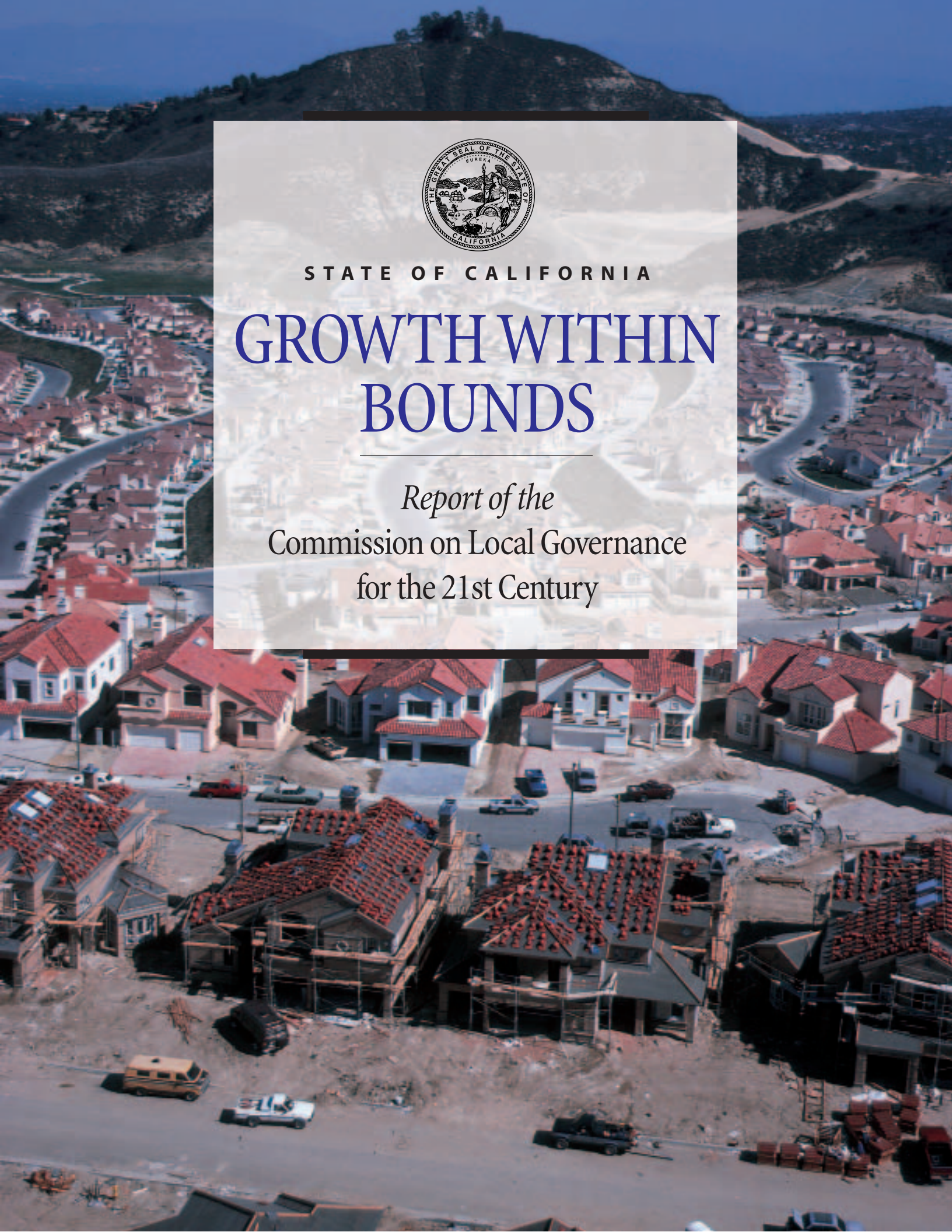


STATE OF CALIFORNIA

# GROWTH WITHIN BOUNDS

*Report of the*
Commission on Local Governance
for the 21st Century

Cover photograph:

Oak Park subdivision in Ventura County
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# Growth Within Bounds

## Planning California Governance for the 21st Century

*Report of the*
Commission on Local Governance
for the 21st Century


Susan Golding, *Chair*
Ruben Barrales, *Vice-Chair*
Jacqueline Bacharach
Marian Bergeson
Patricia Clarke
Cody Cluff
Michael Colantuono
Robert Hunt
Nicholas Petris
Timothy Raney
Carolyn Ratto
William D. Ross
John Schatz
Larry Zarian






January 2000

# Commission on Local Governance for the 21st Century

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Carolyn Ratto
William Ross
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Larry Zarian


January 2000

Dear Governor Davis and
Members of the California Legislature:

In 1997, AB 1484, authored by Assemblyman Robert Hertzberg and enacted as Chapter 943, established the Commission on Local Governance for the 21st Century. In August 1998, the Commission held its first meeting in Sacramento. I was honored to be elected Chair at that meeting. As our first order of business, plans were laid out and a timeline was adopted for completing a study on local governance in California.

The legislation directed the Commission to review current statutes and, where appropriate, recommend revisions to the laws that govern city, county, and special district boundary changes. My fellow commissioners and I believe this task cannot be undertaken in isolation. Consequently, we also looked at general governance issues that need to be addressed by the Legislature and Governor.

Over a period of 16 months, we held 25 days of public hearings throughout the state, heard testimony from more than 160 individuals and groups, received over 100 recommendations, and had nearly 90,000 visits to the commission's website, www.cla2l.ca.gov. Based upon this extensive input and our deliberations on the information received, we are pleased to present the attached report and recommendations. The report concludes with a strategic plan for its implementation. We urge you to adopt all of the actions recommended.

It is our goal that this report bring about reforms to governance in California and help make California government more accessible, responsive, and transparent to the people who support it and depend upon it. We thank you for this opportunity to serve the people of California.

Sincerely,

Susan Golding
Chair

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## Acknowledgments

The Commission on Local Governance for the 21st Century would like to acknowledge and thank the many individuals whose contributions were so important to this report. Collectively, the Commission heard testimony from over 160 individuals representing state and local government, businesses, non-profit organizations, and the public.

The Commission appreciates the support of Assemblyman Robert Hertzberg, the author of the legislation that created the Commission, and Christopher Carlisle, Assemblyman Hertzberg's Legislative Director.

We appreciate the help and energy given by Mike Gotch, former Executive Director, and S.R. Jones, Executive Officer of California Local Agency Formation Commission (CALAFCO). Their contributions were essential to understanding LAFCOs statewide. LAFCO members and officers throughout the state graciously provided information about LAFCO operations and assistance with meeting logistics. At the risk of omitting an important contributor, special thanks is extended to: Jim Colangelo (Monterey), Dana Smith (Orange), George Spilliotis (Riverside), Jim Roddy (San Bernardino), Michael Ott and Shirley Anderson (San Diego), Autumn Arias (Santa Clara), Patrick McCormick (Santa Cruz), Julie Howard (Shasta), and Bob Braitman (Ventura).

The following individuals were also instrumental in advising the Commission on local governance issues: Peter Detwiler, Chief Consultant, California State Senate Local Government Committee; Hugh Bower, former Consultant, Assembly Local Government Committee; Dan Carrigg, Legislative Representative, League of Cities; Pat Leary, Legislative Representative, California State Association of Counties; Catherine Smith, Executive Director, California Special Districts Association; and Robert Reeb, Legislative Director, Association of California Water Agencies.

Other individuals like: Fred Silva, Visiting Policy Analyst, Public Policy Institute of California; Nancy Lyons, Deputy Executive Director, Little Hoover Commission; Paul Antilla, Deputy Legislative Counsel, Office of Legislative Counsel; Pedro Reyes, Principal Program Budget Analyst, Department of Finance; Holly King, Agricultural Programs Manager, Great Valley Center; and Erik Vink, California Field Director, American Farmland Trust were of great assistance throughout the life of the Commission. Vital to the final production were Kathy Mitchell and Dave Dickey of the Office of State Publishing. An unsung hero, OPR graphic artist Bill McGuire, contributed long hours and Herculean efforts to complete the graphics and layout under intense time pressures.

Perhaps most helpful to the Commission, were the real life experiences provided by the numerous LAFCO representatives, local government officials, and individual citizens who testified before the Commission. A complete list of all of the individuals can be found in Appendix B.

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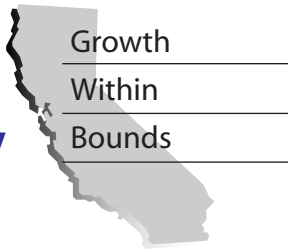
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Report of the Commission on Local Governance for the 21st Century

# Growth Within Bounds: Planning California Governance for the 21st Century




## Executive Summary

Throughout the world, California symbolizes success, achievement, and prosperity. We are the incubator of many of today's leading industries, including entertainment, aerospace, computer and communications technology, and genetic engineering. California has been the nation's leading agricultural producer for five decades, despite having only three percent of the nation's farmland. The Golden State is the premier destination point worldwide for vacationers, business people, and those seeking a better life.

As California enters a new millennium, we find ourselves at a crossroads. Faced with surging growth, dynamic change, and greater diversity than the world has ever known, the time is right for California to set to a new course. We must start by examining the system of governance (the way that government is organized and operates) and we must establish a vision of how the state will grow. As a state, we need to ask ourselves if our existing system can carry us for another century.

Recognizing the challenges facing California governance in the 21st Century, the State Legislature in 1997 enacted AB 1484 (Hertzberg), establishing the Commission on Local Governance for the 21st Century ("Commission"). The Commission was asked to assess governance issues and make appropriate recommendations, directing 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.

Our current institutions of government were designed when our population was much smaller and our society was less complex. The Commission believes that it has taken an important first step towards managing and visualizing the future role of government. The Commission's report and recommendations are intended to provide new tools to enable California to cope with growth in a rational manner, in part by making better use of the often invisible LAFCOs in each county. We have also worked to improve the procedural framework outlined in the Local Government Reorganization Act which should assist Californians in organizing more coherent governmental entities.

The Commission, however, recognizes that time constraints prevented a more thorough analysis of other critical issues. We are particularly concerned over the lack of coordination and accountability for many governmental services. The Commission believes that a complete reexamination is warranted of the fundamental structure of governance in California. The Legislature should commission a task force to undertake this responsibility, or extend the term of the Commission on Local Governance for the 21st Century.

The task of investigating future local governance options is formidable and must include a fundamental assessment of the functions performed by cities, counties, special districts, and regional agencies. Any excessive fragmentation of government services among numerous, inefficient, or overlapping providers must be discouraged; and effective, efficient, and easily understandable local government must be encouraged. Nevertheless, the scale of public institutions and the growing complexity of the services they provide must also be considered. As local agencies grow and reorganize, means must be found to empower neighborhoods and individuals and to re-engage them in determining the shape of their communities in the

*Faced with surging growth, dynamic change, and greater diversity than the world has ever known, the time is right for California to set a new course.*

*Local governments struggle to provide essential services and have little latitude to adjust resources to match priorities.*

future. Local government institutions need to be (1) small enough to be accessible; (2) large enough to be effective and efficient (economies of scale need to be recognized); and (3) adaptable enough to remain accountable while serving diverse communities across the state.

Four points should be recognized in order to frame the debate about the future role of government:

1. ***The future will be shaped by continued phenomenal growth.*** If we fail to recognize, accept, and respond to this, we risk making California an unattractive place to live and work.

2. ***California does not have a plan for growth.*** If we stay the current course, we may one day wake up to discover a world marred by sprawling suburbs, expensive and overextended public services, a decimated agricultural industry, less open space, and fewer recreational opportunities. In a state that on the East Coast would cover all or part of a dozen states, there is no formal intermediate planning authority between the State and individual local governments.

3. ***Local government budgets are perennially under siege.*** Because of taxing and spending constraints enacted over the past two decades, local governments struggle to provide essential services and have little latitude to adjust resources to match residents' priorities.

4. ***The public is not engaged.*** Although there clearly is frustration with traffic gridlock and the high cost of housing, most Californians have little interest in the day-to-day functioning of government or preparing plans for future growth.

It was within this context that the Commission initiated its legislatively directed review " . . . of the current statutes, including, but not limited to, this division [the Local Government Reorganization Act], regarding the policies, criteria, procedures, and precedents for city, county, and special district boundary changes." To accomplish this task, the Commission held 25 days of public hearings throughout the state, receiving input from over 160 individuals and organizations. The Commission's Internet website, *www.clg21.ca.gov*, received 90,000 "hits" between January and December 1999 and many visitors took advantage of the opportunity to submit questions and suggestions electronically. The Commission's report and recommendations are based upon this extensive input and the Commission's deliberations on the information received.

Fig. ES-1

Meeting of the Commission on Local Governance for the 21st Century

Staff photo



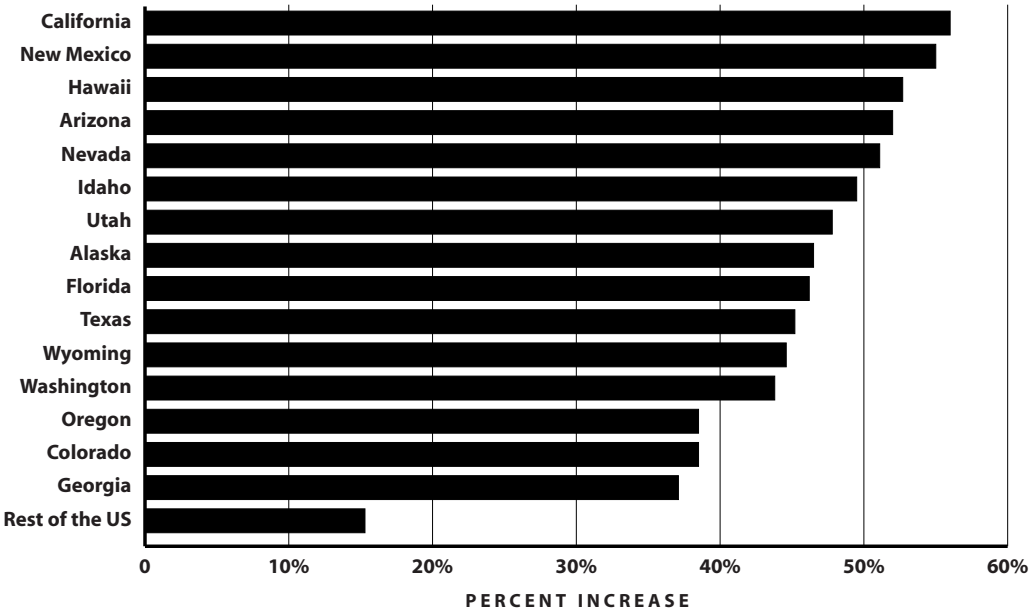



Fig. ES-2

**Projected California Population Growth Rate Compared to Other States 1995 Through 2025**

SOURCE: U.S. Department of Commerce, Census Bureau, *Current Population Reports: Population Projections: States, 1995-2025*, May 1997.

## 21st Century Challenges to Local Government

Wave after wave of immigrants have poured into California since the Gold Rush, bringing about a steady increase in the state's population. This trend will continue well into the next century, but most new growth will be generated internally, through the natural increase of the existing population. Closing the gates will not solve the growth problem. By 2020, California will add 11 million people to its current population of over 34 million, then it will grow by another 13 million in the two decades that follow. This four decade gain will exceed the present populations of Texas or New York. According to the Census Bureau, California's rate of increase will exceed that of every other state, including those with much smaller population bases.

In the 21st Century, California will continue to be the most diverse civilization ever known to mankind. By 2040, more than two-thirds of the state's population will be non-Anglo, representing a multitude of national and ethnic extractions. Moreover, demographers believe that it will still be a relatively young population forty years from now, foreshadowing continued growth in the latter part of the century. This growth and diversity, fueling opportunity for the state's ever-present entrepreneurial penchant, should keep California's economy vibrant well into the millennium. Unless, that is, failure to invest in education, infrastructure, and smart growth policies leads businesses to seek other locations.

While the immediate future looks bright for California's economy, it will present some real challenges to our longer-term resolve to maintain livable communities. Currently, there is no comprehensive strategy to determine how the burdens of growth will be shared, how resources benefiting more than one locality will be protected, and how necessary but locally undesirable facilities will be sited. As a result, farmland and open spaces continue to be swallowed up by sprawling suburban expansion. As development pushes ever outward from existing cities, expensive extensions and improvements will be needed for freeways, water and sewer lines, and other infrastructure. Job centers will become farther removed from the housing that supports them, leading to longer commutes, increased air pollution, and a more stressful lifestyle. At the same time, many contaminated former industrial sites near downtown areas lie abandoned due to the cost of cleaning them up.

The growth in the next century will present an unparalleled test for the local governments upon which we depend for essential public services and community leadership. Several barriers may hinder local governments' ability to deal with 21st Century

*There is no comprehensive strategy to determine how the burdens of growth will be shared.*

challenges, including the following:

- Local finance sources are unstable, uncertain, often inadequate, and subject to unpredictable revisions by the Legislature.
- Land use decisions are often made for reasons that have more to do with the finances of the local government than the land use needs of the local community, and some decisions may ultimately erode future quality of life.




Fig. ES-3
California encapsulates the world's diversity
Staff photo

- People are confused by the array of government agencies — 58 counties, 473 cities, about 1,800 dependent and 2,200 independent special districts, 800 jointly-controlled agencies, nearly 1,000 school districts. The mere numbers suggest potential cross-purpose efforts.
- Many voters and taxpayers feel alienated and are declining to become involved in the debate over public policy.
- The legal process that must be followed to restructure local government to meet these challenges has not been comprehensively revisited since 1963, and is commonly viewed as arcane, incomprehensible, and sometimes biased.

The Commission was specifically tasked with addressing only a portion of these problems, but with clear direction to look at governance broadly. The Commission believes that all of these issues are interrelated and demand a comprehensive solution. Most of the Commission's recommendations are directed toward reform of the state's 57 LAFCOs, the often invisible agencies that review and approve city and special district boundary and service area changes in each county except San Francisco. Nevertheless, the Commission recognizes that LAFCOs, acting alone, can do little to transform the ability of California's local governments to address the pressures on planning and governance in the 21st Century. Consequently, broad recommendations are also provided regarding the necessity to reform the state-local fiscal balance, the need for the State and local governments to adopt smart growth policies, and ways to promote accessibility and understandability of government. Together, these recommendations comprise a blueprint for California's transition to the new millenium.

## Recommendations

The major recommendations below are composites of the specific individual proposals which follow them. A reference to the chapter in the report which discusses the concept more completely is indicated in parentheses. Additional suggested technical changes are included in the text of the report, but are not replicated here.

