favor of defendants to permit an appeal by plaintiffs; the parties agreed that should the trial court's ruling on section 669.5 be reversed, a trial on the merits would be required. Judgment pursuant to the stipulation was entered in favor of defendants. The foregoing procedure to facilitate plaintiffs' appeal was patterned after that approved by the Supreme Court in Building Industry Assn. v. City of Camarillo (1986) 41 Cal.3d 810, 816-817, 226 Cal.Rptr. 81, 718 P.2d 68(Camarillo).

DISCUSSION

A. The Scope of Section 669.5

[1][2] Under the traditional rule, a party challenging the constitutionality of an ordinance has the burden to present evidence and documentation that the legislation is not reasonably related to the public welfare of those whom it significantly affects. (See, e.g., Associated Home Builders etc., Inc. v. City of Livermore (1976) 18 Cal.3d 582, 607-610, 135 Cal.Rptr. 41, 557 P.2d 473.) With the enactment of section 669.5 in 1980, the Legislature intended as a matter of public policy to shift the burden of proof in actions challenging the validity of certain growth control ordinances to the proponents of those ordinances, to counteract unjustified limitations on the supply of local housing sufficient to meet the local entity's share of regional housing needs. (Camarillo, supra, 41 Cal.3d at p. 818, 226 Cal.Rptr. 81, 718 P.2d 68; see also Stats.1980, ch. 1144, § 1, p. 3703.)

*911 Section 669.5 provides in relevant part: "(a) Any ordinance ... which (1) directly limits, by number, the building permits that may be issued for residential construction or the buildable lots which may be developed for residential purposes ... is presumed to have an impact on the supply of residential units available in an area which includes territory outside the jurisdiction of the city.... [¶] (b)

With respect to any action which challenges the validity of an ordinance specified in subdivision (a) the city ... enacting the ordinance shall bear the burden of proof that the ordinance is necessary for the protection of the public health, safety, or welfare of the population of the city...." (Emphasis added.)

[3][4] Defendants insist that section 669.5 is inapplicable on its face to Measure A and the ordinance because they do not impose any numerical limits on permits or lots, but simply regulate the type of units which may be constructed. Little need be said about this argument. When the Legislature enacted section 669.5, it was concerned with local government ordinances which severely restrict the number of available housing units. (Stats.1980, ch. 1144, **333 § 1, p. 3703.) It is the practical effect of such ordinances, not their literal terms, which dictates whether the statute applies. (See Camarillo, supra, 41 Cal.3d at p. 816, 226 Cal.Rptr. 81, 718 P.2d 68.) The City's growth restrictions prohibit construction of, and thus issuance of a building permit for, any housing other than single family detached houses and duplexes. In other words, the City has limited to zero the number of permits that may be issued for certain kinds of residential construction; thus the ordinance is unquestionably of a type which falls within the scope of the statute. Adopting defendants' narrow and literal reading of the statute would enable local governments to evade its impact simply by imposing absolute limits on all housing units except single family dwellings.

B. Prospective or Retroactive Application

[5] Underlying the trial court's ruling is its assumption that application of section 669.5 in this case would give the statute retroactive effect. Plaintiffs disagree, arguing that the statute concerns rules of evidence at future trials and is therefore prospective.

[6][7] Courts have consistently recognized the principle that a new statute addressing the conduct of trials may actually be prospective in nature when applied to a trial occurring after its effective date, even though the trial deals with facts existing prior to that date. (Tapia v. Superior Court (1991) 53 Cal.3d 282, 288-291, 279 Cal.Rptr. 592, 807 P.2d 434; Hogan v. Ingold (1952) 38 Cal.2d 802, 812, 243 P.2d 1; Estate of Patterson (1909) 155 Cal. 626, 638,

102 P. 941; *912 Republic Corp. v. Superior Court (1984) 160 Cal.App.3d 1253, 1257, 207 Cal.Rptr. 241; Strauch v. Superior Court (1980) 107 Cal.App.3d 45, 48-49, 165 Cal.Rptr. 552.) The operation of such a statute is prospective because it does not deprive a person of any right which he or she had at the time of the commencement of the suit, but instead only prescribes the conditions upon which the suit may be brought and maintained. (Hogan v. Ingold, supra, at p. 812, 243 P.2d 1.)

[8][9] This principle does not include statutes which do not simply address the conduct of trials, but which change the legal consequences of the parties' past conduct, as by imposing new and different liabilities based on that conduct. Although courts at times use the terms "substantive" and "procedural" to determine whether a statute alters the legal consequences of past events, what is important is the law's effect, not its label or form. (Tapia v. Superior Court, supra, 53 Cal.3d at pp. 288-291, 279 Cal.Rptr. 592.) A statute which takes a seemingly procedural form and uses evidentiary language concerning burdens of proof may in effect alter or destroy a preexisting substantive right by imposing an evidentiary requirement with which it is impossible to comply. (See, e.g., In re Marriage of Buol (1985) 39 Cal.3d 751, 756-760, 218 Cal.Rptr. 31, 705 P.2d 354; see also Morris v. Pacific Electric Ry. Co. (1935) 2 Cal.2d 764, 768, 43 P.2d 276 [Legislature may not under pretense of regulating procedure or rules of evidence deprive party of substantive right].)

Defendants argue that application of section 669.5 to this action would change the legal consequences of past events because the City would have to prove that regional housing needs were balanced against the City's need for Measure A and the ordinance when they were enacted in 1973. Meeting that burden would be impossible, defendants claim, because at that time cities were not obliged to consider regional housing needs in their local planning. (See generally, Gov.Code, § 65580 et seq.)

The most obvious flaw in defendants' argument is its premise that application of section 669.5 would require proof of circumstances in 1973. The statute directs that in any action challenging the validity of a growth control ordinance, the city or county shall bear the burden of proof that the ordinance "is" necessary, not that it was necessary at the time it was

enacted. As applied in that manner, the statute does not invalidate previously enacted ordinances; instead, it simply subjects such ordinances to a presumption of impact on the housing supply and places on the local **334 entity a new burden of proof. (See Camarillo, supra, 41 Cal.3d at p. 822, 226 Cal.Rptr. 81, 718 P.2d 68; Building Industry Assn. v. Superior Court (1989) 211 Cal.App.3d 277, 292, 259 Cal.Rptr. 325, disapproved on other grounds in *913 Leshner Communications, Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531, 545-546, 277 Cal.Rptr. 1, 802 P.2d 317.) The presumption is not irrebuttable, and the evidentiary requirement is not impossible to satisfy; as the Camarillo court noted, a city is obligated by state law to develop a housing element as part of a general plan; that process develops substantial data concerning housing within the city and the general area, which are available to a city to meet its burden of proof. (See Camarillo, supra, 41 Cal.3d at p. 822, 226 Cal.Rptr. 81, 718 P.2d 68.)

Because section 669.5 addresses the conduct of trials and does not change the legal consequences of the parties' past conduct, its operation is prospective; therefore, the trial court erred in concluding it was inapplicable in this action.

C. Legislative Intent

[10] Plaintiffs argue in the alternative that even if application of section 669.5 in this action is retroactive in effect, the Legislature intended the statute to apply retroactively. We agree.

[11][12] A statute is presumed to operate prospectively absent an express legislative declaration of retroactivity or some other clear indication that retroactive application was intended. (Evangelatos v. Superior Court (1988) 44 Cal.3d 1188, 1206-1208, 246 Cal.Rptr. 629, 753 P.2d 585; Aetna Cas. & Surety Co. v. Ind. Acc. Com. (1947) 30 Cal.2d 388, 393, 182 P.2d 159.) The absence of an explicit retroactivity provision is not controlling, as legislative intent may be suggested or implied by other wording in the statute. (See Russell v. Superior Court (1986) 185 Cal.App.3d 810, 818, 230 Cal.Rptr. 102.)