### ISSUE: REFORM OF LOCAL GOVERNMENT REORGANIZATION LAW

**Problem:** ***Current procedures in the Local Government Reorganization Act were enacted prior to Proposition 13 and the extensive growth of the past 35 years. The law is a composite of three previous procedural statutes that were not substantially modified when combined, nor have they been since. Consequently, policies are often unclear and procedures are cumbersome and uncertain. Moreover, LAFCOs are viewed by many local officials as biased and non-responsive to local development needs.***

**1. The Commission recommends that LAFCO policies and procedures be streamlined and clarified.**

- The Cortese-Knox Act must be compre-

hensively reorganized and re-drafted to make procedures more consistent and easier to understand. *(Chapter 3)*
- Consistent procedures must be established for voter/land owner petitions to initiate a change of organization or reorganization. *(Chapter 3)*
- All LAFCOs must adopt written policies and procedures. *(Chapter 3)*
- LAFCO must be the conducting authority for all city and special district reorganization proceedings. *(Chapter 3)*
- New incorporations ought to be statutorily exempt from CEQA, since the new city must initially adopt the existing general plan and zoning ordinances of the county, or the city if incorporation is part of a special reorganization. Environmental impacts will not be encountered at the planning level until a new general plan is adopted. *(Chapter 4)*

**2. The Commission recommends that LAFCOs be neutral, independent, and provide balanced representation for counties, cities, and special districts.**
- Except for special statutory exceptions (Los Angeles, San Diego, Santa Clara, and Sacramento counties), a uniform membership selection scheme must apply to all LAFCOs as follows: 2 from counties, 2 from cities (except counties with no cities), 2 from special districts (if requested), and 1 public member, whose selection shall require an affirmative vote from at least one of the members from each selection authority. *(Chapter 3)*
- All LAFCOs must select their own executive officers and counsel, although LAFCOs may select county or other public employees for these roles. *(Chapter 3)*
- Conflict of interest and lobbying disclosure laws must apply to LAFCO members and staffs. *(Chapter 3)*
- LAFCOs must be funded jointly and equally by each appointing category. *(Chapter 3)*

**ISSUE: ORDERLY GROWTH AND RESOURCE PROTECTION**

**Problem:** ***Urban sprawl persists and growth sometimes proceeds into areas where extension of services is inefficient, expensive, or ill-timed. Despite the policies and procedures of the Cortese-Knox Act, the loss of prime agricultural and open-space lands continues to occur at an alarming pace.***

*LAFCOs , acting alone, can do little to address the pressures on planning and governance in the 21st Century.*

**3. The Commission recommends strengthening LAFCO powers to prevent sprawl and ensure the orderly extension of government services.**
- Pre-zoning must be required for territory proposed to be annexed to a city to ensure clear knowledge of plans and potential impacts. *(Chapter 4)*
- LAFCO must be required to update spheres of influence at least once every five years. *(Chapter 6)*
- LAFCO approval must be required for extension of major "backbone" infrastructure to serve regionally significant development projects, whether in an incorporated or an unincorporated area. *(Chapter 6)*
- LAFCO must initiate periodic regional or sub-regional service reviews, not less frequently than every five years, to determine whether local government services are adequate. *(Chapter 6)*
- The current statutory provisions allowing unilateral termination of proceedings by special districts (annexations) and cities (detachments) must be rescinded, so that all proposals may be fully examined at a public hearing. Nevertheless, substantial weight must be afforded an objection by an affected city or special district. *(Chapter 3)*

**4. The Commission recommends that policies to protect agricultural and open space lands and other resources be strengthened.**
- A more precise definition of "prime agricultural lands" must be adopted. *(Chapter 6)*

*Land use decisions are sometimes made for reasons that have more to do with finances than the land use needs of the local community.*

- When making a decision, LAFCO must consider urban limit lines, densities, in-fill opportunities, and regional growth goals and policies. *(Chapter 6)*
- LAFCO must be prohibited from approving a proposal that might lead to development of prime agricultural or open-space lands if a feasible alternative exists. *(Chapter 6)*
- Water supply considerations must be integrated into LAFCO boundary change decisions. *(Chapter 3)*

**ISSUE: LOCAL FISCAL REFORM**

**Problem:** ***Local government financing options are limited, difficult to understand, often inadequate, and subject to unforeseen changes by the Legislature.***

**5. The Commission recommends that the state-local fiscal relationship be comprehensively revised.**

- Negotiations must be initiated between the State and local governments to comprehensively realign State and local fiscal resources and must aim for a Constitutional amendment. *(Chapter 8)*
- The State must provide full funding for any activities mandated upon local government at the time that the mandate is imposed. *(Chapter 8)*
- Tax bills must be informative and easy for taxpayers to understand, providing information on which agency receives funds, which agency is responsible for levying the tax, and whom to contact for information. *(Chapter 8)*

**ISSUE: GUIDING THE DIRECTIONS OF FUTURE GROWTH**

**Problem:** ***Land use decisions are sometimes made for reasons that have more to do with the finances of the local government than the land use needs of the local community, and some decisions may result in costly extensions of public services which ultimately erode future quality of life.***

**6. The Commission recommends that the State 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.**

- The State's infrastructure financing programs must create incentives that further its growth planning goals and priorities, and all State policies, regulations, and programs must be implemented in a manner consistent with these goals. *(Chapter 8)*
- Allocation of the sales tax on a point-of-sale basis must be revised to reduce its incentive effect, and property tax allocations to general purpose local governments must be increased. *(Chapter 8)*
- LAFCO policies must be revised, as necessary, to make better use of LAFCOs to support growth planning goals. *(Chapter 8)*

**ISSUE: LOCAL GOVERNMENT COORDINATION AND EFFICIENCY**

**Problem:** ***State and local agencies often proceed with their own plans without recognizing the potential effects on other agencies and the public. The result can be confusion and dissatisfaction with services. One situation that illustrates this problem is the site selection decision for a new school, which is not subject to broader local planning review.***

**7. The Commission recommends enhancements to communication, coordination, and procedures of LAFCOs and local governments.**

- Notification and coordination procedures between local governments and school districts must be strengthened. *(Chapter 3)*
- Procedures similar to those for LAFCO proceedings (i.e., notice, public hearing, opportunity for public comment, and written statement of determinations) must

apply to school district reorganization. *(Chapter 3)*
- The value and consistency of the comprehensive fiscal analysis must be improved and the State must prepare guidelines for its preparation. *(Chapter 4)*
- A special blue ribbon commission must be appointed to undertake a study of water governance in California. *(Chapter 5)*
- Extension of services outside its jurisdiction by a city or special district must be subject to LAFCO approval, even if the service recipient is a public agency. *(Chapter 6)*

**ISSUE: PUBLIC INTEREST IN GOVERNMENT**

**Problem:** ***Voter turn-outs and public opinion surveys indicate an alarming level of apathy by the public regarding government processes and actions. This poses a risk to democracy by enhancing the influence of organized special interests.***

**8. The Commission recommends that opportunities for public involvement, active participation, and information regarding government decision-making be increased.**
- LAFCOs must be required to maintain web sites. *(Chapter 7)*
- LAFCO public and governmental notification requirements must be expanded. *(Chapters 3 and 7)*
- Proponents of a new incorporation or special reorganization must be permitted to petition LAFCO for full or partial waiver of fees to cover the cost of processing the application, and LAFCO must be able to petition the State to provide a loan, repayable by the new city, to cover the cost. *(Chapter 4)*
- A proposed new city under a special reorganization must be permitted to include in its incorporation proposal the election of 5, 7, or 9 council members by district. *(Chapter 4)*
- The cost of verifying citizen petitions for any change of organization must be considered a governmental cost. *(Chapter 4)*
- Proponents of reorganization actions must be required to report campaign contributions and expenditures, in accordance with the Political Reform Act and the Elections Code. *(Chapter 3)*
- A commission must be established to comprehensively examine state and local governance structures and recommend fundamental changes where necessary. *(Chapter 8)*

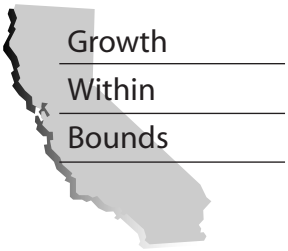
## Conclusion

Enacting the Commission's recommendations will be an important first step toward reforming state and local governance in California. The actions proposed are incremental, recognizing that California agencies and institutions generally are not inclined toward extreme or precipitous changes. These recommendations will, nevertheless, begin a debate that may compel the State to prepare for the next century. If that effort succeeds, the California of tomorrow will be a better place to live.

*These recommendations will begin a debate that may compel the State to prepare for the next century.*

CHAPTER ONE

# Outlook for California: 2000, 2020, and Beyond




## Growth, Change, Diversity, and Opportunity

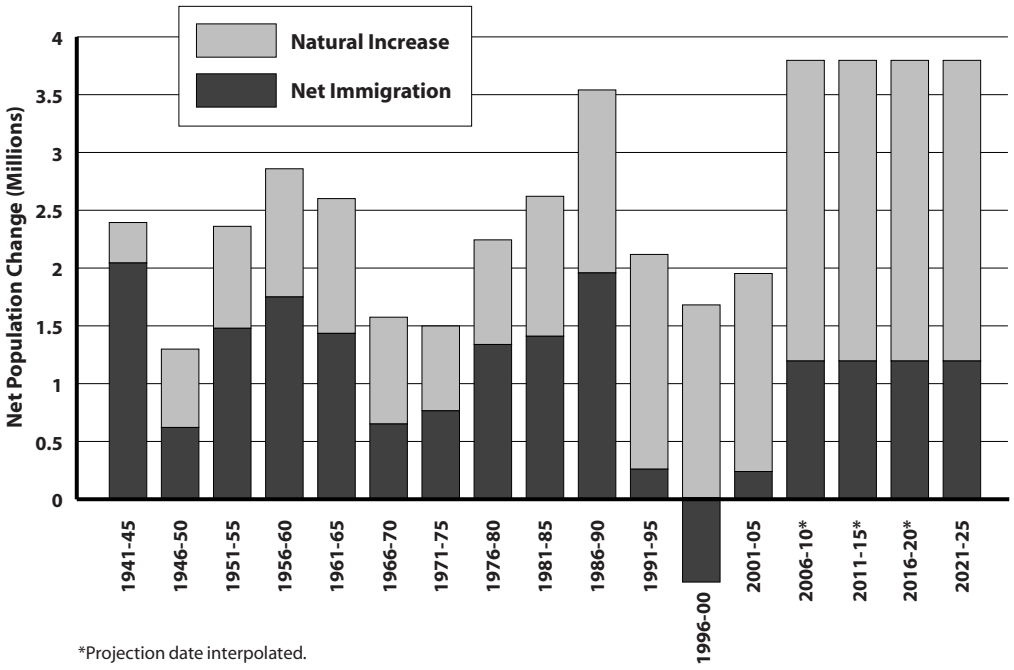
Since the days of Father Serra, continuing through the gold rush, the Southern California water wars, the rise of the motion picture industry, and the post-World War II booms (baby, housing, and economic), and into the advent of the age of technology, California has been defined by one consistent theme — opportunity.

This opportunity, in turn, has translated into unabated growth. According to demographers, this growth is destined to continue into the foreseeable future. Already the nation's most populous and most urbanized state, California's rate of growth, according to the U.S. Bureau of the Census, will outstrip every other state during the first quarter of the 21st Century, even those beginning with much smaller population bases.

California is destined to grow by an additional 31 percent, or nearly 11 million inhabitants, between January 1, 2000 and January 1, 2020, a horizon within the lifetimes of most of the readers of this report. Demographers project that the high growth rate will continue. Shortly after 2030, the State's *increase* since the millennium will be equal to the current population of the state of New York. In 2040, the number of California inhabitants will approach 60 million.

What's more, unlike the past, most of California's future growth will be self-generated. Immigration, both from other states and other parts of the world, will account for only a small portion of the next century's increase. According to U.S. Census Bureau projections, natural increase (births over deaths) will account for nearly 80% of California's growth through 2025. For comparison, natural increase accounted for only about one-third of total state growth between 1940 and 1965 and slightly more than half between 1965 and 1995.

*California's rate of growth will outstrip every other state during the first quarter of the 21st Century.*




*Projection date interpolated.

Fig. 1-1

**Components of California Population Growth 1940 – 2025**

SOURCE: U.S. Department of Commerce, Census Bureau, Economic and Statistics Administration, *Current Population Reports: Population Projections: States, 1995-2025*, May 1997.

*California is second home to many nationalities. In some cases, these are the world's largest descendent populations outside their national boundaries.*

The story of California has not only been one of opportunity and growth, but of continual change. California possesses the most diverse civilization ever known to mankind. The State Department of Education officially records 54 languages that are spoken by significant numbers of students in California schools. The Los Angeles Unified School District claims that over 80 languages or dialects are spoken in the homes of students in the district. More than one in four of California's 5.6 million school children have limited English proficiency.

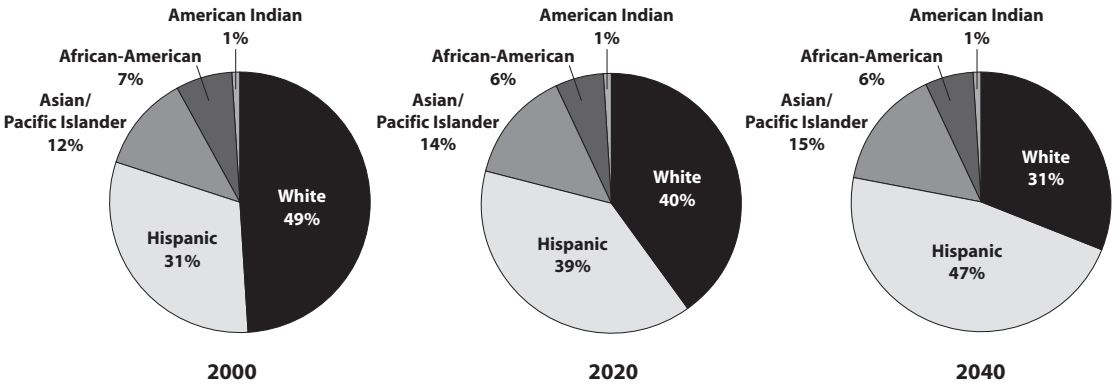
California is the second home to many of the world's nationalities. It contains the largest U.S. descendent populations of individuals of Chinese, Korean, Mexican, Japanese, Filipino, Vietnamese, Cambodian, and numerous other national extractions. In some cases, these are the world's largest descendent populations outside their national boundaries. We even have the largest Native American population in the United States. This diversity contributes to California's rich culture and entrepreneurial spirit and it is a major factor in the State's relentless economic machine. It has been said that if a product cannot be sold in California, it can't be marketed anywhere.

Many of the fastest growing ethnic groups in the state are also the youngest. While the current median age (i.e., the mid-point of all the ages of an entire population) of California's white population is 39, the median Hispanic age is 25, the median for all Asians and Pacific Islanders is 32, and the median for African-Americans is 31. The gap between the Anglo population and the population as a whole is projected to widen steadily through 2040, when half of the white population will be over 44. The median age of the State's Hispanic population, on the other hand, is projected to increase to only 26 years, indicating continued rapid growth in the latter half of the 21st Century.

This foreshadows some significant social changes. As Figure 1-2 indicates, California's dominant Anglo population no longer represents a majority, and is becoming eclipsed by Hispanic and other ethnic groupings. As the political balance shifts, state and local government will need to recognize and respond to possible changes in preferences for services, life styles, and governmental institutions.

Fig. 1-2

**California Ethnic Diversity**
**2000, 2020, and 2040**




SOURCE: California Department of Finance, Demographic Research Unit, *Race/Ethnic Population with Age and Sex Detail, 1970-2040.*

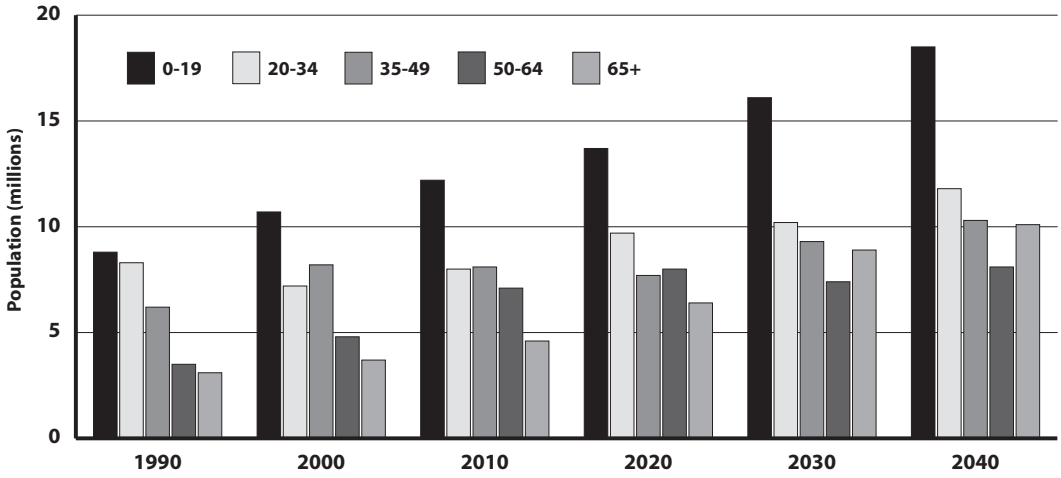



Fig. 1-3
**California Population by Age 1990-2040**

SOURCE: California Department of Finance, Demographic Research Unit, *Race/Ethnic Population with Age and Sex Detail, 1970-2040.*

## Implications for Governance

As we enter the 21st Century, this ethnic transition will be accompanied by another demographic phenomenon that has implications for state and local government. Population explosions will occur at both ends of the age spectrum. Between 2000 and 2040, the most dramatic population growth will be among those 19 and under and those over 65 — segments that traditionally require a higher level of government services. This may increase the competition for funding of local government programs, especially funding which originates from the State, and should invite a re-examination of land use and housing needs in light of the public service and lifestyle changes implied.

A steady increase in numbers of children will further strain the State's schools, which must absorb an additional 550,000 children in the next 10 years, on top of current K-12 enrollment of 5.8 million. To keep pace with the student population explosion, California must build a new school every five days for the next decade. In financial terms, this will mean an increase in state educational expenditures approaching $3 billion per year in current dollars (in FY 1999-2000, a total of $38 billion will be spent statewide on K-12 education), in addition to capital costs for new school construction. K-12 education is the largest area of expenditure for state and local government and, as school age populations expand disproportionately, it may demand yet a larger share of available public funds.

A more dramatic situation faces our public institutions of higher education (community colleges, CSU, and UC). According to the California Postsecondary Education Commission, enrollment in the state's public campuses, currently about 2 million, will increase by 36% between 1998 and 2010. Based upon age-specific growth projections, still higher enrollments should be expected in the decades to follow. At current per student spending levels, this could require an additional $2.7 billion in state support by 2010 if student tuition is not increased or efficiencies implemented.

While school and college age populations will experience the greatest numerical increases, the largest proportional change will

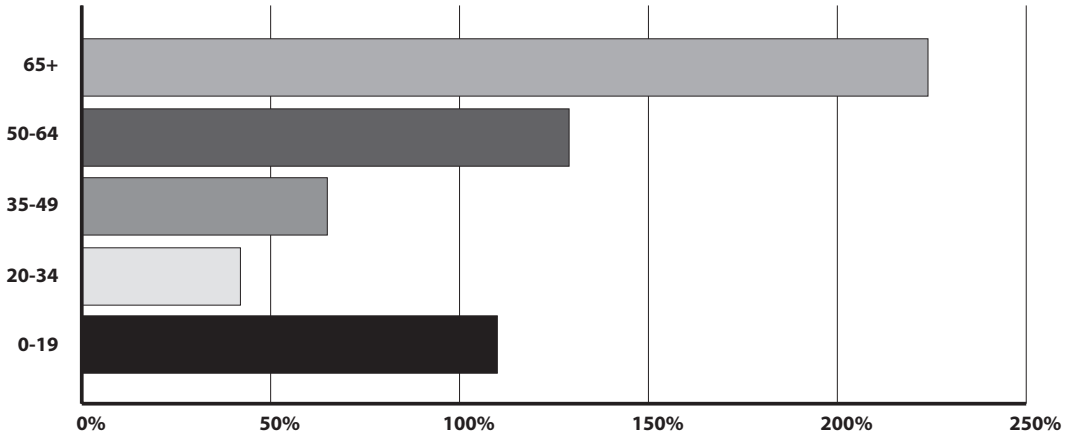
*Population explosions will occur at both ends of the age spectrum, segments that traditionally require a higher level of government services.*

Fig. 1-4
Jonas Salk Middle School, Sacramento
Staff photo



Fig. 1-5

**California Population Change by Age Group**
**1990-2040**




SOURCE: California Department of Finance, Demographic Research Unit, *Race/Ethnic Population with Age and Sex Detail, 1970-2040.*

*With its growing population and economy, California stands on the threshold of unparalleled opportunities.*

be among the elderly. Throughout its history, California has been a youthful state, with little need to make broad provision for its elderly population. After the millennium, however, the State and local governments will clearly have to concern themselves with housing, recreation, and health care for their older citizens.

## California's Economy and the Challenge of Growth

Without doubt, California's growth will be expensive. Fortunately, the State's economic prowess is expected to continue to lead the nation. Just as its population mirrors a broad cross-section, California's economy is similarly diverse. This will be an extraordinary strength in the fast moving world of the 21st Century.

According to the Center for Continuing Study of the California Economy (CCSCE), an independent, private economic research organization based in Palo Alto, the State's economy is led by the very sectors that are expected to provide the strongest long term growth potential — high tech manufacturing, foreign trade, entertainment & tourism, and professional services.

California's high tech credentials are affirmed by the U.S. Patent and Trademark

Fig. 1-6

**Major Growth Trends, California and the U.S.**
**1998 - 2005**

| | California | | Percent Change | |
|---|---|---|---|---|
| | *1998* | *2005* | *California* | *U.S.* |
| Total Jobs (Thousands) | 15,503.5 | 17,766.9 | 14.6% | 8.1% |
| Income (Billions of 98$) | $905.2 | $1,151.1 | 27.2% | 19.7% |
| Households (Thousands) | 11,127.6 | 12,682.6 | 14.0% | 7.5% |
| Population (Thousands) | 33,550.0 | 37,800.0 | 12.7% | 5.9% |

SOURCE: Center for Continuing Study of the California Economy, *California Economic Growth*, 1999 Edition.

Office, which awarded 20 percent of all U.S. patents to Californians in 1998 and the first half of 1999. Since 1977, California residents have received nine percent of all patents awarded worldwide.

These emerging industries are buttressed by strength in traditional markets, such as textiles, apparel, furniture, and toys. The result is that through 2005, California is expected to outpace the nation as a whole in all major economic indicators.

With its growing population and economy, California stands on the threshold of unparalleled possibilities. Opportunity, however, does not guarantee success, as those who failed in the past to invest in California industry can attest. In a report commissioned by Californians and the Land, a foundation sponsored collaboration formed to study critical issues affecting sustainable land use policies in California, CCSCE identifies five land use principles to support a growing economy:

- Principle One: Regional perspectives are required
- Principle Two: Land must be used more efficiently
- Principle Three: Public investment is required
- Principle Four: Fiscal reform is essential
- Principle Five: Equity considerations must be included

These principles emphasize CCSCE's belief that today's local land use choices will be vital to sustaining California's economic growth in the future. Failure to address the challenges posed by these principles, in the view of CCSCE, could jeopardize the Golden State's golden future.

These principles clearly challenge state and local government. Maintaining a high quality of life is a matter that requires State leadership and must be addressed at the community and regional level, as well. Concern for quality of life and adequate growth planning should not solely be the interest of environmentalists. Having been freed of many of the locational constraints of a traditional industrial economy, businesses in the information, technology, and service sectors increasingly base location decisions on the life style amenities that will attract entrepreneurs, managers, and workers. CCSCE observes that land use decisions, which broadly include the organization or extension of local government services, play a critical role in determining the quality of life in California and, therefore, the ultimate shape of the future economy.

Critics charge that poor planning and land use decisions have led to the urban sprawl that exists in many areas of California. The image of Los Angeles creeping slowly into surrounding counties during the 1950s and 1960s has led to a common refrain in other areas that they not be turned into "another Los Angeles." For some California metropolitan areas, however, it may be too late.

The two and three hour commute day is now commonplace in large urban areas. The desert regions of the Victor Valley and Antelope Valley have become the new bedroom communities for the Los Angeles basin. The tentacles of the Silicon Valley stretch to Tracy and Modesto. Commuters from Fairfield and Vacaville split destination directions between San Francisco and Sacramento. The high cost of land in many of our job-rich areas drives needed worker housing to remote, detached enclaves. Recent public opinion surveys by the Public Policy Institute of California (PPIC), a private, non-profit organization which conducts independent, non-partisan research on economic,

*In a growing number of California communities, the response of citizens and their elected representatives to unbridled growth has been to take matters into their own hands.*



Fig. 1-7
Inland Empire growth (San Bernardino County)
Staff photo

*California has been called a nation-state. Its trillion dollar economy is eighth largest in the world, having only recently been surpassed by China.*

Fig. 1-8

**Voter-Approved Urban Limit Line Initiatives 1995-1999**

| Year | City | County | Pct. Voter Approval |
|---|---|---|---|
| 1995 | Ventura | Ventura | 52% |
| 1996 | Santa Rosa | Sonoma | 59% |
| 1996 | Sebastopol | Sonoma | 67% |
| 1996 | Healdsburg | Sonoma | 71% |
| 1996 | Pleasanton | Alameda | 75% |
| 1997 | Novato | Marin | 70% |
| 1998 | Ventura County (unincorporated areas) | Ventura | 63% |
| 1998 | Windsor | Sonoma | 72% |
| 1998 | Milpitas | Santa Clara | 55% |
| 1998 | Cotati | Sonoma | 71% |
| 1998 | Petaluma | Sonoma | 79% |
| 1998 | Camarillo | Ventura | 68% |
| 1998 | Oxnard | Ventura | 70% |
| 1998 | Simi Valley | Ventura | 70% |
| 1998 | Thousand Oaks | Ventura | 67% |
| 1999 | Moorpark | Ventura | 68% |

SOURCE: The Greenbelt Alliance and various news sources.

social, and political issues affecting California, have found that Californians are generally happy with their future prospects and their communities. Nevertheless, nearly four in ten expressed dissatisfaction with government handling of traffic and transportation, which is destined to become much worse in the coming decade.

In a growing number of California communities, the response of citizens and their elected representatives to unbridled growth has been to take matters into their own hands. A number of local jurisdictions adopted various types of growth management measures from the late 1970s through the early 1990s. In one of the early local measures in 1979, San Diego instituted a "tiered" approach, delineating specific geographic areas according to development status. Special general plan policies to manage growth were initiated by elected officials in such diverse locales as the City of Lodi and Marin and Ventura counties. Voter initiatives were passed in San Diego, Modesto, Contra Costa County, and elsewhere. Overall, responding to the Office of Planning and Research 1998 survey of city and county planning activities, 95 cities and counties claim to have enacted some sort of urban growth boundary or urban limit line.

Recently, there has been a surge of interest in legislating urban limit lines, often through voter initiatives (see Figure 1-8). These measures draw artificial boundaries around existing urban areas and in some way restrict urban development beyond those lines, often

requiring voter approval of any such development. Since 1996, the only voter initiative to establish an urban limit line that has been defeated was in Santa Paula in Ventura County in 1998.

Other California communities have adopted urban growth limits through council action, with most of these occurring since 1995. Cities adopting such measures include San Jose, Modesto, Santa Barbara, Cupertino, Morgan Hill, Monte Sereno, Los Gatos, Napa, and Palo Alto.

The results of the November 1999 elections may indicate that enthusiasm for voter-initiated growth controls may be waning. While a slow-growth initiative passed in Half Moon Bay, an open space measure failed in Newark. More significantly, three severe anti-growth measures failed in San Ramon, Livermore, and Pleasanton, with negative vote tallies of 52%, 61%, and 56%, respectively. Had they passed, these ordinances would have been among the most extreme in the nation, requiring voter approval of new developments of as few as 10 houses. The result would probably have been to push still more Silicon Valley housing into the San Joaquin Valley.

Although California has not adopted a comprehensive growth management policy for the state as a whole, State officials have begun to consider some of the effects of growth, particularly the need for investment in infrastructure. The State Senate and Governor Davis' administration have created task forces to examine infrastructure needs, with initial emphasis on schools, transportation, and water. A separate administration task force is looking at housing, which is generally not subject to public infrastructure funding. State Treasurer Phil Angelides has developed a "Smart Investment" initiative for targeted placement of State financing programs for infrastructure and housing. While these task groups have yet to issue final reports, the California Business Roundtable estimates public infrastructure needs over the next decade to be over $90 billion.

## The Regions of California

While growth management efforts have been initiated in many localities, it is clear that the effects of growth will be much broader than any individual jurisdiction or region. California has been called a nation-state, with substantial justification. Its trillion

*It is clear that the effects of growth will be much broader than any individual jurisdiction.*

Fig. 1-9

**Growth Rates of Economic Regions of California**

1 Mountain
2 North Coast
3 Sacramento Valley
4 San Francisco Bay Area
5 Sacramento
6 Coastal
7 San Joaquin Valley
8 Los Angeles Basin
9 Inland Empire
10 San Diego




SOURCE: California Department of Finance, Demographic Research Unit, *Race/Ethnic Population with Age and Sex Detail, 1970-2040.*

Fig. 1-10

**Per Capita Income by Economic Region**
**1998-2010**

| *Region* | *1998* | *2010* | *Percent Increase* |
|---|---|---|---|
| San Francisco Bay | $35,694 | $44,438 | 24.5% |
| Coastal | 26,544 | 32,999 | 24.3% |
| Los Angeles Basin* | 26,955 | 32,596 | 20.9% |
| **California** | **26,930** | **32,968** | **22.4%** |
| Sacramento | 26,242 | 32,507 | 23.9% |
| San Diego | 25,777 | 31,719 | 23.1% |
| Mountain | 20,777 | 25,612 | 23.3% |
| Inland Empire* | 20,432 | 26,184 | 28.2% |
| North Coast | 20,631 | 25,427 | 23.2% |
| Sacramento Valley | 19,851 | 24,806 | 25.0% |
| San Joaquin Valley | 19,115 | 23,986 | 25.5% |

* Commission estimates, using CCSCE data.
SOURCE: Center for Continuing Study of the California Economy, *California County Projections*, 1999 Edition.

*One major reason for the differing growth rates among California's regions are enormous differentials in housing costs.*

dollar economy is eighth largest in the world, having only recently been surpassed by China. It is not a monolithic expanse of homogenous political subdivisions. Rather, it is an assemblage of vast regions differentiated by unique physical and economic features.

Although there are numerous ways that the regions of California might be defined, we will use a variation of the nine economic regions identified by CCSCE. Our variant, for purposes of discussion, is to carve out a tenth economic region by splitting the Inland Empire, with its remarkable growth, from the immense but slower growing Los Angeles basin.

California's regions will not feel the effects of 21st Century growth uniformly. While the population of the state as a whole will grow by 69 percent between 2000 and 2040, the Inland Empire will experience a colossal growth rate of 165 percent. The San Joaquin Valley and coastal counties will also see their populations more than double. California's two largest regions — the Los Angeles Basin and the San Francisco Bay Area — will be its slowest growing at 43 and 37 percent respectively. Despite a relatively slow rate of growth, the Los Angeles area will nevertheless gain nearly 6 million new inhabitants and will have a population exceeding all but five states. Projected growth rates through 2040 of the ten regions are illustrated in Figure 1-9.

One major reason for the differing growth rates among California's regions are enormous differentials in housing costs. According to the California Association of Realtors, median resale home prices in mid-1999 were $412,450 in Santa Clara County and $381,610 in the San Francisco Bay Area, which are within the region expected to grow the slowest. By comparison, the fast growing Inland Empire and Central Valley regions had median home prices of $135,820 and $124,060, respectively — about one-third the value of the Bay region.

Not surprisingly, the major metropolitan

areas are wealthier than the more rural and agrarian ones. According to CCSCE projections, this relative standing will continue into the next century. Some changing trends will begin to emerge, however. The greatest income gains will occur in the Inland Empire and the San Joaquin and Sacramento Valleys, while the Los Angeles Basin is expected to experience the slowest growth.

CCSCE also expects uneven rates of job growth among California's economic regions. The state as a whole is projected to add 14.6% more jobs through 2005, compared to 8.1% for the nation. Although the largest number of new jobs between 1998 and 2005 will occur in the Los Angeles and San Francisco Bay areas, job growth of 14.6% and 14.5% in those respective regions will be well below the regional rates of increase in San Diego (20.6%) and Sacramento (17.4%). Jobs in the balance of the state will grow more slowly than in these four large metropolitan regions, but will nevertheless exceed the national pace.

There are questions that naturally arise from examining the projections. One concerns the future of the San Joaquin Valley, where significant population gains are forecast in the early 21st Century. Paradoxically, the region's economy, based largely on agriculture and lacking a strong presence of any of the major future growth industries, would appear incapable of producing the jobs needed to support such substantial population increases.

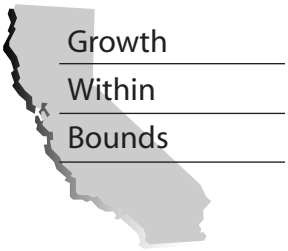
The relatively low cost of land in the region, however, could stimulate growth and diversification in the economic base. Moreover, the current proposal by the High-Speed Rail Authority to construct an inter-city rail line between San Diego and Northern California, with stops in the San Joaquin Valley, would likely assure the current population growth projections and might even prove them conservative. To accommodate substantial population and economic growth throughout the entire Central Valley, some policy trade-offs may be debated. These will involve reconciling traditional California suburban growth patterns with policies encouraging the preservation of agricultural land, and the potential effect this might have on one of California's traditionally dominant industries.

California's challenge in the 21st Century will be to manage its inevitable growth in such a way that irreplaceable resources, government services, and quality of life are maintained. This will require smart government action and sustained citizen involvement. If successful, California will retain its standing as the world's foremost land of opportunity.

*California's challenge in the 21st Century will be to manage its inevitable growth in such a way that irreplaceable resources, government services, and quality of life are maintained.*

CHAPTER TWO

# Local Government in California




Asked what he or she wants from government, the typical citizen may well answer "nothing." The stereotype of government is irrelevant bureaucracy, endless and pointless meetings, and red tape. The reality, however, is that government provides the services that distinguish American society from Third World squalor. Police officers, firefighters, teachers, building inspectors, and other government workers make modern society possible. Without reliable water and sewer systems, well-maintained roads, and environmentally safe waste disposal facilities, businesses would not invest in job-producing office parks and factories. Public parks, libraries, open spaces, and recreation centers make life sustainable in congested urban areas, while judicial, correctional, and probation systems keep society secure and the men and women who provide social, health, and welfare services weave a safety net that diminishes alienation.

Local governments in California render all of these essential services, in whole or in part. They are part of California's scheme of "governance" – the way that we exercise political authority to control and regulate public policies and actions. Although to many people, it is unimportant to know how local governments are formed, organized, or financed, these matters are critical to governments' ability to perform in the next millennium. The ability of governments to adapt to change may, in fact, determine whether some public services can continue to be provided at all. An understanding of the structure and functions of local government, and the challenges faced, is, therefore, a central component to planning a livable California in the 21st Century.

At the outset of the 21st Century, California local governments face unprecedented challenges, both in their ability to deliver the level of services demanded by their citizens and in their ability to finance these services. Beginning with the passage of Proposition 13 in 1978, local governments have been in a continual state of transition, adapting to a world in which expectations remain high, but most control over financing local services has been taken from their hands or turned into a sweepstakes competition with other localities. The result has been frustration and disillusionment, both for citizens and their local elected officials.

This reality has led in many cases to subtle changes in the roles traditionally played by each level of local government as decisions over land use planning and the provision of services have been driven increasingly by revenues. Counties have actively entered into competition with cities for development. Cities and special districts sometimes compete with the private sector and with one another to capture a "market share" for utilities and other enterprises. Time will tell if

*At the outset of the 21st Century, California local governments face unprecedented challenges.*



Fig. 2-1

Health care worker and patient, Kaweah Delta Health Care District, Visalia

Photo: Dave Thurber

this era of governmental entrepreneurism will benefit the taxpayers or simply confuse them.

## California's Scheme of Local Government

*The California Constitution recognizes the special standing of counties, which are legal subdivisions of the State, specifying greater organizational detail than for any other form of local government.*

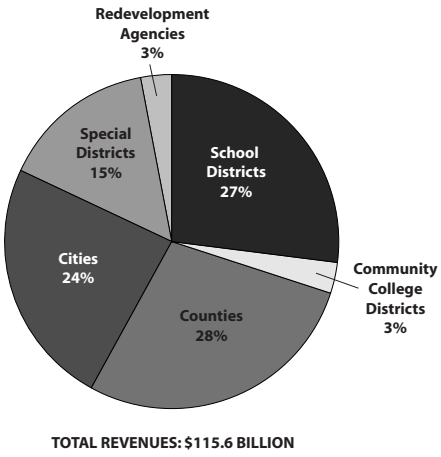
Although grouped in different ways for different purposes, six "classes" of local government are generally recognized in California. The six groupings and numbers of governmental units reported by the State Controller's Office in 1995-96 are as follows:

| | |
|---|---|
| Counties | 58 |
| Cities | 470 |
| Special Districts | 4,816 |
| Community Redevelopment Agencies | 399 |
| School Districts | 993 |
| Community College Districts | 71 |
| Total units of local government | 6,807 |

Combined revenues of all these local government units totaled $116 billion in 1995-96, apportioned as indicated in Figure 2-2. These revenues derive mostly from taxes, fees for services, and intergovernmental transfers (primarily state and federal funds). The focus of this report will be on counties, cities, and special districts, the providers of general local government services. The major revenue sources for counties, cities, and special districts is indicated in Figure 2-3. Despite some functional overlaps, each of these levels of government has a unique role in California's scheme of local governance and each has its own historical and legal status.

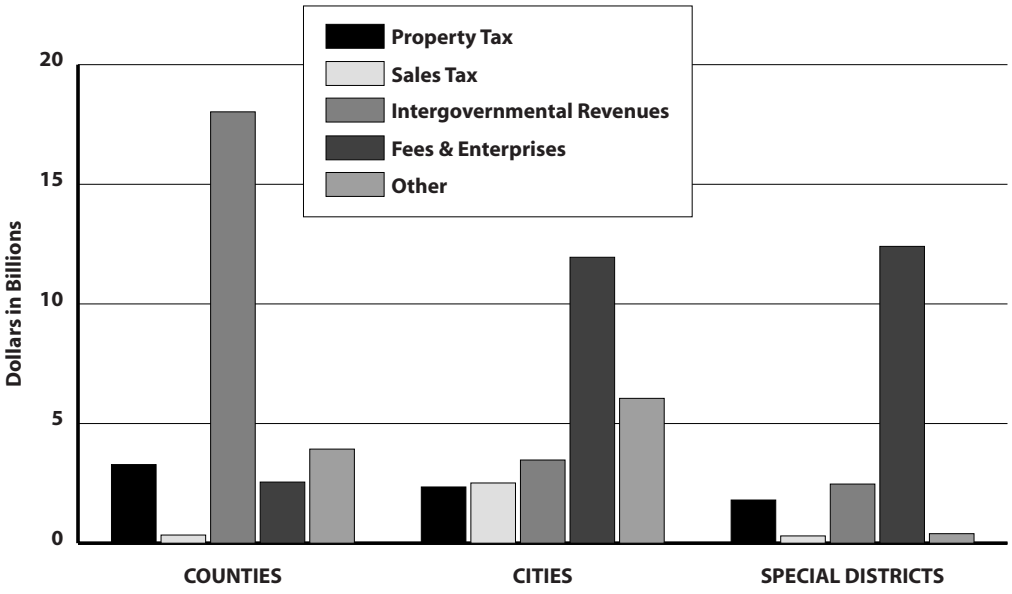
The California Constitution recognizes the special standing of counties, which are legal

Fig. 2-2
**Local Government Revenues**
***1995–96 Fiscal Year***




SOURCE: California State Controller, *Annual Reports: Counties, Cities, Special Districts, Community Redevelopment Agencies, School Districts, 1995-96*; California Department of Finance, *Governor's Budget, 1997-98* (past year, California Community Colleges).

Fig. 2-3
**County, City, and Special District Revenues by Source**




SOURCE: California State Controller, *Annual Reports: Counties, Cities, Special Districts, 1995-96* (some figures derived).

subdivisions of the State and also serve as agents for the State for various functions, specifying greater organizational detail than for any other form of local government. It prescribes general guidelines for county formation, consolidation, and boundary changes, and provides for certain elected county officers. The Constitution allows for the formation of cities, but leaves all details to the Legislature, instructing it to prescribe a "uniform procedure," which it has done through the Cortese-Knox Local Government Reorganization Act of 1985. The Constitution does not directly discuss the formation of special districts, but their existence is acknowledged by reference in several sections. Interestingly, the only constitutionally guaranteed voter rights pertaining to local government organization concern the formation or consolidation of counties and the consolidation of two or more cities. Contrary to popular belief, there is no constitutional right to choose one's own form of local government.

These provisions indicate that the Framers viewed the roles of counties, cities, and special districts differently. Indeed, the California State Association of Counties (CSAC) states that there is a fundamental distinction between a county and a city in that cities have broader revenue generating authority and are subject to less control by the State than are counties. The Legislature may delegate to the counties any of the functions which belong to the state itself. Nevertheless, in the unincorporated portions of some urban counties, the distinctions between the roles of cities and the county, and sometimes even special districts, are often blurred.

## Roles of Local Governments

Traditionally, government at the state level is broadly responsible for financing fundamental health and human services, protecting consumers and the environment, providing for public education, promoting job and economic development, supervising the justice and correctional systems, and constructing major statewide infrastructure. General purpose local governments — counties, cities, and special districts — on the other hand, most often are the providers of direct services to the people, under general rules established by the State.

### *Counties*

California counties have three fundamental areas of responsibility within the State's system of governance. They serve as adminis-

Fig. 2-4

**Functions of County Government by Service Classification**

| | *Primary Service Regulator or Beneficiary* | | |
|---|---|---|---|
| ***Function*** | ***State*** | ***Countywide*** | ***Municipal*** |
| **General administration** | ✖ | ✖ | ✖ |
| **Elections** | | ✖ | |
| **Property management** | | ✖ | |
| **Judicial** | ✖ | | |
| **Police protection** | | | ✖ |
| **Detention & correction** | | ✖ | |
| **Fire protection** | | | ✖ |
| **Flood control** | | | ✖ |
| **Protective inspection** | | ✖ | |
| **Roads** | | | ✖ |
| **Transportation facilities** | | ✖ | |
| **Public health services** | | ✖ | |
| **Medical, mental health, substance abuse** | ✖ | | |
| **Sanitation** | | | ✖ |
| **Public assistance** | ✖ | | |
| **General relief** | | ✖ | |
| **Libraries** | | ✖ | ✖ |
| **Other education** | | ✖ | |
| **Recreational facilities** | | | ✖ |
| **Cultural programs and regional recreation** | | ✖ | |
| **Debt service** | | ✖ | |

Source: Commission on Local Governance for the 21st Century

*Local governments most often are the providers of direct services to the people, under general rules established by the State.*

trators of State programs, providers of countywide support functions, and furnishers of municipal services. These three functions are further identified by service type in Figure 2-4 and are summarized in the narrative which follows the table.

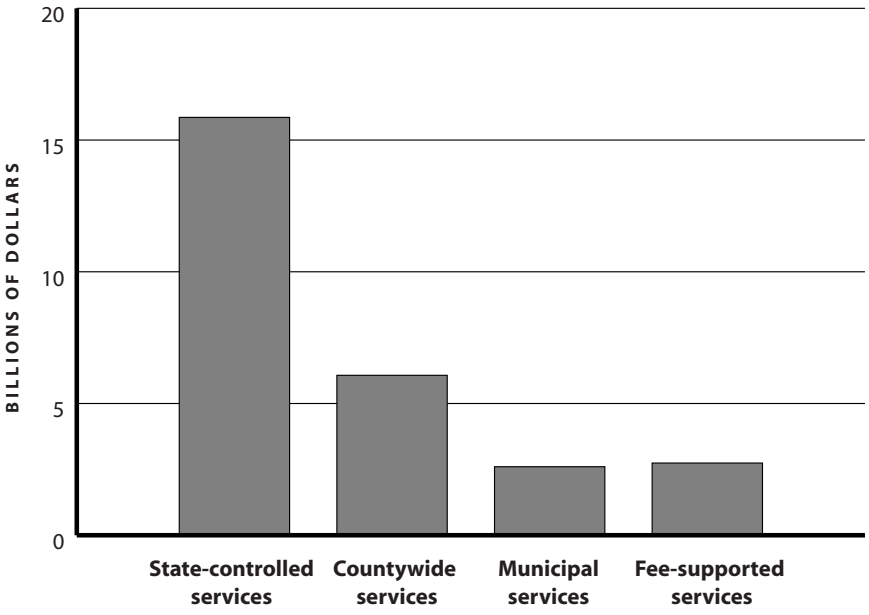
This wide variety of service functions can prove challenging both to county elected officials and county budgets. Performance is dictated by a complex array of regulations and supported by various sources of funds. Some programs are general county-wide governmental functions while others benefit only certain groups of citizens or specific parts of the county.

**1. State programs**, for which counties are the primary direct implementers, comprise the largest portion of county budgets — nearly two-thirds. The largest are health, human services, and justice programs, the implementation of which is virtually dictated by state and federal regulations. Although most funding for these services derives from state and federal sources, a significant match is nevertheless required from general purpose discretionary funds available to the county.

Fig. 2-5

**Estimated Costs of County Functions**

***1996-97 Fiscal Year***




SOURCE: California State Controller, Counties Annual Report, 1996-97 (figures derived).

**2. Countywide support services** are provided to all citizens and local agencies within the county, including those in the incorporated areas. These services include supervision of elections, collection and disbursement of taxes, criminal investigation and prosecution by the district attorney, operation of the county jail, management of the court system, probation services, public health services, and funding for local agency formation commissions.