Although the initial clause of section 669.5, subdivision (b), does state that a city or county shall bear the burden of proof in "any action" challenging

the validity of specified ordinances, that broad general language, standing alone, would not be sufficient to establish legislative intent for retroactivity. (Evangelatos v. Superior Court, supra, 44 Cal.3d at p. 1209, fn. 13, 246 Cal.Rptr. 629, 753 P.2d 585.) But subdivision (d) of section 669.5 provides additional insight into the lawmakers' intent. That section states that "[t]his section shall not apply to a voter approved ordinance adopted by referendum or initiative prior to the effective date of this section which (1) requires the city, county, or city and county to establish a population growth limit which represents its fair share of each year's statewide population growth, or (2) which sets a growth rate of no more than the average population growth rate experienced by the state as a whole...."

The purpose of subdivision (d) of section 669.5 was considered first in Lee v. City of Monterey Park (1985) 173 Cal.App.3d 798, 219 Cal.Rptr. 309*914 and then in Camarillo, supra, 41 Cal.3d 810, 226 Cal.Rptr. 81, 718 P.2d 68. In Lee, the court relied on legislative history to reject an argument that section 669.5 did not apply to growth control ordinances adopted through the initiative process. The court noted that the Legislature had at one time intended to eliminate all initiative measures from the scope of the statute, but eventually decided that only specific types of initiatives should be excluded and added subdivision (d). (Lee, supra, at pp. 806-807, 219 Cal.Rptr. 309.) The following year, the Supreme Court considered the same question with the same result; focusing on the statutory language, it reasoned in part that a conclusion that section 669.5 does not apply to initiative measures would render subdivision (d) meaningless. (Camarillo, supra, at pp. 817-821, 226 Cal.Rptr. 81, 718 P.2d 68.)

A similar statutory analysis is appropriate here. By expressly declaring that the section should not apply only to certain ordinances adopted by initiative or referendum adopted prior to its effective date, the Legislature impliedly indicated that it should apply to all other ordinances, whether adopted by legislative bodies or by **335 the voters, including all ordinances adopted by initiative prior to its effective date but not specifically exempted. Any other conclusion would render subsections (1) and (2) of section 669.5, subdivision (d) superfluous and meaningless.^{FN2}

FN2. Our conclusion is based on the language of the statute. Therefore, we need not act on defendants' motion to strike a legislator's recently prepared declaration, which was submitted with plaintiffs' reply brief.

END OF DOCUMENT

[13] We have not overlooked the statements in Camarillo, supra, 41 Cal.3d 810, 226 Cal.Rptr. 81, 718 P.2d 68, which the trial court in this case misconstrued as a holding that the statute applies only to initiative measures adopted after its effective date. (See id., at pp. 815, 820, 226 Cal.Rptr. 81, 718 P.2d 68.) It is fundamental that cases are not authority for propositions not considered and decided. The precise issue in Camarillo was whether the statute was intended to apply to initiatives at all; the Court of Appeal had decided it was not. (Id., at pp. 816-817, 226 Cal.Rptr. 81, 718 P.2d 68.) As the initiative in dispute was enacted after the effective date of the statute, the question of the statute's retroactivity was not before the Camarillo court, was not discussed, and was not decided, notwithstanding the misleading sweep of that court's language.

D. Applicability of Section 669.5 to Ordinances Enacted to Implement Charter Provisions

[14] Defendants' final argument also merits little discussion. They argue that because the statute by its express terms refers only to "ordinances," it is inapplicable to the City's charter amendment; defendants then claim that the statute is necessarily inapplicable to its ordinance as well, because it was *915 enacted only to implement the charter amendment. Defendants cite no authority in support of this proposition, and nothing in the language of the statute or its legislative history suggests that the Legislature intended to exempt ordinances enacted by charter cities from the application of section 669.5.

DISPOSITION

The judgment is reversed and the matter remanded for a trial on the merits.

NEWSOM and DOSSEE, JJ., concur.
Cal.App. 1 Dist., 1992.
Murphy v. City of Alameda
11 Cal.App.4th 906, 14 Cal.Rptr.2d 329