**3. Municipal-type services** are furnished only to unincorporated areas, though some of these services may instead be provided by special districts. Municipal services include law enforcement, fire protection, parks, recreation programs, water, sewer, trash collection, planning, and building inspection. The cost of providing services to unincorporated areas varies from county to county, based largely on the portion of the county that is outside cities and the extent of urbanization in unincorporated areas. Overall, based upon an analysis of data compiled by the State Controller, the Commission estimates that municipal-type services consume about ten percent of county budgets statewide. This overall estimate is consistent with testimony presented to the Commission by David Janssen, Chief Administrative Officer for Los Angeles County, who stated that municipal services account for about ten percent of his county's budget.

The above named responsibilities compete for the limited general purpose discretionary funds that comprise only a small portion of counties' total available revenues. Many county programs, especially administrative functions, may overlap these three county areas of responsibility, and expenditures for each role vary greatly among counties. Although counties are not required to report their costs in a manner that precisely relates program expenditures with funding sources, the Commission has estimated in Figure 2-5 the approximate allocation of statewide costs of these three general county roles, along with fee-supported activities, based upon financial reports submitted by counties to the State Controller.

## *Cities*

Cities are independent general purpose local governments which provide municipal services that are uniquely tailored to and controlled by the communities they serve. Like counties, they also are authorized to exercise land use planning and control.

Several factors distinguish city government from county government. Budget and land use decisions affecting residents of unincorporated areas are made by a county board of supervisors that may be located many miles distant. The board must, while dealing with municipal service issues throughout the county, also make complex decisions concerning massive health and human services programs. A city council, on the other hand, is usually much closer and deals only with direct services to city residents. Cities do not serve as agents of the State in the delivery of social programs. In testimony before the Commission, the League of California Cities provided this explanation for why cities are formed:

*"People form cities because they want local control over the growth and development over their communities. Moreover, they want services tailored to their particular needs and visions and they want greater control over how those services are performed and plans carried out."*

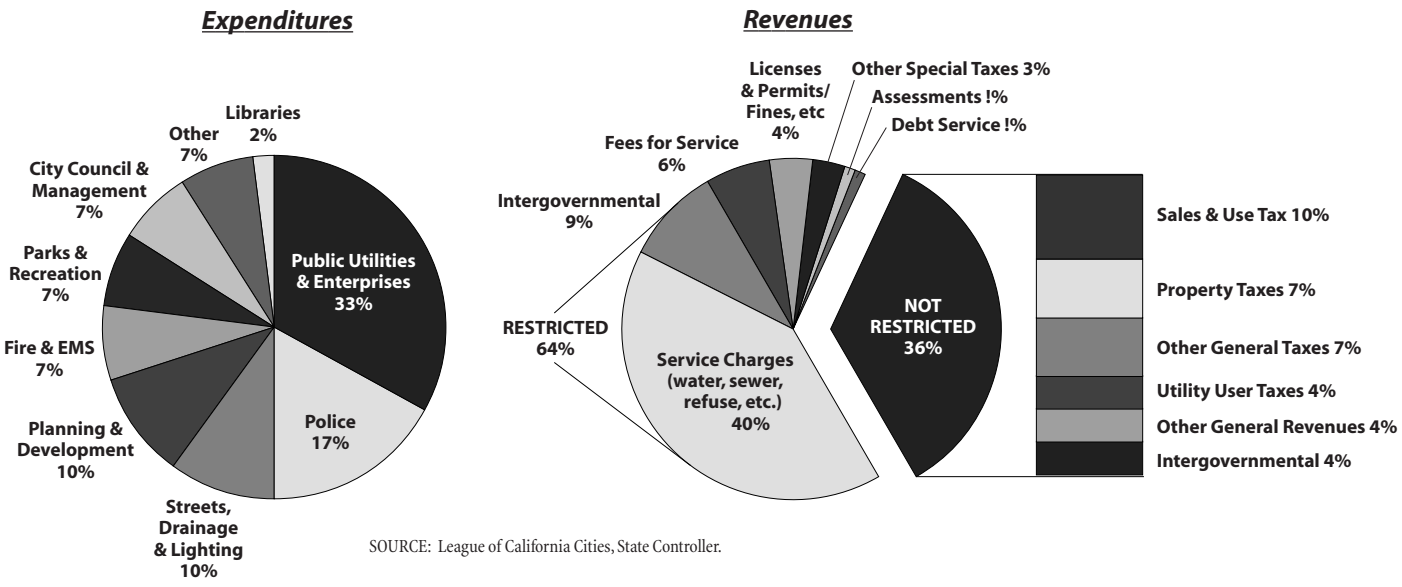
Today, about 81% of Californians live in cities, compared to 75% in 1974. The range of services provided by cities is very broad, but specific types and levels of services vary considerably among individual cities. Whereas many cities, particularly California's largest metropolises, provide a full range of municipal services, others rely upon special districts for some functions or contract with the county or other cities for services. This latter approach, known as the "Lakewood Plan" for the Los Angeles County municipality that pioneered it in the 1950s, is popular among newly incorporated cities as a means of reducing costs and facilitating the transition away from county services. Services provided by cities commonly include:

- Public safety (police, fire, building inspection, etc.)
- Local streets, roads, transit, airports, harbors
- Public utilities (usually solid waste and local sewers, sometimes water and electricity)
- Parks, recreation, libraries, museums, arts
- Planning and zoning

Figure 2-6 depicts combined statewide spending in 1995-96 by the 470 cities then-established, along with the restricted and unrestricted revenues available for providing municipal services.

*Cities are independent general purpose local governments which provide municipal services that are uniquely tailored to and controlled by the communities they serve.*

Fig. 2-6
**California City Spending and Revenues 1995–96**




SOURCE: League of California Cities, State Controller.




Fig. 2-7

The largest tax-supported municipal expenditure is for public safety

Staff photo

*Special districts are formed to perform one or more specific services, such as provision of water, sewer, lighting, or fire protection.*

## *Special Districts*

Special districts are formed to perform one or more specific services, such as provision of water, sewer, lighting, or fire protection. Traditionally, most were established in rural areas when populations began to grow and become more dense, thereby requiring public agencies to be formed to provide services previously provided individually or jointly by residents.

Districts do not have broad governing authority. In some rural areas, however, community services districts and even some public utility districts assume nearly a full range of municipal functions. For this reason, special district offices have occasionally been termed the "town halls" of rural California. Planning and zoning decisions in unincorporated areas, however, are vested in the county board of supervisors, even if a community services district providing nearly a full array of services is present.

The State Controller currently groups special districts into 54 categories for compiling annual fiscal reports, according to the primary services provided by each district. Moreover, the Controller also classifies each district according to its governing board. Of the 4,816 districts reporting to the Controller in 1995-96, 1,773 are governed by a county board of supervisors or a city council, making them *dependent* special districts. Most of these districts are essentially taxing mechanisms to finance a particular type of service or improvement, such as street lighting.

*Independent* special districts, on the other hand, are defined in the Cortese-Knox Act as those having elected boards or boards appointed to fixed terms. These districts are, therefore, independent governmental entities which make program and spending decisions unencumbered by the actions of other elected boards. There is no authoritative count of the number of independent special districts in California. The State Controller does not classify its district reports in precisely this way. The Controller identifies 3,043 districts as having "other" governing boards, but this figure certainly exceeds the valid number of independent special districts. The Controller's total includes districts, joint powers authorities, and non-profit corporations having joint governing boards or appointed boards that serve at the pleasure of county supervisors or city councils, as well as truly independent government agencies.

Two alternate sources provide a truer estimate of the total. To provide information for this report, the Commission sponsored a survey of local agency formation commissions.* These LAFCOs identified a total of 2,586 independent special districts. For national comparisons, the *1992 Census of Governments*, published by the U.S. Census Bureau, counted 2,797 independent districts. The Bureau defines as special districts, entities "… which are established to provide only one or a limited number of designated functions and having sufficient administrative and fiscal autonomy to qualify as independent governments."

* Throughout this report, local agency formation commissions, established in every county except San Francisco, will be referenced by their commonly known acronym, LAFCO.

## Trends in Local Finance

As previously indicated in Figure 2-3, services provided by cities, counties, and special districts are financed in a number of ways. Five primary sources predominate:

- Local property taxes
- Sales taxes
- Vehicle license fees
- State subventions and intergovernmental transfers
- Fees and user charges

The other major potential source for taxation, the incomes of individuals and businesses, has been preempted exclusively by the State. The relative importance of each of the local revenue sources varies among the levels of local government and from jurisdiction to jurisdiction. Whereas intergovernmental revenues comprise two-thirds of county funds, for example, special districts rely mostly on user charges, while cities receive revenues from much more broadly based sources. Moreover, the "revenue mix" differs for each individual jurisdiction, making local financial reform more complicated.

Although it is important to all levels of local government, it is notable that the property tax, traditionally the primary financing mechanism for local services in California and throughout the nation, today accounts for only a very small portion of California local government budgets. The property tax is nevertheless significant because it is one of the few sources of *discretionary* funding for local governments and because it is the primary source of funding for many types of independent special districts, such as those providing library, park, fire, and pest control services. In testimony before the Commission, representatives of these districts urged that special consideration be given to funding these important functions, which have been hit especially hard since the State implementation of the Education Revenue Augmentation Fund (ERAF) in 1992 and 1993 (see text box).

Discretionary funding has become a progressively more sensitive subject among local governments in recent years. A series of mostly voter-adopted initiatives have steadily eroded the independence of California local governments, not only by limiting their overall funding but, perhaps more significantly, by constraining their ability to raise their own revenues and to spend what funds are available on the most pressing priorities of their constituents. Following is a summary of the major measures enacted since 1978 that have combined to permanently alter the fiscal relationship between the State and its local agents:

**1978** Voters approved Proposition 13, which cut property taxes by 56 percent, established a 1% cap on the tax rate, prohibited increasing the *ad valorem* rate above 1% for any new expenditures, and, perhaps most significantly, shifted control over allocation of the resulting property tax revenues to the State Legislature.

**1979** The Legislature enacted AB 8, which shifted a portion of remaining property tax revenues from schools to other local governments, making up the difference from the State General Fund, and allocated property taxes by formula in each county, based primarily on each entity's proportionate share of pre-1978 property taxes.

**1979** Voters approved Proposition 4, which established Constitutional spending limits for each government entity and required the State to reimburse local agencies for the cost of any state-mandated local programs.

**1982** The Legislature allowed local governments and schools to pass parcel taxes (not *ad valorem* taxes) to fund public works and limited services, subject to 2/3 voter approval. The Legislature also transferred responsibility for medically indigent adult health care to counties, which were to provide a reduced scope of benefits commensurate with reduced funding.

**1984** The Legislature raised vehicle license fees (VLF) and gave local governments the new revenues.

**1986** Voters approved Proposition 47, guaranteeing that VLF revenues would go to counties and cities and allowing an override of the 1% cap on *ad valorem* property taxes for bonded indebtedness for acquisition or improvement of real

*It is notable that the property tax, traditionally the primary financing mechanism for local services in California, today accounts for only a very small portion of local government budgets.*

## Education Revenue Augmentation Fund

(Abridged from Briefing Paper for Senate Local Government Committee interim hearing on Property Tax Allocation, September 21, 1999)

Faced with significant budget problems in 1992-93 and then again in 1993-94, the Legislature and Governor Pete Wilson faced tough political choices. While some legislators were willing to raise taxes again, as they did in 1991-92, Wilson resisted. While Wilson was willing to cut state spending and entitlement programs, many legislators resisted. Instead, they settled on an expedient third alternative, shifting property tax revenues from counties, cities, redevelopment agencies, and special districts to schools and community colleges. Boosting schools' local revenues eased the pressure on the State General Fund. Every new dollar in property tax revenue for schools was a dollar that the State General Fund avoided spending on schools.

The Educational Revenue Augmentation Fund (ERAF) is the mechanism for shifting property tax revenues from local governments to schools. Blamed for nearly everything except El Niño, ERAF has become the icon for all that is wrong with state-local relations. Even to the most thoughtful observers, ERAF continues to be the major irritant in the state's relationship with its local governments. Local officials rate reversing the property tax shifts as their highest priority, as resentment over ERAF infects nearly all other debates over programs and fiscal policy.

However, from the state government's point of view, ERAF is the logical consequence of Proposition 13 and its aftermath. After the voters cut property tax revenues in 1978, the Legislature used its budget surplus to bail-out schools and local governments. The AB 8 shift in 1979 solidified the state's post-Proposition 13 subsidies by boosting state funding for schools and shifting schools' property tax revenues to counties, cities, and special districts. By spending more on schools and then sending schools' property tax revenues to local agencies, the State General Fund indirectly subsidized local governments from 1979 to 1992. The state government was able to sustain this indirect bail-out so long that local officials came to accept it as the normal state of fiscal affairs. When the state government's budget crisis got worse in 1992-93, ERAF reversed the 13-year old property tax shift [see table]. ERAF played havoc with local governments' budgets, but the result may not have been much different than what would have happened in the late 1970s without the AB 8 property tax shift.

Since the 1992-93 and 1993-94 crises, the Legislature has limited some local governments' shifts. Although different observers count the types and amounts of fiscal relief differently, the Legislative Analyst recognizes five measures that are associated with the ERAF property tax shifts:

| *(Dollars in millions)* | ***Shift*** | | ***Value in 1998-99*** |
|---|---|---|---|
| | ***1992-93*** | ***1993-94*** | |
| **Counties** | $585 | $2,023 | $2,798 |
| **Cities** | 240 | 313 | 537 |
| **Special Districts** | 375 | 244 | 285 |
| **Redevelopment** | 200 | 65 | 0 |
| ***Totals*** | $1,400 | $2,645 | $3,620 |

***Proposition 172***, the 1/2¢ state sales tax for local public safety programs, produces about $1.9 billion in 1998-99, mostly for counties.

***Trial Court Funding*** provided counties with about $357 million in 1998-99.

***COPS program*** delivers $100 million a year for local law enforcement.

***General Assistance*** grants by counties declined by about $200 million, saving money for county governments.

***Fines and forfeiture*** revenue for counties and cities grew by $62 million because of changes in state formulas.

While these countermeasures ameliorated some of the fiscal problems caused by the ERAF shifts, the relief has not been uniform. Counties were the direct beneficiaries of the boosts in funding for public safety and trial courts. Cities received some relief from the COPS program and, although politically unpopular, raised local revenues. Special districts — particularly non-enterprise, non-public safety programs — suffered the most.

Lacking the political cachet of police and fire protection and without the ability to charge user fees to offset their costs, the special districts that provide non-enterprise services are still reeling from ERAF's aftershocks. Recreation and park districts, mosquito abatement districts, and library programs are among the most obvious victims. Some suburban park districts have decided to fill in neighborhood swimming pools because they can't afford to operate them anymore. ERAF's property tax shifts and related budget problems hammered library districts and county free libraries (run as if they were districts). According to the State Library's California Research Bureau, Alameda County's library program suffered a 45.5% loss and Contra Costa's library a 20.8% loss. These losses were not confined just to metropolitan counties, as Colusa County's library faced a 38.8% hit.

property, with 2/3 voter approval.

**1986** Voters approved Proposition 62, requiring majority voter approval for any new or increased local general taxes and 2/3 voter approval for any new special taxes. Because of legal challenges, many local governments did not immediately comply with the new voting requirements for general and special taxes.

**1988** Voters approved Proposition 98, which required a minimum funding level for schools, effectively limiting funds available for other purposes.

**1988** The Legislature enacted the Brown-Presley Trial Court Funding Act, which increased the State share and reduced the county share of trial court costs.

**1991** The Legislature "realigned" several health and human services programs by transferring responsibilities to counties along with an increased sales tax share.

**1992 and 1993** The Legislature, in response to a $14 billion State budget shortfall, transferred a portion of local property taxes back to the schools by creating an Educational Revenue Augmentation Fund (ERAF) in each county, effectively cutting property taxes to other local governments by $3.6 billion (1999 dollars), as estimated by the Legislative Analyst. Because funding for certain programs was simultaneously transferred to the State, the Analyst estimates the current net loss to local governments to be nearly $1.4 billion.

**1994** Voters approved Proposition 172, which established a 1/2-cent sales tax for local public safety.

**1996** Voters approved Proposition 218, which re-affirmed the Proposition 62 voting requirements for general and special taxes and restricted the ability of local governments to increase other revenues by extending voting requirements to property-related fees and benefit assessments.

A recent study by the Public Policy Institute of California (PPIC) found that the diminution of local control over revenues has, in fact, been quite pronounced, especially in counties, which have seen the percentage of their revenues that are discretionary nearly halved, as indicated in Figure 2-8. PPIC proposes two reasons why reducing local control over revenues may be important to citizens: (1) it reduces the accountability of local government and (2) it significantly decreases the ability to raise revenues for locally desired services.

Fig. 2-8

**Percentage Share of Overall Discretionary Revenues By Level of Government and Year**

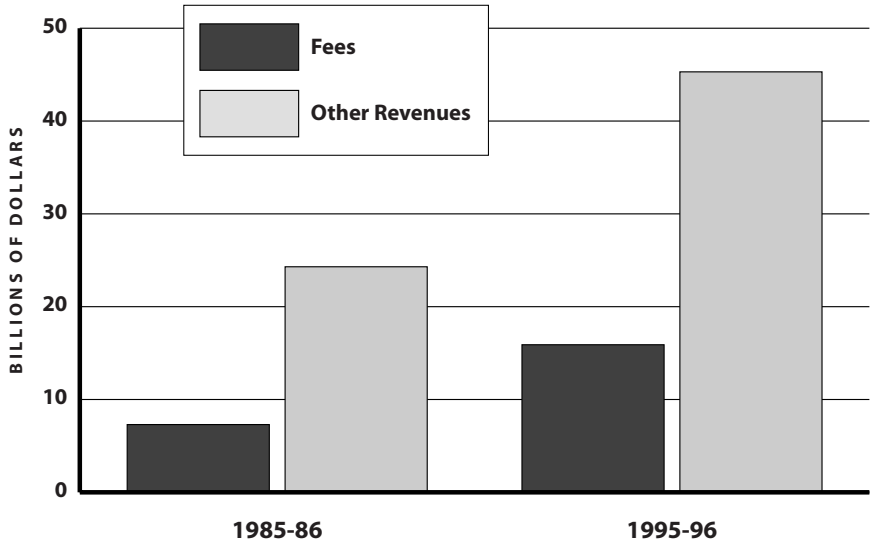
| *Level of Government* | *1978* | *1981* | *1988* | *1992* | *1995* |
|---|---|---|---|---|---|
| **State** | 60 | 61 | 63 | 56 | 52 |
| **Counties** | 57 | 42 | 42 | 41 | 31 |
| **Cities** | 49 | 46 | 49 | 47 | 44 |
| **Special districts** | 65 | 66 | 67 | 71 | 69 |
| **School districts** | 92 | 88 | 74 | 73 | 71 |
| **Public higher education** | 68 | 66 | 63 | 63 | 62 |
| **Overall, California government** | 64 | 61 | 60 | 56 | 52 |

SOURCE: Michael A. Shires, *Patterns in California Government Revenues Since Proposition 13*, Public Policy Institute of California, 1999.

Coupled with this loss of control over revenues has been an increased reliance by California local governments on two controversial sources of funds: user fees and sales taxes. These revenue-driven priorities have had a profound effect on local governance in California.

Fig. 2-9

**Revenues of Counties, Cities, and Non-Enterprise Special Districts**




SOURCE: California State Controller, *Annual Reports: Counties, Special Districts, 1985-86 and 1995-96.*

*Competition for sales tax revenues has been cited by many authorities as one of the most significant unintended consequences of Proposition 13.*

In the ten years from 1985-86 to 1995-96, revenues derived from user charges rose more than one-third faster than did other revenues among counties, cities, and non-enterprise special districts. According to the California Taxpayers' Association, California state and local governments rank 13th among all the states in per capita fees and assessments. Although user financing is appropriate for many services, this increasing reliance has implications for the less affluent.

Higher fees and assessments are apparent for a wide range of local services, from park admission charges where none were previously assessed to regular increases in trash collection fees due, in part, to assessments for environmental protections. Perhaps the most controversial charges have been the developer fees now routinely assessed against construction projects. Although not a new phenomenon, developer fees have risen dramatically throughout California since passage of Proposition 13. According to the California Building Industry Association, fees have reached levels as high as $20,000 in many parts of California and are reportedly as much as $40,000 for middle income housing in some parts of Contra Costa County. Many claim these fees are one of the most oppressive barriers to production of affordable housing in California.

Competition for sales tax revenues has been cited by many authorities as one of the most significant unintended consequences of Proposition 13. In the mid-1980s, government policy guru Dean Misczynski, then with the Senate Office of Research, predicted that a "fiscalization of land use" would occur as local governments began scrapping over sales tax and other previously obscure revenue sources. According to this theory, local government planning and zoning decisions will favor revenue producing uses, especially retail, over housing and industry, which generate only property tax money, of which only small amounts accrue to local government coffers. The sales tax, on the other hand, is one of the few revenue sources which can be significantly enhanced through entrepreneurial efforts of cities. Moreover, relatively little expenditure is needed to support retail establishments. Housing, by contrast, produces only slight revenues from property taxes for the typical city, but requires the support of extensive police, fire, recreational, and other expenditures.

Until recently, evidence of the fiscalization has been largely anecdotal. A 1999 study by PPIC, however, provides the first real measurable proof, revealing through a survey of city managers that retail land-use is in fact the preferred development and is the most likely to receive a general plan change or financial incentive. Multi-family residential and heavy industry were least desired. Testimony presented to the Commission, moreover, reveals that many cities and counties offer financial inducements to retailers to locate within their jurisdictions, sometimes effectively rebating up to one-half of sales tax proceeds to retailers in the form of publicly financed infrastructure and improvements benefiting the retailers.

This competition for sales taxes seemingly leads to no net overall economic benefit either for a region or for the state. According to the PPIC study, retail industry sources report that California does not devote a significantly higher portion of land to retail uses than other states and that retail location decisions are dictated mostly by demographic and business considerations that are outside the control of any local government. Government financial inducements merely determine winner and loser locales within a defined geographic area. Moreover, the PPIC analysis indicates that municipal competition for retail activity has had no discernible effect on the overall pattern of retail location.

As a matter of public policy, the current fiscal incentives for local government are clearly counterproductive. Noting that "the raw material of a municipality is land," the comments of urban planner William Fulton, though addressed to Los Angeles, apply equally to other California cities:

*"... the post-Proposition 13 era in Los Angeles has been an era during which, more than ever before, growth patterns have been driven by money — and not just the desire for private profit, but by the desire for public profit as well. If a city or county owned a choice piece of real estate, the property's fate was usually*

*determined not by what was best for the town but what was best for the treasury. . . The result, not surprisingly, was a dismal urban landscape. Towns designed by bean-counters are rarely towns that anyone would want to live in."*

— William Fulton, *The Reluctant Metropolis*, Solano Press Books, 1997

## Revenue Reliability and Stability

Is reliance on sales taxes a wise choice for cities? An analysis of major tax sources (see Figure 2-10) reveals that investing a city's future in sales tax revenues may be short-sighted. To correct for changes in rates of taxation, the Commission compared indices of the underlying derivatives of major tax sources — personal income, corporate profits, assessed value of real estate, and taxable retail sales — and reached some conclusions. Since 1981, only corporate income showed less cyclical stability than retail sales, and retail sales was the *only* measure of taxation sources that did not out-perform a "population/inflation" index (i.e., a measure of population growth adjusted for inflation that serves as a "baseline" for essentially a no revenue growth scenario).

The PPIC Local Sales Tax study reached essentially the same conclusion, noting that overall per capita sales tax revenues available to California cities have been stagnant, leaving cities to fight over a largely fixed pie. Moreover, the situation is not likely to improve. The trend in recent years has been toward a greater percentage of disposable income being spent on non-taxable personal services rather than traditional consumer goods.

Of perhaps greater concern to cities reliant on *situs* sales tax revenues, however, is the rapid growth of electronic commerce and Internet sales, which are currently exempt from California sales taxes because of a three-year moratorium on Internet taxation enacted by Congress in 1999. Nearly non-existent three years ago, Internet sales nationally totaled $9 billion in 1998 and are projected by the U.S. Commerce Department to rise to $30 billion in 2000. Forrester Research, Inc., an independent private market research firm, projects that Internet sales will top $180 billion in 2004. The number of companies selling on the Internet tripled between 1997 and 1998, when 39% of all retailers offered on-line shopping opportunities.

Even big ticket items are being purchased through e-commerce. J.D. Power and Associates reports that 40 percent of recent car buyers used the Internet to help them shop, and that the number of purchasers who used an on-line buying service doubled during the

*An analysis of major tax sources reveals that investing a city's future in sales tax revenues may be short-sighted.*

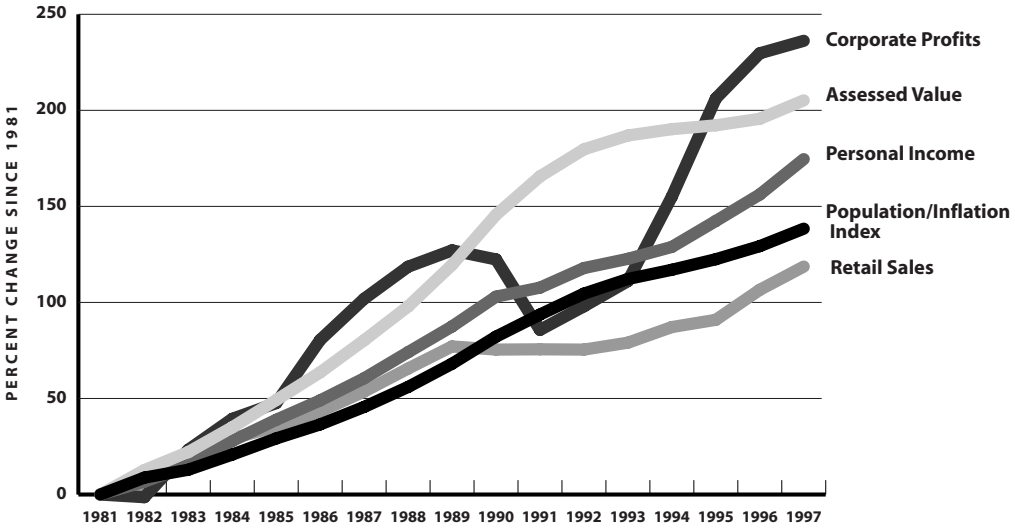



Fig. 2-10

**Indices of Major Tax Sources Compared to Population and Inflation**

SOURCES: Sales taxes: California Board Of Equalization, *Annual Report*, various years.
Assessed value: California State Controller, *Counties Annual Report*, various years.
CPI and personal income: Department of Finance, *California Consumer Price Index*, All Urban Consumers; *Governor's Budget Summary*, various years.
Corporate profits: Franchise Tax Board, *Corporate Profits Before Taxes by Income Year*, various years.

first quarter of 1999 to more than 25,000 per month nationwide. Those local governments which have invested tax dollars in incentives to attract auto malls may be understandably concerned about this trend.

California's cities and counties would be wise to consider seriously the merits, both in terms of public policy and fiscal health, of reforming local government finances to reduce reliance on sales taxes, even at the expense of some temporary decline in revenues. Over the long term, cities and counties will serve their citizens best if their decisions are driven by strategic planning vision rather than ephemeral market gains.

*Cities and counties will serve their citizens best if their decisions are driven by strategic planning vision rather than ephemeral market gains*

## Guiding Principles for Governance Reforms

An examination of the fiscal conditions faced by local government, combined with the demographic outlook for California's future, lead to an inevitable conclusion that governance reforms are needed if localities are to adapt to the momentous changes of the 21st Century and continue to provide services valued by their customers — the voters, taxpayers, and residents of their communities. These reforms should be comprehensive, addressing fiscal needs, government organization, infrastructure planning, land-use decisions, and the resulting quality of life consequences. The Commission believes that needed governmental reforms must consider:

- involving citizens in government decision-making and valuing their input;
- enhancing fiscal stability and accountability for all levels of government; and
- developing local, regional, and statewide strategies for planning and channeling the effects of future growth.

The balance of this report will discuss the ways that local governments can become more responsive to citizen demands, beginning with the procedures for adapting their organizations, through the Local Government Reorganization Act, to 21st Century needs. The Commission has adopted a series of principles to guide local fiscal and growth planning reforms for California. Reforming local government reorganization law, the central charge of the Commission, is one aspect of this reform, though by no means the sole focus.

### *Local Fiscal Reform*

California cannot long prosper in the next century under the current state-local fiscal arrangement. Local governments are closest to the needs of citizens and are best able to quickly adjust to changing service needs. Consequently, the principles which follow should guide reform of fiscal relationships to better serve the public.

1. There must be a logical nexus between a tax imposed and the resultant expenditure of those tax funds.
2. To the greatest extent possible, local property-related services must be supported by the property tax.
3. Taxpayers must be able to easily understand the sources and uses of their tax dollars; tax bills must include a breakdown of the taxes billed, specifying which agency receives funds and the responsible taxing authority.
4. The point-of-sale allocation of the sales tax must be revised to mitigate its effect as an incentive for "fiscalization of land use." Any changes to existing tax allocations must be phased-in over a period of time and all units of local government must be held harmless by the initial reallocation plan.
5. When a change of organization or reorganization is authorized, there must be sufficient resources available for transfer to cover the costs of providing the services transferred and to continue to fund the ongoing responsibilities of the previous service provider.
6. Any proposal for modification of State and local government financing must include a legally adequate commitment by the State to continually and adequately fund its obligation to local government for State mandated costs.
7. Meaningful State and local government financing modifications to ensure adequate financing availability for local

government can only be assured if the State acknowledges and legally confirms its constitutional obligation to reimburse local government for the full costs associated with State mandates that have been imposed on local government.

8. For over 20 years, the State has consistently avoided any on-going, periodic and legally binding commitment to provide funds for reimbursement for State mandated costs imposed on local government. Any reallocation of revenue sources for local government to ensure the stability of local government financing as well as the extent of its availability must include a legally binding commitment by the State to reimburse local government for State mandated costs.

### *Local Governance and Growth Planning*

California's fundamental structure and system of governance has changed little since the 19th Century. As we enter a new millennium, it is time to re-examine the current local government paradigm. Although a specific proposal is beyond the scope of this report, the current functions and configuration of counties, cities, and special districts should be tested thoroughly against the resources, needs, and realities of California's emerging future. The Commission suggests the following principles to guide that analysis.

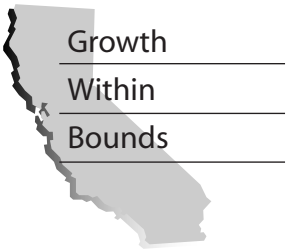
1. The fundamental structure of governance in California, including school district governance, must be examined and modified as necessary to meet people's needs and service expectations in the 21st Century, recognizing fiscal constraints and the need for greater efficiencies.
2. Fragmentation of government services among numerous, small, inefficient, or overlapping providers must be discouraged; and effective, efficient, and easily understandable local government must be encouraged. Consolidation of such providers must be facilitated by State and local policy, consistent with principles of democracy and accessible, understandable local government.
3. Government service delivery systems must be transparent to the people, so that they can readily determine a responsible service provider who can provide assistance or solve problems. People must not be repeatedly referred from one public service bureaucracy to another.
4. Government service delivery must be accountable to those who are served and policy decisions must be made by decision makers who are visible and accessible to the affected individuals.
5. Government must take active steps to increase the ability of individuals to participate in making decisions that affect their lives.
6. State policies, regulations, and programs must reflect the above principles and be implemented in a consistent manner by all state agencies.
7. State infrastructure financing and programs must create incentives that further state growth planning goals and priorities.
8. The state must provide incentives to encourage compatibility and coordination of plans and actions of all local agencies (including school districts) within each region, to encourage an integrated approach to public service delivery and overall governance.
9. The state must actively promote a strong economy, preservation of agricultural and open space resources, ample stock of affordable housing, reliable transportation infrastructure, adequate supplies of water, and a clean environment.

On all of these matters, it is the State's responsibility to lead and to encourage compliance — through incentives for those willing to change and, where absolutely necessary, penalties for the averse. If California is to be prepared to meet the challenge of a new era, the Governor and the Legislature must be willing to assume the risks of confronting the status quo and considering new forms of governance.

*California's fundamental structure and system of governance has changed little since the 19th Century.*

CHAPTER THREE

# LAFCO Reform




## Local Agency Formation in California

*"At the present time, no one is charged with the responsibility of determining the effect of each one of hundreds of annexations or formations upon the future development of the entire county. Lack of any coordinated review of such proposals has created many of our urban problems."*

Richard Carpenter, Executive Director, League of California Cities
*Los Angeles Times*, August 25, 1963

In an effort to reign in what many saw as an unfettered proliferation of urban governments, Governor Edmund G. ("Pat") Brown signed into law the original act which created a local agency formation commission in each county (except San Francisco) in 1963. The legislation was an attempt to curb urban sprawl at a time when this phenomenon was proceeding unchecked by any state or regional agency.

Prior to 1963, any proposal for incorporation, annexation or formation of a new district was formulated through petition to the local governing body, except where the Legislature pre-empted local action. Petition requirements varied, depending upon the specific action requested and the type of local jurisdiction. If the petition signatures were valid, a hearing was held on the proposal. If more than 51% of the landowners protested, the proposal was denied. Otherwise an election was held. Therefore, it was entirely up to the local government and the voters to decide when new governments or boundary changes were needed.

The decision by the Legislature to create LAFCOs can be traced to the incredible growth that occurred during the 1950's in California. During this decade there were over 50 new city incorporations, and the state's population had doubled over a period of only 20 years. In Los Angeles County alone, 10 new cities formed in the single year of 1957.

Many of these incorporations were attributed to what is termed the "Lakewood Plan." In the early 1950s the community of Lakewood was being considered for annexation to the City of Long Beach. While incorporation was also suggested, many citizens did not believe it was financially feasible. However, the organizers realized that the community could incorporate if it continued to contract with the county for many of its municipal services. After successful negotiation with the county, the incorporation was approved by 60% of the voters.

The Lakewood Plan was advertised by Los Angeles County and the new City of Lakewood as a means by which to incorporate successfully without having the additional financial burden of providing services which could be more cheaply provided by the County. Thereafter, Los Angeles County established the Office of County-City Coordi-

*The decision by the Legislature to create LAFCOs can be traced to the incredible growth that occured during the 1950s in California.*



Fig. 3-1

The freeway systems built in the 1950s allowed growth to spread to far-flung suburbs.

Photo: Diversity Alliance for a Sustainable America

*LAFCOs were charged with reviewing and approving or disapproving proposals for incorporation, creation of special districts, and annexations.*

nator to encourage new incorporations and promote county contracting. The County was often supportive of incorporation movements in the hope that the new city would contract with county departments for services.

The proliferation of incorporations in the 1950s spurred many to be critical of the urban sprawl it encouraged. In 1959, Governor Pat Brown created the Governor's Commission on Metropolitan Area Problems to study urban sprawl and its effects on California.

The Governor's Commission presented three major recommendations in December, 1960 after conducting several hearings throughout the state:

1. Improve present laws concerning incorporation, annexation and special districts.
2. Enact legislation enabling the formation of metropolitan area multi-purpose districts with planning functions.
3. Establish a State Metropolitan Area Commission.

In response, legislation was proposed to establish a state commission to deal with the issues of urban sprawl and incorporation. An alternative measure was introduced that would create a local agency formation commission in each county. The proposed creation of a state commission garnered strong opposition from the county supervisors' association and eventually, in 1963, a compromise was reached between the Governor, major legislative leaders, cities, and counties to instead provide for a local commission in each county.

This measure (AB 1662, Knox) was hotly debated in the legislature, with both cites and counties believing that these bodies would be controlled by the opposing group of interests. Concern was raised regarding the makeup of LAFCO, which consisted of elected officials and one public member. Among the opponents was then-Assemblyman Tom Lanterman who stated that this proposal would be "the first step in superimposing metropolitan government on people living outside of cities."

AB 1662 established a local agency formation commission in each county, which would generally be made up of two representatives from the county, two from the cities in the county, and one public member. The legislation outlined the scope and intent of the commissions, as well as procedures for incorporation and annexation.

LAFCOs were charged with reviewing and approving or disapproving proposals for incorporation, creation of special districts, and annexations. In reviewing these proposals, LAFCO was required to consider several factors, such as population, need for community services, and the effect of the formation or annexation on adjacent areas. After approval of a proposal by LAFCO, the affected jurisdiction would hold a protest hearing on the proposal and, if no majority protest existed, it would be put before the voters for approval or deemed approved if a vote was not required under the provisions of the statute.

The League of California Cities and County Supervisors' Association memberships had mixed views about the legislation. Ultimately, however, both organizations strongly endorsed the creation of LAFCOs. In addition,

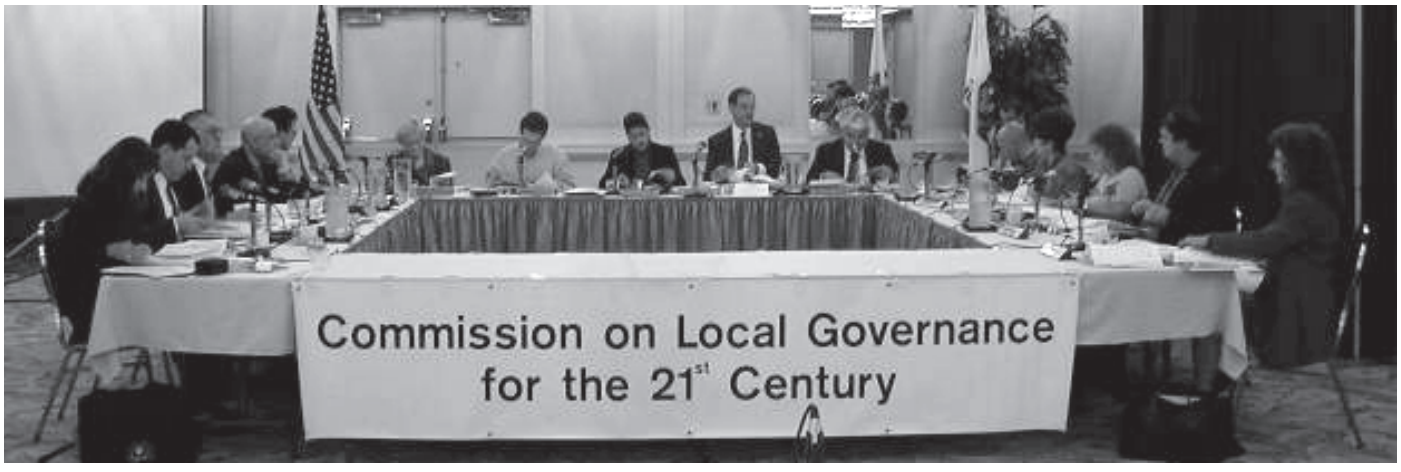



Fig. 3-2
The Commission on Local Governance for the 21st Century
Staff photo

many legislators felt that the legislation was a step in the right direction, although there were immediate calls for amendments to the original act by various groups.

*"The LAFCO boards do not do anything that was not previously done elsewhere; they simply represent a different balance of power by creating an extra review step in the incorporation process. The extra review step allows municipal governments a voice in a process that the county supervisors had performed virtually alone."*

Gary Miller, *Cities by Contract*, 1981

Since the passage of the original legislation creating LAFCOs, there have been few significant legislative revisions to the statute.

In 1965, technical changes were made to the statute, and the division of the Government Code was re-designated the Knox-Nisbet Act. Also in 1965, the District Reorganization Act (DRA) was passed, establishing the procedure for change of organization or reorganization of special districts, separate and distinct from the Knox-Nisbet Act. Under the DRA, LAFCO was nevertheless authorized to review and approve or disapprove these proposals.

In 1977, the Municipal Organization Act (MORGA) was adopted, consolidating several procedures governing annexation, detachment, incorporation, disincorporation and consolidation of cities into one Act. MORGA also added legislative intent language, which declared as State policy the encouragement of orderly growth and development of cities, the need for logical local agency formation, and the finding that a single governmental agency is better able to respond to community service needs. This legislation also enacted a procedure for city annexations of unincorporated "islands" without a protest provision, made minor changes to timelines for LAFCO, and specified who would bear the costs of LAFCO proceedings.

In 1985, legislation was passed which consolidated the Knox-Nisbet Act, the DRA, and MORGA into one statute, named the Cortese-Knox Local Government Reorganization Act of 1985. The only significant policy change in this reform package was the requirement that any area proposed for incorporation must have at least 500 registered voters residing in the proposed city. This was aimed, in part, at eliminating the types of incorporations which occurred from the 1950s to the 1970s for the purpose of protecting an industrial area from annexation by an adjoining city. In 1989, legislation was enacted which added procedural requirements to the comprehensive fiscal analysis.

The first major policy change to the Cortese-Knox Act came in 1992, when the "revenue neutrality" provision was incorporated, providing that the amount of revenues a new city takes from a county after incorporation must be substantially equal to the amount of savings the county would attain from no longer providing the transferred services. In 1993, legislation was adopted authorizing LAFCO to initiate proposals for the consolidation of special districts or the dissolution, merger or establishment of subsidiary districts.

The last major change to occur in local government reorganization law was made in 1997, when the Legislature repealed the ability of a city to veto a simultaneous detachment and incorporation proposal. It termed this type of action a "special reorganization." This legislation has allowed the proposed secession of the San Fernando Valley from the City of Los Angeles to proceed without the threat of a unilateral veto by the Los Angeles City Council.

| *Year* | *Legislation Adopted* |
|---|---|
| **1963** | LAFCOs created |
| **1965** | District Reorganization Act (DRA) |
| **1965** | Knox-Nisbet Act |
| **1977** | Municipal Organization Act (MORGA) |
| **1985** | Consolidated all three Acts into the Cortese-Knox Act |
| **1989** | Changes and clarifications to comprehensive fiscal analysis |
| **1992** | Revenue Neutrality enacted |
| **1993** | LAFCOs authorized to initiate reorganization proposals. |
| **1997** | City veto authority over detachment and incorporation repealed |
| **1997** | Commission on Local Government for the 21st Century established |

Fig. 3-3

**Local Agency Reorganization Legislation**

*Since the passage of the original legislation creating LAFCOs, there have been few significant legislative revisions to the statute.*

*The debate which occured in 1963 regarding the independence of LAFCOs is still being waged today.*

With the exception of the ability to initiate reorganization of special districts and minor instructions and clarifications, the basic powers and duties of a LAFCO have changed little since the original enabling legislation in 1963. The debate which occurred in 1963 regarding the independence of LAFCOs is still being waged today both at the local and statewide levels. A complete summary of all LAFCO legislation proposed since 1963 (whether enacted or not) is provided in Appendix E. To resolve some of the controversies that have continued to surround the Local Government Reorganization Act, the Legislature established the Commission on Local Governance for the 21st Century in 1997.

## Reorganizations Not Subject to LAFCO Review

### New County Formation

Special procedures have been enacted in the Government Code for the creation of new counties, recognizing that counties are political subdivisions and agents of the state. The statute governing new county formation is not part of the Cortese-Knox Act. Since it was enacted in 1975, there have been eight attempts at new county formation, and all have failed. Because all parts of California are within a county, the formation of a new county must always involve a secession from one or more existing counties.

The process for county formation (see Figure 3-4) requires that the proceedings for the creation of a proposed county must be initiated by petitions signed by qualified voters in the territory of the proposed county. After the petition is filed with the clerk of the county, it is submitted to the Governor. Upon receipt of the petition, the Governor is required to create a five-member County Formation Review Commission to review the proposal. This commission acts in place of LAFCO, which would handle similar actions for city and special district reorganizations. One significant difference is that the Legislature envisioned that county formation commissions would be funded by the State.

The County Formation Review Commission must determine the following:

- An equitable distribution of the indebtedness of each affected county.
- The fiscal impact of the proposed boundary change in each affected county.
- The economic viability of each affected county.
- A procedure for the orderly and timely transition of services, functions and responsibilities from the transferring county to the accepting county.
- The division of each affected county into five supervisorial districts.
- The division of each affected county into a convenient and necessary number of judicial, road, and school districts, the territory of which shall be defined.

The County Formation Review Commission is required to hold hearings on the new formation, and once it makes its decision, forward it to the counties that will be affected. If the decision of the commission regarding the feasibility of the new county is in the affirmative, the affected counties must place the issue before the voters for approval.

### District Exclusions

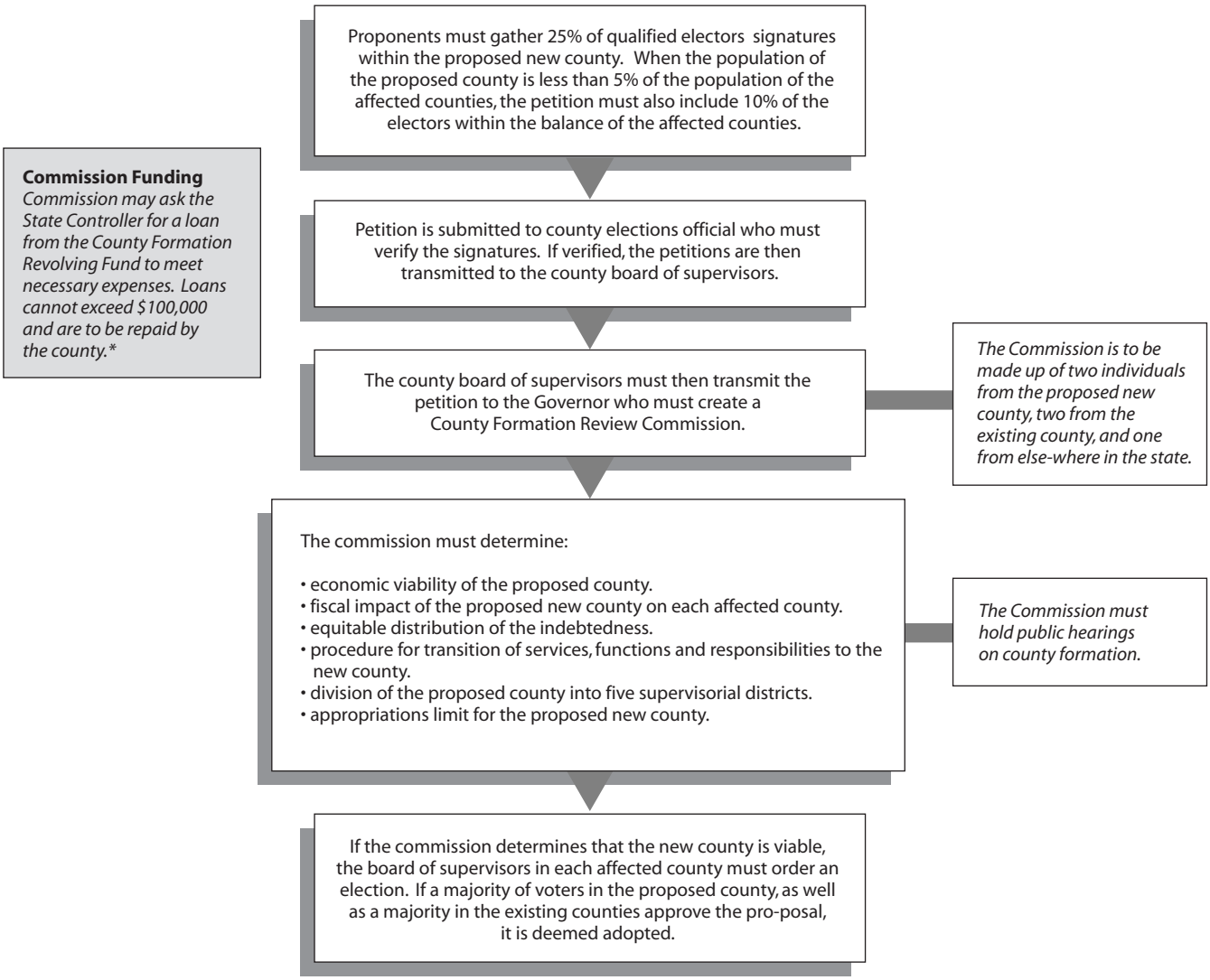
The Cortese-Knox Act was enacted primarily to provide for the orderly formation of local governments, excluding counties. This charge includes the formation, consolidation or reorganization of most types of special districts. However, existing law excludes a number of districts from this review, entirely or in part. There are three types of statutory exclusions from the Act.

**Level 1 – Blanket Exclusion**

One of the recommendations of the Commission on Metropolitan Area Problems was stated as follows: "Improve, simplify, and rationalize the structural relationship of existing and future local government units. (The Commission's recommendations do not include or relate to school districts)." This parenthetical phrase was significant. In part because the Commission did not consider school districts to be within the purview of its investigation, they were subsequently excluded from the Cortese-Knox Act. In fact,

Fig. 3-4

## COUNTY FORMATION PROCEDURE




** In 1984, an appellate court ruled that the State was restrained from collecting any moneys from the county to recover the amount of the loan because the requirement to create the commission was deemed a state-mandate.*

Source: Commission on Local Governance for the 21st Century

four types of districts are entirely excluded from its provisions:

1. School district or community college district
2. Special assessment district
3. Improvement district
4. Communities facilities district formed under Mello-Roos

The latter three types of districts are formed solely for the purpose of financing infrastructure. Consequently, they are not true government agencies and their exclusion from the Act seems entirely reasonable. School districts were not originally included in the Cortese-Knox Act because these districts were formed strictly for educational purposes and were not considered a part of the general fabric of government. As such, they may not have been seen as a source of urban sprawl and unbridled development. Moreover, every part of the state is currently within a school district and procedures were already provided in the Education Code to deal specifically with school district reorgani-

### School District Reorganization Procedures

Pursuant to §§35700-35712 of the Education Code, a school district reorganization may be initiated in any of the following ways:

- A petition signed 25% of the registered voters residing in the territory to be reorganized may be submitted.
- The owner of the property, if it is uninhabited, may request the reorganization.
- An action may be filed by the majority of the members of the governing boards of each of the districts that would be affected by the reorganization.
- A petition signed by10% of the registered voters may be filed to split a school district.

Once a petition is submitted, the county superintendent of schools must examine the petition to determine whether the signatures are sufficient and must transmit the petition to the county committee on school district reorganization (county committee) and to the State Board of Education (SBOE).

Within 60 days after receipt of the petition the county committee must hold a public hearing. Within 4 months of the first public hearing the county committee must recommend approval or disapproval of the petition and transmit it to the SBOE along with its recommendations. It must also report on whether any of the following would be true regarding the reorganization:

- It would adversely affect the school district organization of the county.
- It would be compatible with any master plans approved by the SBOE.
- It would comply with the conditions provided by the SBOE.

Parties may appeal the county committee's decision to the SBOE. If challenged, the SBOE must hold a hearing on the petition and may approve the proposal if it meets 10 conditions specified in statute. If approved, either by the county committee or by the SBOE, an election is held on the proposal.

Under existing law, the county superintendent of schools must call an election in the territory of the districts as determined by the county committee. The election must be held in the territory proposed for reorganization. However, dissatisfied parties may also contest the decision on where the election is held to the SBOE.

The SBOE has adopted the following guidelines for how a county commission determines where the election is held:

1. Officials should identify all of the affected school districts.
2. Officials should determine if there is a compelling government interest to limit the election to an area that is smaller than the combined territory of the affected school districts and whether the reduction is needed to further the reorganization purpose.
3. Local officials must balance compelling government interest with the substantial interests of the voters in the areas that will not be voting.

There are exceptions to these provisions for Los Angeles that provide for a lower threshold on petitions required to be gathered (8% of the number of votes cast in the affected area in the last gubernatorial election), and additional conditions that officials must consider before making a decision to split up the Los Angeles Unified School District.

zation and boundaries. Essentially, these procedures, which are explained in detail in the accompanying text box, are as follows:

- Every county superintendent of schools must inquire and ascertain whether the boundaries of school districts and community college districts are definitely and plainly described in the records of the board of supervisors.
- If the boundaries are conflicting or incorrectly described, the board of supervisors may correct and relocate the boundaries to follow established property lines. However, the board of supervisors may not substantially alter the boundaries of school districts and community college districts.
- Whenever any school district or community college district has been intersected by any county boundary line due to the formation of a new county or a change of the boundary of a county, and portions of the district lie in different counties, the district shall be established as a joint school district.
- No new school district may be formed except through the reorganization of existing districts, because all territory in California is currently within one or more school districts.

**Level 2 – Exclusions from Part 4 and Part 5**

Within existing law, the following types of districts are excluded from the conducting authority proceedings for changes of organization (Part 4), and the effects of the changes of organization in the Act (Part 5):

1. Unified or union high school library district
2. Bridge and highway district
3. Transit or rapid transit district
4. Metropolitan water district
5. Separation of grade district

These districts are excluded because they are essentially financing mechanisms used by an existing local government body or are regional entities established by special state provisions. The conducting authority proceedings established by the Cortese-Knox Act are not necessary for these types of financing mechanisms or appropriate for State-established regional districts, which

usually extend beyond the jurisdiction of any single LAFCO. The Metropolitan Water District of Southern California, for example, is excluded because it consists of a group of several agencies combined by state legislation into one for regional water planning purposes, similar to a joint powers authority. Similarly, transit districts often have multi-county jurisdiction and are usually established by state legislation.

**Level 3 – Exclusion after determination by LAFCO**

The Cortese-Knox Act also allows a local LAFCO to determine if the following districts are not a district or a special district for the purposes of "conducting authority" proceedings under the Act:

1. A flood control district
2. A flood control and floodwater conservation district
3. A flood control and water conservation district
4. A conservation district
5. A water conservation district
6. A water replenishment district
7. The Orange County Water District
8. A California water storage district
9. A water agency
10. A county water authority or a water authority

This provision gives LAFCO discretion to decide whether an above listed district should be required to adhere to the provisions of the Cortese-Knox Act when a reorganization is contemplated or to follow the procedures of its principal act.

## School District Reorganization Issues

School districts operate virtually independent of other units of local government. School district reorganization is perhaps the most significant type of boundary issue which does not come before LAFCO. Similarly, school district development decisions are not subject to review or consistency with other local government planning. While school districts may voluntarily notify other agencies regarding plans for school construction or district reorganization, neither LAFCO nor a general purpose local government has the authority to challenge a school district decision to build in an area which may be considered prime agricultural or open-space land, or that may simply be difficult to serve.

The Commission received testimony indicating that school district development is an area of concern. Three case studies of projects in Orange County illustrated coordination problems that can occur between school districts, local governments, and developers. The three cases were described by Carol Hoffman, a Vice President of the Irvine Company, and illustrated the difficulties that can arise when a housing project crosses municipal and school district boundaries. Families in a single community generally want their children to attend the same schools, but districts often make boundary and school site decisions based upon revenues, school space availability, and developer dedications of school sites. Moreover, under provisions of the Education Code, local governments do not have the authority to propose changes in school district boundaries, even when their service capabilities are affected. Negotiations are made more complex because of the variations in the procedures for determining school district boundaries and municipal boundaries. In the Irvine cases, two of the three communities remain split between two school districts. The third was successfully unified only after the departure of a district superintendent and changes of positions of the affected school boards. These sorts of difficulties might be mitigated if better coordination were encouraged between local governments and school districts and if local governments were able to initiate proceedings for school district boundary changes.

*School district development decisions are not subject to review or consistency with other local government planning.*

**RECOMMENDATION 3-1**

**The Commission recommends that school districts and LAFCOs be required to mutually notify one another of pending annexations, new formations, or other boundary changes, and that each is afforded the opportunity to comment. Notification shall mean transmittal of notice to the members and executive officers of each affected jurisdiction.**

Fig. 3-5
School site located on agricultural land
*Staff photo*



*In many cases school district boundaries do not correspond to city and county boundaries... children within the same neighborhood may have to attend different schools*

**RECOMMENDATION 3-2**
**The Commission recommends that cities, counties and LAFCOs be permitted to propose changes in school district boundaries to the county superintendent and/or county committee on school district reorganization, in a manner similar to the existing petition process in the Education Code, and that similar authority be accorded to school districts with regard to local government boundaries.**

In many cases school district boundaries do not correspond to city and county boundaries, which may sometimes lead to confusion and disappointment for residents. As illustrated in Orange County, children within the same neighborhood may have to attend different schools because of lack of alignment between school and municipal boundaries. Making the boundaries consistent is difficult because both affected school districts must agree to any changes. The Commission believes that, where possible, school district and municipal boundary lines should be aligned.

**RECOMMENDATION 3-3**
**The Commission recommends that county committees on school district reorganization be required to consider, to the extent feasible (as defined in new GC* §56038.5), making school district boundary changes respect city and special district boundaries.**

Coordination among local governments is imperative to ensure that appropriate development decisions are approved. Currently, there often is not sufficient coordination among cities, counties, and school districts. Any decision of a public agency should be subject to a public hearing at which all affected parties may testify and deliberate over the possible effects of the proposal.

Commission members further noted that hearings by county committees on school district reorganization are often held with little awareness by general purpose local governments. In many cases, boundary issues can be quite controversial. The Commission believes that all affected residents and local agencies should be notified and given an opportunity to speak before the county committee. Moreover, procedures should be known and predictable and decision parameters should be specified.

**RECOMMENDATION 3-4**
**The Commission recommends that procedures similar to those for LAFCO proceedings (i.e. notice, public hearing,**

* Throughout this report, references to specific sections of the Government Code will be uniformly identified with the shorthand notation: GC §XXXXX.

**opportunity for public comment, and written statement of determinations as in GC §56851 and §56852) be required for local county committee review of a proposed school district reorganization under the Education Code.**

## Local Agency Formation Law – Legislative Intent and Policies

In 1985, the Knox-Nisbet Act was reorganized to make it easier to understand and follow. At that time, it was renamed the Cortese-Knox Act. Prior to this reorganization, LAFCOs were required to consult three different sets of laws in order to process various types of applications. Since 1985, several amendments have been made to the law.

The Cortese-Knox Act created a LAFCO in each county except San Francisco and specifies general procedures and overall policies that LAFCOs must follow when processing proposals for annexations, changes of organization, reorganizations, incorporations, special reorganizations, consolidations, dissolutions, and conducting authority proceedings. While each LAFCO may have a different approach for handling an application, the general procedure has several uniform steps: (1) a proponent files an application; (2) the LAFCO executive officer reviews the application; (3) if complete, a public hearing date is set; (4) notice is sent to affected parties; and (5) a written report and recommendation are completed. If approved at the public hearing, the proposal is sent to the conducting authority for conduct of a protest hearing and final approval. Figure 3-6 is a general schematic, adapted from the San Diego LAFCO procedure guide and the Cortese-Knox Act.

During the course of its hearings, the Commission received testimony from nearly half of the state's LAFCOs. Each noted problems and concerns with the Act. One fundamental issue concerns the policies and legislative intent that LAFCO must consider when approving a proposal. Several basic policies — encouraging the orderly formation and development of local agencies, discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently providing for government services — are emphasized throughout the Act but are not clearly stated in a single place. This can lead to confusion for LAFCOs, since it might incorrectly imply a lower priority for one policy compared to others. General legislative intent is stated in GC §56001 and legislative intent regarding LAFCO powers and duties is stated in GC §§56300-56301. The Commission believes that legislative intent and policies would be clearer if all were clearly stated in these sections.

*LAFCO must balance competing interests when approving or disapproving a proposal.*

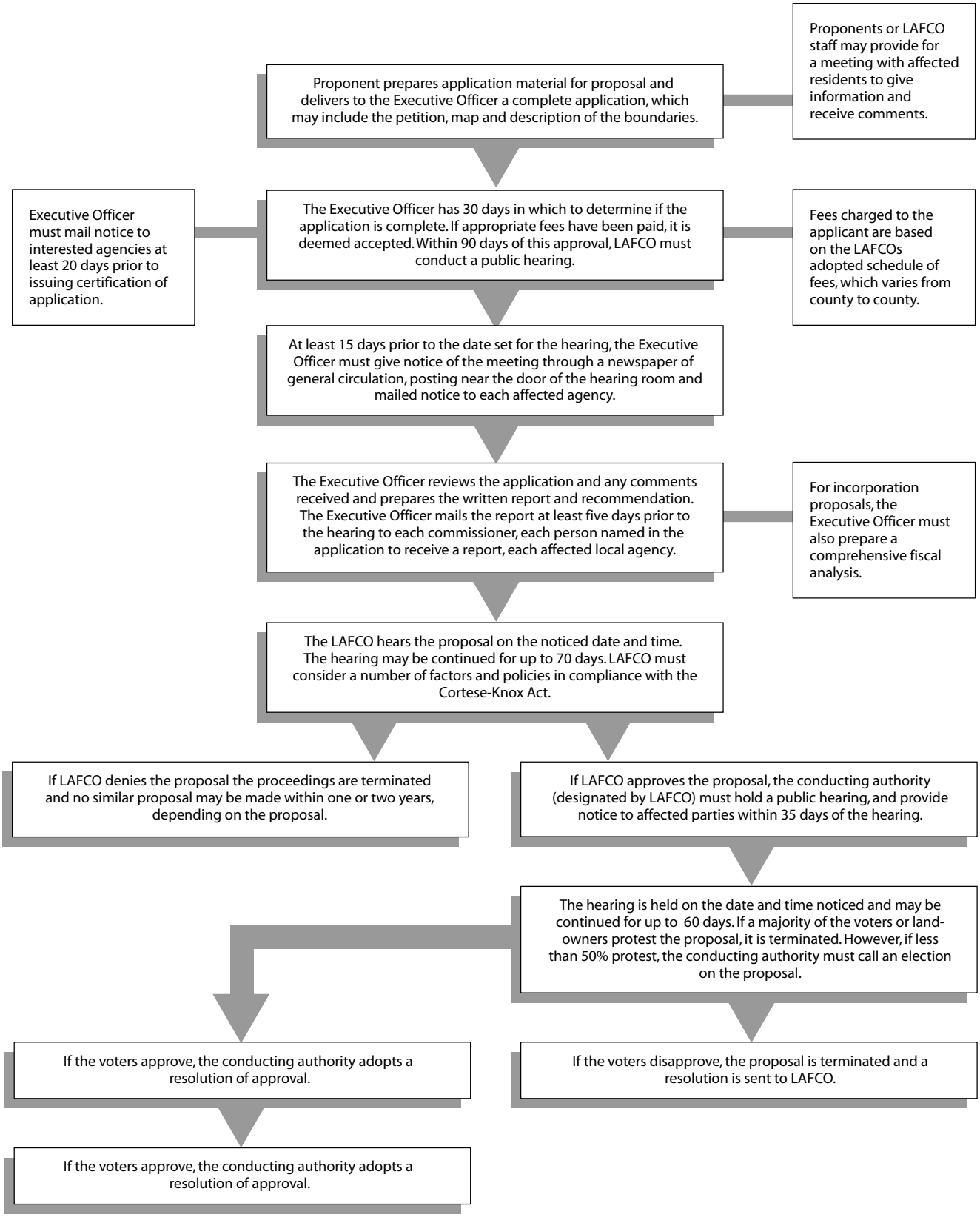
**RECOMMENDATION 3-5**
**The Commission recommends that all existing general legislative intent provisions (promoting orderly development, discouraging urban sprawl, preservation of open space and prime agricultural lands, efficient extension of government services) be consolidated in §56001 and additional legislative intent provisions relating specifically to LAFCO be incorporated into §56301 and a new, corresponding section on LAFCO determinations.**

The Commission also believes that additional legislative intent language should be added to these sections. First, the Legislature should recognize that LAFCO must balance competing interests when approving or disapproving a proposal. In many cases, depending on the local economic condition and pressures for development, a LAFCO may have to decide whether to approve a proposal involving open-space or prime agricultural land in order to provide for needed development in an area. The Commission was often urged to allow LAFCOs to retain flexibility in these decisions because they are often decided on a case-by-case basis depending upon a variety of local factors. The Commission proposes that the legislative intent section be amended to include the following:

> "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

Fig. 3-6

## LAFCO PROCEDURE FOR PROCESSING APPLICATIONS




SOURCE: Assembly Committee on Local Government, San Diego LAFCO, Commission on Local Governance for the 21st Century

sometimes competing state interests in discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services . 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 agencies which can best accommodate and provide necessary governmental services in the most compact form. . . "

**56301**. Among the purposes of a commission are ~~the discouragement of~~ discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently providing government services, and the encouragement of 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.

To reinforce the new language in GC §56301, which provides that LAFCO should make determinations when a new entity is proposed, a directive must be given to LAFCO elsewhere in the Act. The additional section will establish a determination that LAFCO must make when reviewing a proposal.

**56842.7** (NEW SECTION)
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.

The Commission also proposes that GC §56001 be amended to recognize that no one particular form of government is uniformly preferable. This proposal is discussed in detail in Chapter 5, since it relates most directly to decisions regarding formation of special districts.



Fig. 3-7

One clear LAFCO policy is the protection of prime agricultural land and open-space.

*Staff photo*

*Many issues could be remedied if all LAFCOs had written policies and procedures.*

The Commission discussed at lenght what factors LAFCO should consider when reviewing a proposal for annexation, incorporation or any other proposal. A guiding principle upon which the commissioners agreed was that dollars should follow boundary changes. In other words, the area which is to be annexed or incorporated must produce sufficient revenues to serve the population of that area. DeAnn Baker, Legislative Coordinator, California State Association of Counties (CSAC), agrees that LAFCOs should: "require thorough fiscal reviews of all boundary changes, including the fiscal impact of each affected public agency, prior to boundary changes. For new city incorporations, require the proponents to provide information regarding what services available funds will provide, and what additional funds would be necessary to provide higher levels of services if those levels were sought by the proponents."

**RECOMMENDATION 3-6**
**The Commission recommends that, when considering any boundary change, LAFCO be required to consider the ability of the new or expanding entity to deliver the services which are the subject of the application and the adequacy of available revenues for funding such services.**

***Draft Language:***
**56841.** Factors to be considered:
(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 such services following the proposed boundary change.

GC §§56300-56301 state legislative intent with regard to LAFCO actions and procedures. The Commission received testimony from some applicants who believe that LAFCOs may act arbitrarily and that their actions may not always be consistent. Many of these issues could be remedied if all LAFCOs had written policies and procedures.

## Sufficiency and Clarity of LAFCO Policies

Are LAFCOs arbitrary and capricious? This is one issue that the Commission attempted to test through a survey of LAFCOs in mid-1999. This survey collected data from all 57 LAFCOs through a written questionnaire and follow-up telephone interviews. Each LAFCO was contacted and asked a series of questions regarding staffing, budgets, fee schedules, policies, independent or dependent designation, frequency of meetings, number of projects processed each year, and status of comprehensive sphere of influence updates. Complete results of the survey are included in this report as Appendix G.

As part of the survey, each LAFCO was asked for copies of its adopted policies and procedures. Judging from the 38 LAFCOs that responded by providing the Commission with such documentation, it appears that there is a great deal of consistency among the LAFCOs in policy language and provisions. Most frequently, the policies addressed preservation of agriculture, spheres of influence, annexations, incorporations, consolidations, and dissolutions. Table G-3 (in Appendix G) summarizes the policies received from the LAFCOs.

One reason for the consistency in policy language is that some LAFCOs do not actually adopt their own unique policies, relying instead on re-stating the policies in the Cortese-Knox Act. This, obviously, is not instructive with regard to local conditions and priorities. On the other hand, many of the larger LAFCOs and those which have high volumes of projects have extensive policies to help the public understand the LAFCO process and the types of decisions to expect from LAFCO.

Ventura LAFCO, for example, has adopted written policies and procedures that provide clear guidance to applicants. The Ventura "Guidelines for Orderly Development" include specific policies regarding growth, and " . . . maintain the theme that urban development should be located within incorporated cities whenever and wherever practical." Several other LAFCOs, including San Diego and Orange County, offer detailed and comprehen-

sive policies peculiar to those local areas. These could be emulated by other LAFCOs which do not have the need or resources to develop unique guidelines. Even the mimics, however, should adapt these policies to meet specific local conditions.

**RECOMMENDATION 3-7**
**The Commission recommends that LAFCOs be required to adopt and maintain written policies, procedures and guidelines.**

**RECOMMENDATION 3-8**
**The Commission recommends that the LAFCO intent language of GC §56300 include a provision that LAFCO policies and procedures be in writing.**

The text of the proposed amendments to the Cortese-Knox Act to implement these and all other recommendations in this report are included in Appendix C. The proposed amendment to §56300 is as follows:

> "56300. It is the intent of the Legislature that each commission 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. If, not later than July 1, 2001, a commission has not adopted written policies and procedures, any actions taken by that commission may be voidable."

The Commission also discussed what information should be included in the written policies and procedures adopted by LAFCOs. Testimony presented to the Commission has indicated that it is sometimes difficult to ascertain what documentation is required in order to protest a proposal before LAFCO. This is in part because the protest process is currently managed by individual local governments as the conducting authorities, rather than the LAFCOs. Each locality may have its own unique procedures for conducting the protest process. The Commission believes that adequate public knowledge of the LAFCO process must be ensured, and recommends that examples of the forms or format required to process a particular procedure or protest against a proposal be included in the policies and procedures. More in-depth discussion of public participation and public information is included in Chapter 8.

**RECOMMENDATION 3-9**
**The Commission recommends that the written guidelines, which must be adopted by every LAFCO, should include specific criteria for all proposals before LAFCO, including examples of the forms required in order to protest LAFCO proceedings and hearings.**

*The Commission believes that adequate public knowledge of the LAFCO process must be ensured.*

## Streamlining the Cortese-Knox Act

While Figure 3-6 illustrates a seemingly straightforward procedure, the reality is that the Cortese-Knox Act is quite convoluted and complex. Even LAFCO officers who have worked with the law for many years find it confusing and occasionally contradictory. Testimony presented to the Commission supports this conclusion.

San Diego City Councilman and LAFCO member Harry Mathis noted that LAFCO statutes have been " . . . subject to an annual onslaught of piecemeal legislative amendments and incremental changes" and "having been enacted in an era prior to the passage of major fiscal and planning laws in California . . . are out of touch with current conditions." Ventura County LAFCO's 1999 Legislative Platform states, in part: "Cortese-Knox was put into place in October of 1985 and has been amended each year since that time. During this fifteen year period the consistency and logical order of this body of law has gotten more confusing and disjointed. Ventura LAFCO would support legislation which would call for a full review of the body of law known as Cortese-Knox which would result in a more coherent and usable document."

Jeff Tweedie, Executive Officer of the

*Even LAFCO officers who have worked with the law for many years find it confusing and occasionally contradictory.*

Fresno County LAFCO, testified: "Over the years, legislative amendments have modified the original text to deal with special circumstances. Such piecemeal changes have resulted in instances of inconsistency, ambiguity, fragmentation, and unnecessary duplication. This makes it difficult to ensure that all applicable provisions are complied with…. The Act should be comprehensively reviewed with the aim of streamlining processes and eliminating instances of duplication and fragmentation."

Based upon its review of the statute, the Commission concurs that a comprehensive reorganization of the Act is warranted. Redrafting the statute would provide LAFCOs and the public with a better understanding of the law and would promote additional reforms to streamline LAFCO procedures.

**RECOMMENDATION 3-10**
**The Commission recommends that the Cortese-Knox Act be comprehensively reorganized and re-drafted to provide LAFCOs and the public with a better understanding of the law and to remove any duplication and obsolete provisions in the Act.**

An outline of the Commission's proposed reorganization of the Cortese-Knox Act is included as Appendix D. The Commission believes that many other technical and procedural changes are needed to streamline LAFCO proceedings and make them more understandable to the public. The most important and far-reaching of these is the substitution of LAFCO for the "conducting authority" established under current law.

## LAFCO Process and the Conducting Authority

Part 4 of the Cortese-Knox Act is entirely devoted to outlining the role of the "conducting authority" in LAFCO proceedings. Section 65029 of the Act defines the conducting authority as "the legislative body of an affected city, affected district, or affected county which is authorized by the commission to conduct proceedings for a change of organization or reorganization." Typically, after LAFCO has approved a proposal, it designates the jurisdiction most affected by the proposal as the conducting authority, responsible for conducting a protest hearing, scheduling and conducting an election if warranted, and adopting a resolution certifying the results of the election. In most cases, the conducting authority performs only a ministerial function, with no discretion to alter or disapprove the LAFCO action. Moreover, many agencies that are so designated are unfamiliar with the correct procedures because they seldom file applications with LAFCO. Consequently, conducting authority proceedings may sometimes delay final action on a proposal.

In one instance reported to the Commission, the conducting authority delayed holding the required hearing in order to stall proceedings. A representative of the California Special Districts Association (CSDA) cited another instance, saying, "…if the conducting authority fails to complete the proceedings within one year, LAFCO appears to be powerless. We are aware of one case where two districts initiated a proposal for their own consolidation. Once LAFCO approved the application and designated the board of supervisors as the conducting authority, the board failed to complete the proceedings." This experience, and perhaps other similar instances, led the California Association of Local Agency Formation Commissions (CALAFCO) and CSDA to call for designation of an alternate conducting authority when the current conducting authority fails to act. These organizations opined that LAFCO is often the most appropriate alternate conducting authority.

Conducting authority proceedings have been part of the Cortese-Knox Act since its inception in 1963. It is probably a holdover from the predecessor laws, which provided for the county or city to conduct a protest hearing on a proposal placed before it. This, however, was before the creation of LAFCOs. Retaining this additional procedure on the part of a third party is duplicative and unnecessary today. The Commission finds that the conducting authority process unnecessarily introduces a second lead agency into the

reorganization process, causing confusion and delay. The LAFCO executive officer could complete this function, holding the protest hearing in the affected community and eliminating delays.

**RECOMMENDATION 3-11**
**The Commission recommends that LAFCO be assigned the responsibilities of the conducting authority and be authorized to make the findings that would require the appropriate local agency to call an election, if warranted.**

There are numerous code sections which reference conducting authority actions. The Commission recommends that these be amended to replace the conducting authority with the LAFCO (referred to in the Act as commission) or the executive officer, as appropriate. These changes should be made as part of the comprehensive re-drafting of the Cortese-Knox Act. It is the intent of the Commission that the process not be abridged in any manner that reduces access to the decision making process on the part of citizens and local governments.

Several technical changes should be considered for the revised protest hearing and completion process. For example, LAFCO will need the authority to direct a local agency to call an election, if one is indicated, since LAFCO does not have the statutory authority to do so. It does not make sense to staff each LAFCO with an elections clerk to meet the need of an occasional election.

Fresno LAFCO, in testimony to the Commission, suggested that an amendment be made to GC §57001. This section states that conducting authority proceedings must be completed within one year or they are deemed to be abandoned unless the LAFCO grants an extension. Fresno LAFCO has found that the one-year time limit is generally interpreted by LAFCOs to include all of the actions necessary to complete an annexation, not just the conducting authority proceedings, and that this interpretation should be clearly affirmed in statute. Under the new procedures recommended by the Commission, the entire process will be under LAFCO control, so maintaining this timeline will be easier.

Fresno LAFCO further expressed a concern that the timelines in the Act do not correspond to other timelines applicable for new development. For example, when vacant land is proposed for residential development, a final tract map often must be filed before the annexation can be completed. This is to verify that urban services will be needed on the property in the near future. Pursuant to the Subdivision Map Act, a developer may take as long as 7 to 10 years to file a final map. Fresno LAFCO recommends that "where filing of an acceptable final map has been made a condition of an annexation, the life of the approval should be the same as that of the tentative map," instead of just one year.

The Commission believes that these amendments are reasonable and will provide clarification to LAFCOs regarding timelines and possible extensions of an action.

**RECOMMENDATION 3-12**
**The Commission recommends that the LAFCO approval expiration date refer to completion of the entire annexation process instead of just the conducting authority proceeding and, where a final map is required as an annexation condition, the approval life be the same as that of the tentative tract map.**

One of the effects of designating LAFCO as conducting authority is that two current exceptions in the Cortese-Knox Act which allow unilateral termination of proceedings by the conducting authority will be eliminated. Under the current statute, if a city detachment proposal is approved by LAFCO, the conducting authority is the affected city, which has the ability to veto the proposal by terminating proceedings. A similar provision is in effect for a special district annexation.

These provisions allow the affected city or district to have a final say in the proceedings. The Commission believes that this is inappropriate, and that there should be no exceptions placed on the ability of LAFCO to administer the conducting authority proceedings. However, the Commission recognizes that a city or district must have the ability to protest an annexation or detachment and recommends that LAFCO give great weight to such a

*The conducting authority process unnecessarily introduces a second lead agency into the reorganization process, causing confusion and delay.*

*There should be no exceptions placed on the ability of LAFCO to administer the conducting authority proceedings.*

protest if it is based on financial or service related concerns.

**RECOMMENDATION 3-13**
**The Commission recommends that the two current exceptions allowing unilateral termination of proceedings by cities (for detachments) and special districts (for annexations) be deleted, but that great weight be given to any objections by an affected city or district.**

## Other Technical Revisions

The Commission received testimony supporting a number of technical revisions to the Cortese-Knox Act. Enacting these changes as part of a comprehensive revision to the Act will further streamline and improve LAFCO processes.

One such change concerns GC §56857, which provides that within 30 days of adoption of a LAFCO resolution, any person or affected agency may request LAFCO to reconsider its action. This provision can lead to reconsideration requests being filed by those who simply disagree with the LAFCO decision, or it could be used as a delaying tactic. If reconsideration is requested, LAFCO has no option under current law. It must convene another public hearing and take testimony regarding the reconsideration request, even if no reason is given for the request. To limit abuses, LAFCOs could be authorized to require that the appellant requesting reconsideration state what new facts or circumstances have become available since the previous hearing. This would permit LAFCO to evaluate whether or not a new hearing would be productive.

**RECOMMENDATION 3-14**
**The Commission recommends that a LAFCO be permitted to establish criteria for filing a request for reconsideration.**

During the Commission's deliberations it was noted that the Cortese-Knox Act uses the term "feasible" in a number of instances (for example, GC §56108 and §56332). Because this term is used to limit potential actions by LAFCO, the Commission believes that clarification of its meaning and intent should be included in the statutory definitions. The recommended definition was adapted from the use of the term in the State Guidelines for implementation of the California Environmental Quality Act (CEQA).

**RECOMMENDATION 3-15**
**The Commission recommends adding a new definition of "feasible," consistent with the definition used in the *CEQA Guidelines*. This word is used in several places in Cortese-Knox, but is currently not defined. The Commission's intent is that this recommended language be construed consistent with existing CEQA case law.**

The Cortese-Knox Act also makes reference to "prejudicial abuse of discretion" in GC §56107. The Commission believes that this section should be amended to reflect recent court decisions on this issue. Current law provides that all determinations made by LAFCO shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the court finds that the agency has not proceeded in a manner required by law or if any determination of a commission or a legislative body is not supported by substantial evidence in light of the whole record.

It has generally been recognized that LAFCO determinations as to boundaries of local agencies and possible annexation of territory, are quasi-legislative in nature since "the nature of the power exercised is legislative and political rather than judicial…" (*City of Santa Cruz v. LAFCO* (1978) 76 Cal.App.3d 381,387). However, courts have applied different tests to review LAFCO determinations under the Code of Civil Procedure.

To the extent that LAFCO decisions are required to be supported by written findings, courts have also differed in opinion. Some decisions have required a more detailed statement of finding in order to permit the court to review the substantiality of the evidence before LAFCO. Other courts have rejected a requirement for formal detailed findings. The statutory definition proposed

by the Commission is adapted from §1085 of the Code of Civil Procedure.

**RECOMMENDATION 3-16**
**The Commission recommends that prejudicial abuse of discretion, as referenced in GC §56107, be amended to provide clarification, in light of recent court rulings on this subject, that in any action or proceeding to attack, review, set aside, void, or annul a determination by a public agency on the grounds of noncompliance with the Cortese-Knox Act, the inquiry shall extend only to whether there was prejudicial abuse of discretion.**

Under existing law, the expiration of the term of office of each member is the first Monday in May of the year in which the term of the member expires. This date was presumably established to allow time for the city and special district selection committees to meet after November elections. The Commission received testimony from Mendocino LAFCO that this provision did not work for all jurisdictions, since election dates may vary. The result could be an extended "lame duck" term for a member. The Commission believes that allowing LAFCO the flexibility to set an alternate date would not harm any other jurisdictions or delay the appointment of members. However, the Commission does want to ensure that such flexibility would not allow for a length of a term to be extended more than once.

**RECOMMENDATION 3-17**
**The Commission recommends that a technical change be made to GC §56334 to give local flexibility to the effective date of member appointments. The provision should allow that the length of the term of office would not be extended more than once for any individual member.**

## Making LAFCO More Independent

LAFCO reform has been a constant refrain since 1963. An always prevalent theme behind the call for reform is that the makeup of LAFCO is somehow biased towards the counties or the cities, and that there should be some level of independence. Currently, LAFCOs are funded by counties. Although Los Angeles County has an arrangement whereby costs are shared between the county and the City of Los Angeles, funding for every other LAFCO is provided by the county, which also must provide offices and supplies if they cannot be acquired in some other way. From the standpoint of finances, this makes every LAFCO "dependent" upon the county. It is not difficult, therefore, to understand why LAFCOs might be viewed with suspicion by the non-county members.

## Independence of California LAFCOs

One of the objectives of the survey undertaken for the Commission was to determine how many LAFCOs would be classified as independent or dependent. Each LAFCO was asked if the staff were employees of LAFCO (independent) or of the county (dependent). It should be noted that even in independent LAFCOs, payroll functions, job classifications, and benefits for LAFCO employees are generally provided by the county.

Of the 57 LAFCOs, a clear majority of 40, or 70% of the total, are county-dependent. Seventeen LAFCOs (30%), are independent. Independent LAFCO employees serve at the pleasure of the LAFCO or its executive officer. One LAFCO (San Mateo) changed its independent status to dependent within the last three years, one LAFCO (El Dorado) became independent, and one LAFCO (Solano) is investigating the feasibility of becoming independent.

Both dependent and independent LAFCOs report complaints from constituents about the perceived lack of impartiality of LAFCO decisions. Generally, however, this was not viewed as a serious issue by the LAFCOs themselves. Based upon LAFCO testimony to the Commission and survey comments, it would appear that there is little support among LAFCOs for requiring that they all be made independent. The biggest problem, outside of funding, reported by dependent LAFCOs regarding their status was the lack of "protected" staff time for LAFCO work.

*From the standpoint of finances, every LAFCO is "dependent" upon the county. It is not difficult, therefore, to understand why LAFCOs might be viewed with suspicion by the non-county members.*

*LAFCO must represent all levels of governance in its jurisdiction.*

## Commissioner Independence

LAFCO independence was a recurring theme of presentations to the Commission. But the suggestions regarding changing the composition of LAFCO membership varied. The ideas range from increasing the number of public members to direct county-wide election of LAFCO members. The League of California Cites (LCC) had three recommendations. The first was to require an affirmative vote from at least one of the members selected by each of the other selection authorities for the public member. The second was to increase the number of public members. The third was to include special criteria for membership in single-city counties, counties with a single dominant city, or counties with no cities.

The commissioners do not believe that changing the basic composition of LAFCO will, by itself, change the public perception. Staff and funding independence are just as important. Consequently, the Commission elected to leave basic LAFCO structure and selection procedures unchanged, except that it supports expanding all LAFCOs to include special district members and conferring equal membership for all forms of government. Special district membership is supported by CSDA and CALAFCO, which stated that it "supports having special districts seated on each LAFCO as a matter of right, just as is presently the case for cities and counties." The League of California Cities and the California State Association of Counties (CSAC) are not opposed to special district representation.

The Commission believes that special district representation is essential to the success of LAFCO, since many decisions regarding special districts are made by this body and, to be effective, LAFCO must represent all levels of governance in its jurisdiction. Moreover, special district representation may mitigate the perception of the public member as the tie-breaking vote. Many LAFCOs are currently comprised of two county members, two city members, and one public member. Because proposals are sometimes viewed as city versus county issues, the public member may be placed in the difficult position of tie-breaker.

To further promote neutrality of LAFCO membership, the Commission recommends that the public member selection require approval by each constituency on LAFCO (i.e. cites, counties, and special districts). The Commission believes that by requiring consensus by LAFCO on selection of the public member, the perception that a public member "belongs" to a certain block could be eliminated.

Another concern noted by the Commission was the selection of the city and special district members on LAFCO. In counties with many cities and special districts, or a mix of large and small cities, the Commission believes that there should be rotation of the jurisdictions having a board member seated on LAFCO in order to ensure fair population and geographic representation of all cities and special districts within the county. LAFCO membership rotation is not always the practice. For example, Fresno informed the Commission that, despite being the largest city in its county, it has never held a LAFCO seat. At the other extreme, Huntington Park City Councilman Thomas E. Jackson has been voted the Los Angeles cities selection committee representative on LAFCO since 1983, and he has chaired LAFCO since 1988.

**RECOMMENDATION 3-18**
**The Commission recommends that a uniform LAFCO member selection procedure be adopted, to apply in all counties except the four counties having special statutory arrangements (Los Angeles, San Diego, Sacramento, and Santa Clara), which should remain unchanged. The pattern should be as follows: two selected by the county, two selected by the cities (except in counties having no cities), two selected by special districts (if requested), and one public member selected by the others. The city and special district selection committees are encouraged to select members to fairly represent the diversity of the cities or special districts in the county, with respect to population and geography. The selection of the public member should be subject to the affirmative vote of at least one of the representatives selected by each of the three appointing authorities.**

Other measures are needed to help LAFCOs act more independently. To promote LAFCO independence, the Commission believes that LAFCO members need to adopt a comprehensive perspective on governance issues and not simply represent the parochial views of their appointing agencies. Current language in GC §56325 encourages the latter, implying that members of LAFCO "represent" the constituency that appoints the member. The Commission believes that this perception must be changed.

**RECOMMENDATION 3-19**
**The Commission recommends that a provision be added to the Cortese-Knox Act emphasizing that the role of LAFCO commissioners is to act in the best interest of the public as a whole and not solely in the interests of their respective appointing authority.**

Several individual LAFCOs have adopted policies that include a provision specifying that LAFCO members represent the interests of the entire county and not any one appointing authority, consistent with this recommendation. For example, the Nevada LAFCO has a detailed policy on a commissioner's role and duties as a member of LAFCO. The Commission agrees with this practice of reminding members of their allegiance. The purpose of the above recommendation is to help establish a standard of ethical professionalism and to fight any public perception of partiality. There is evidence that such perception may not reflect reality. As Ventura LAFCO Executive Officer Bob Braitman testified,

> "A member of the Ventura LAFCO was once accused by a city of having a strong 'pro-county bias.' This caused the LAFCO staff to study every vote of every commissioner at every meeting for three years. The result? There was no discernible difference in voting based on the categories of commissioners. You could not tell city members from county members or from the public member by votes cast."

The Ventura LAFCO Commissioner Handbook describes the appropriate role of LAFCO commissioners, saying they "should rely upon their expertise and experience while on LAFCO and exercise responsibility through a regional, LAFCO perspective in making decisions."

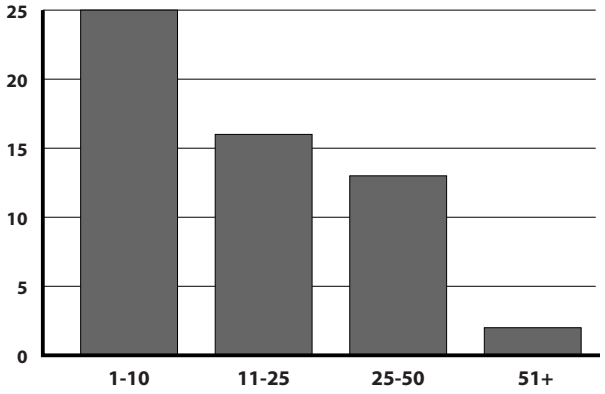



Fig. 3-8
**Number of LAFCO Projects Per Year**

SOURCE: Joyce Crosthwaite, *Analysis of a Survey of Local Agency Formation Commissions, Report to the Commission on Local Governance for the 21st Century*, 1999

## Staff Independence

The Commission believes that promoting independent staffs and budgets are just as important as changing the methods of selecting LAFCO members. Many organizations, including several LAFCOs, agree that staff independence is indeed important. However, numerous other LAFCOs testified that many small counties cannot afford an independent staff and should continue to be allowed to use county staff.

This concern appears to be justified for many smaller LAFCOs, especially in rural areas. Those meeting infrequently may not have sufficient work to support an independent staff. The Commission's LAFCO survey indicated a wide variation in the number of meetings held annually, which roughly correspond with the number of projects filed with LAFCOs each year (indicated in Figure 3-8). Most "low or no" activity LAFCOs hold meetings on an as-needed basis. For example, Amador LAFCO had not met within the last 18 months before the survey, Del Norte within the last 12 months, and Mariposa within 24 months. The longest drought was in Sierra County, where LAFCO had not met for 36 months. Among all LAFCOs, 18 generally meet three or fewer times per year, 16 meet between six and eight times per year, and 23

*LAFCOs reported increased activity concurrent with economic booms... the complexity of projects has increased significantly*

meet ten or more times per year. All LAFCOs reported increased activity concurrent with economic booms. Several LAFCO officers volunteered that the complexity of projects has increased significantly in the last five years.

Shasta County Supervisor and LAFCO member Irwin Fust expressed the view of many rural LAFCOs. "Like many LAFCOs in our region — and perhaps in other parts of the State — we simply do not have the 'business' to support a full-time operation. We do not always have boundary change proposals to consider, nor new district formations, or reorganizations, or consolidations. Furthermore, the times when LAFCO will be 'busy' cannot always be predicted. I have seen months go by without an annexation to consider, nor any other matters requiring commission [LAFCO] action."

Others are of the opinion that the composition of the staff is not the most critical factor influencing LAFCO independence and that local preferences should be considered. Blanca Alvarado, a county supervisor and LAFCO member from Santa Clara County testified, "We feel that the independent decision making ability of the commissioners is what makes a LAFCO independent, and not whether the LAFCO staff is employed by independent contract or by county government. Santa Clara LAFCO is termed a 'dependent' LAFCO by CALAFCO . . . "

Diane Williams, Chair of the San Bernardino LAFCO, agreed that local discretion is important, but offered a slightly different global perspective. "The San Bernardino LAFCO believes that the question of whether LAFCO's should be staffed by county employees, or hire its own staff, or use outside consultants, should be an area where 'local conditions and circumstances' should prevail rather than a statewide mandate. Philosophically, however, we believe that every LAFCO with a sufficient level of activity would do well to hire its own staff rather than relying on staffing assignments provided by a county board of supervisors or chief administrative officer."

Clearly, many smaller counties do not have sufficient workload to support a full-time independent staff. The Commission believes, nevertheless, that staffing independence could be achieved by providing LAFCOs with the ability to hire their own staff, contract with the county, hire a consultant on an as-needed basis, or pooling resources with other LAFCOs. The benefits would make such arrangements worthwhile. The Commission is not alone in its belief that the independence of LAFCO is vital to ensuring that LAFCO decisions are credible to the public, as indicated in testimony to the Commission:

- The Association of California Water Agencies: "Clearly, if LAFCOs are to become more aggressive in pursuing the goal of ensuring the most efficient and effective delivery of local services, LAFCOs will need greater funding and greater independence from the local agencies that make-up the commission."
- The Southern California League of California Cities: "Each LAFCO needs an independent staff, one that is only answerable to the LAFCO Commissioners. The statutes should require that each LAFCO be responsible for the hiring and firing of its staff. Furthermore, the statutes should make it clear that no member of the County staff can be a LAFCO staff person."

After weighing arguments both for and against LAFCO staff independence, the Commission is convinced that each LAFCO should select its own executive officer and legal counsel. This does not preclude a LAFCO from selecting staff from the county or any other public or private entity for the job, so long as it is a voluntary and considered decision and staff is accountable to the LAFCO under some formal arrangement, such as a contract. Allowing LAFCO, rather than the county, to make staffing decisions should allay any perceived bias.

The Commission is also concerned about possible conflicts of interest regarding use of county legal counsel or county staff, especially if the staff person also represents the county in jurisdictional negotiations. While existing laws regarding financial conflicts of interest apply to these individuals currently, commissioners believe that the Act should explicitly bar conflicts, to ensure that there is no ambiguity.

**RECOMMENDATION 3-20**
**The Commission recommends that LAFCO select its own executive officer and counsel. It may nevertheless opt to use staff provided by the county or another public or private entity. The Commission further recommends that conflict of interest provisions be specified for LAFCO staff.**

**RECOMMENDATION 3-21**
**The Commission recommends revisions to the definition of "Executive Officer" in conformance with the recommendation on LAFCO staff independence.**

During the course of the Commission's deliberations, a question arose in Los Angeles County regarding disclosure of campaign contributions for a proposal before LAFCO. Currently the Los Angeles LAFCO is reviewing a proposal whereby the San Fernando Valley would secede from the City of Los Angeles and form a new city (for more information see Chapter 4). Many observers of the process have requested that the proponent of the secession (Valley Voters Organized Toward Empowerment, or "Valley VOTE") disclose its financial backers. The secession proposal is probably the most costly local reorganization attempt in California history. The LAFCO study alone is estimated to cost approximately $1.2 million. Many believe that the public has a right to know who is providing financial support to this effort. While Valley VOTE has released the names of some of its donors, it claims that it is hesitant to release a complete list for fear that those contributing could be subject to retribution from the City of Los Angeles.

The Los Angeles City Ethics Commission considered this issue and concluded that there is an exemption in existing law regarding disclosure of supporters of an incorporation or a special reorganization. Because a LAFCO petition is not considered a "measure" until it receives LAFCO approval and is placed on the ballot, it is not subject to the current disclosure requirements for initiatives.

In November 1999, the Fair Political Practices Commission (FPPC) agreed to consider requiring secession groups to identify contributors. The FPPC has directed its staff to draft disclosure options for its January, 2000 meeting. FPPC Commissioners warned, however, that a new rule should not be so broad that it includes every petition or proposal before LAFCO.

The Commission agrees that the proponents of such a proposal should be required to disclose campaign contributions, especially in light of the large amount of public funding committed to the study. The secession would affect a large number of Los Angeles residents, so the Commission believes that the public has a right to know who is funding and promoting the effort.

**RECOMMENDATION 3-22**
**The Commission recommends that proponents of reorganization actions be required to report campaign contributions in the same manner that local initiative proponents are required to report.**

A closely related matter involves lobbyist disclosure. On July 8, 1999 the Los Angeles City Ethics Commission asked the Los Angeles LAFCO to adopt lobbying disclosure regulations for its members and those lobbying LAFCO. However, on the advice of counsel, the Los Angeles LAFCO determined that it does not possess the authority necessary to establish its own lobbying disclosure rules. A motion to require LAFCO members to reveal any ex parte communication with prospective bidders for the fiscal study contract or their paid agents was defeated by a 6-3 LAFCO vote.

Under the Political Reform Act (PRA), an officer of an agency may not participate in a decision if the officer has received a contribution of $250 or more within the preceding 12 months from a party involved in the decision. While this prohibition does not affect county supervisors, city council members, or elected members of special district boards, the FPPC has ruled that it does cover LAFCO commissioners. However, this does not cover those lobbying LAFCO who have not contributed money to a campaign account.

The PRA requires those who lobby state government or a state agency to register and file with the State. However, this law does not

*Because a LAFCO petition is not considered a "measure" until it receives LAFCO approval and is placed on the ballot, it is not subject to the current disclosure requirements for initiatives.*

apply to the federal government or local governments. The FPPC has ruled that LAFCOs are not a state agency and therefore do not have to comply with lobbying provisions of the PRA. The FPPC stated in its *Madden Advice Letter* that because the composition of LAFCO "does not include officials as defined in FPPC Regulation 18249 (b), LAFCO is not a state agency for purposes of the Act's lobbying provisions." This regulation requires that at least one voting member be an elected state officer.

The Commission believes that LAFCOs should be subject to uniform regulation with regard to lobbying disclosure, but that some sort of threshold should apply to avoid subjecting LAFCO officials and those interested in LAFCO actions from having to file on trivial matters. The PRA defines a "lobbyist" (GC §82039) as any individual who receives $2,000 or more in economic consideration for lobbying in a calendar month or whose principal duties are to communicate with any elective state official, agency official or legislative official for the purpose of influencing legislative or administrative action. This threshold effectively eliminates insignificant activities from regulatory scrutiny.

**RECOMMENDATION 3-23**
**The Commission recommends that disclosure requirements be adopted regarding efforts to lobby LAFCO or influence a LAFCO decision or decisions, consistent with requirements for State appointed boards.**

## LAFCO Budgets

Virtually every LAFCO testified to the Commission that their funding is inadequate and expressed the view that counties alone should not be expected to cover all LAFCO costs. Data gathered in the Commission's LAFCO survey affirms the general paucity of funding for LAFCOs.

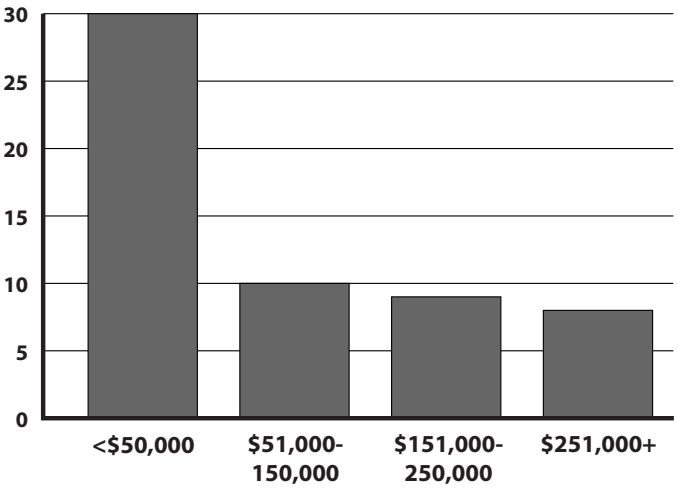
Each LAFCO was asked its adopted budget for the previous fiscal year. Those "no or low activity" LAFCOs that do not maintain budgets separate from their county's departmental budget were asked to estimate their total budgets, including staff costs. The estimated total of the budgets of all 57 LAFCOs is $7,170,570. Individual budgets ranged from less than $1,000 to more than $650,000. Thirty LAFCOs have budgets of less than $50,000. All of the low-budget agencies are "dependent" except Lake County LAFCO, which has a budget of $16,000 to cover a part-time executive officer who is a private attorney hired under contract. Figure 3-9 summarizes the survey results.

Each LAFCO has the authority to charge fees to recover costs for the various types of jurisdictional changes; 98% have adopted fee schedules. Most of these fee schedules allow the LAFCO staff to charge a flat fee, usually on a per acre basis, as well as recover direct extraordinary costs of time and materials. The estimated total amount returned to all LAFCOs in fee recoveries was $1.6 million. Therefore, of the approximate $7,170,570 budgeted for LAFCOs statewide, 22% is returned to the various counties through fee revenues.

Several LAFCOs do not keep accurate or updated figures regarding budgets, revenues or costs of staff time. Therefore, a unified format for reporting revenues, expenditures and time may be needed.

Most of the suggestions made to the Commission for reform of LAFCO funding can be grouped into four basic schemes, or some combination thereof: (1) provide state funding of LAFCOs; (2) provide LAFCO with a

Fig. 3-9
**LAFCO Budgets**




SOURCE: Joyce Crosthwaite, *Analysis of a Survey of Local Agency Formation Commissions, Report to the Commission on Local Governance for the 21st Century*, 1999

share of the property tax; (3) have cities and special districts share funding responsibility with the counties; or (4) continue the current practice of limited funding from the county and recovery of fees from applicants.

In his testimony to the Commission, San Diego LAFCO Executive Officer Michael Ott summarized the key funding issues. "Developing an equitable funding program is crucial for LAFCO, especially if the Legislature wants LAFCOs to have a positive effect on local government structure in California. Any major changes to the LAFCO statutes . . . would essentially be negated if LAFCOs would be left with an inadequate funding source. A three-way funding split matched by contributions from the state received the endorsement of San Diego LAFCO in 1998."

San Luis Obispo LAFCO Chairman Bill Engels agrees, citing the need for independence in fulfilling broad State mandates of LAFCO. "A more equitable means of funding LAFCOs needs to be found. The current method of county general fund and fees discourages LAFCOs from being most effective because expensive sphere of influence studies and special district consolidation studies are not completed due to lack of sufficient financial resources."

The issue of funding for LAFCOs comes down to a question of fairness. Cities and special districts produce much of the workload of LAFCOs and have the greatest interest in promoting an independent decision-making body. The Commission believes that all entities will benefit from LAFCO independence, which can only be assured if all share equally in the cost. A specific model was developed for legislation proposed in 1997-98 (AB 270, Torlakson) which provided for a one-third cost split among the three constituencies and required special district representation. Although the legislation was unsuccessful, the Commission believes that the basic formula is worth exploring once again.

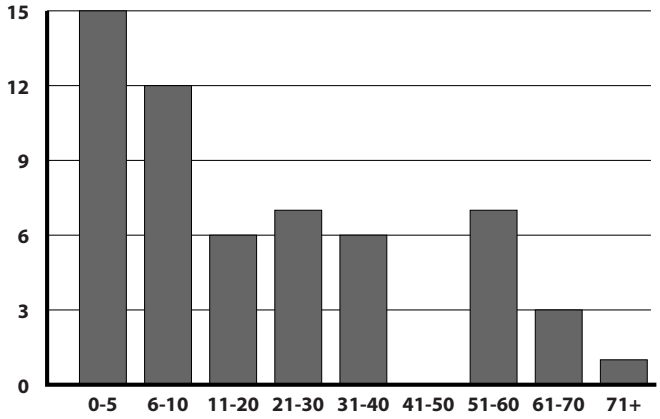



Fig. 3-10
**Percent of LAFCO Budgets Returned Through Fees**

SOURCE: Joyce Crosthwaite, *Analysis of a Survey of Local Agency Formation Commissions, Report to the Commission on Local Governance for the 21st Century*, 1999

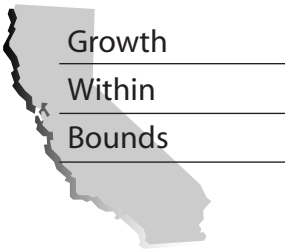
**RECOMMENDATION 3-24**
**The Commission recommends that LAFCO costs be apportioned equally among all constituencies that select members to the commission.**

Language previously considered in unsuccessful legislation (AB 270, 1997-98) forms the basis for this recommendation. The language from AB 270 would repeal the existing policy, which makes LAFCO a county cost center, and instead provide that operational costs would be shared equally by the county, cities, and special districts. The specific allocation language recommended by the Commission, adapted from AB 270, would amend GC §56381 and add a new GC §56381.5. The suggested draft is included in Appendix C.

LAFCO procedures, policies, membership, and staffing must be reformed if LAFCOs are to be respected arbiters in boundary matters and if they are to contribute to the broader goal of preparing California governance for the 21st Century. The Commission believes that adoption of the recommendations in this chapter will represent a major step forward in achieving these objectives.

CHAPTER FOUR

# Forming New Cities and Changing Municipal and District Boundaries




*"Without land use control, we are 'dependent upon the kindness of strangers.'"*

David Spiselman,
Member of Mid-Coast Community Council
Commission Hearing, December 2, 1998

One of the most important and controversial exercises of government power occurs in making decisions concerning land use — decisions which involve balancing the sometimes competing interests of individuals and communities and providing necessary municipal services. Although the Cortese-Knox Act denies LAFCOs the power to directly control land use, they are nevertheless indirectly involved. By exercising their powers under the Cortese-Knox Act, LAFCO actions are a key step in the process which results in major land-use change through the approval or disapproval of annexations and incorporations. A proposal to join an existing city or special district through annexation, or to create a new city, may be based on the desire for self-determination, to preserve community identity, to obtain more services, or a combination of these and other factors. Incorporations and annexations are important tools for allowing communities to guide their own destinies. Reforms are needed, however, to improve these important processes.

*LAFCO actions are a key step in the process which results in major land-use change through annexations and incorporations.*

## Initiating Boundary Changes

Under the Cortese-Knox Act, two methods are available to initiate a city or special district formation or boundary change: (1) the legislative body of a city or special district may adopt a resolution requesting an annexation or detachment; or (2) voters or landowners in the affected area may sign petitions requesting LAFCO or the local jurisdiction to initiate proceedings. In addition, LAFCO on its own authority may initiate the consolidation of one or more special districts (see Chapter 5). When the process is initiated by citizens, the first step is the gathering of petition signatures, after which the signatures must be verified. The remaining procedures are the same no matter how the action was initiated. Minimally, the required actions, if successful at each step, are: an initial LAFCO hearing on the proposal; a final protest hearing; and an election, if required under the provisions governing the type of organizational change proposed. The discussion below focuses on proceedings initiated by petition.

### Initiation of a LAFCO Action by Petition

The right and ability of citizens to petition their government was a basic principle of the American Revolution. The Declaration of Independence and the California Constitution both provide that citizens may petition to alter or change their government. In addition, the California Constitution permits citizens to petition, either through initiative or referendum, concerning decisions by the Legislature and by local legislative bodies. However, the State has the authority within Constitutional limits, to establish the structures of local government as it sees fit.

With regard to most local government actions in California, the Legislature has provided procedures for citizens to voice their concerns and objections regarding proposals at public hearings before the proposed actions are taken or approved. The Cortese-Knox Act includes numerous provisions for enabling public participation and allowing citizen protests. In a sense, there may be too many provisions, or at least too many procedural

*Incorporation should not be entered into lightly. It is a lengthy, expensive process and carries a permanent responsibility.*

variations for similar types of LAFCO decisions. For example, requirements differ for numbers of signatures to be gathered, numbers of protests to be filed, and the voting qualifications for various proposals that a LAFCO must approve or disapprove.

Current law provides that proposals may be initiated by petitions signed by registered voters or landowners. However, the petition requirements are widely varied. For example, petitions including the signatures of 25% of the affected registered voters are required to initiate incorporation or disincorporation proposals, 20% are required for consolidation of cities, 20% for detachments from cities, 5% for annexations, most reorganizations, district dissolutions or consolidations, and 10% for district mergers or subsidiary district proceedings.

Testimony received by the Commission indicated that the current petitioning requirements are confusing and that there should be some attempt to make the requirements more consistent and understandable. Diane Williams, Chairperson of San Bernardino LAFCO, noted that the original intent of the different petition requirements was to encourage annexation while making it more difficult to incorporate, but that the number of incorporations since 1963 seems to indicate that these barriers were not a success. She testified that "all that remains in current law is a confusing and apparently arbitrary set of differing petition requirements. Perhaps the Commission might give some thought to making petition requirements consistent, thereby making them more understandable to the public."

Ron Wooten, Vice-Chair of CALAFCO also testified that "current law provides that petitions signed by registered voters or landowners can initiate proposals. However, the petition requirements are widely varied…. Whatever the legislative intent at the time, the result is a confusing and arbitrary set of differing petition requirements."

After a review of the current structure and requirements, the Commission concluded that consistent standards for initiating and filing petitions would streamline LAFCO procedures and make them more understandable to the public. Figure 4-1 summarizes the existing vote requirements and changes recommended by the Commission.

**RECOMMENDATION 4-1**
**The Commission recommends that uniform requirements be established for petitions to initiate a change in organization or reorganization. Currently, the percentages of voter or landowner signatures required for types of proposed actions varies. It is recommended that the percentage of signatures required for incorporations, detachments, and disincorporations, be uniformly established at 25%, that the percentage required for dissolutions be uniformly established at 10%, and that the percentage required for annexations, consolidations, and mergers be uniformly established at 5%. When a proposal includes one or more changes of organization, the higher petition threshold should apply. Broadly speaking, the higher percentage would be for actions that increase governmental fragmentation while the lower percentage would be for actions that reduce fragmentation.**

The current petitioning standard for a proposed incorporation, requiring 25% of registered voter signatures to initiate a review by LAFCO, was raised as a concern by the Valley Voters Organized Toward Empowerment (Valley VOTE), which contends that it is too difficult to achieve. As Valley VOTE President Jeff Brain testified, "the special reorganization process requires [that] 25% of the TOTAL registered voters sign the petition. . . . Consideration should be given to adjusting either the percentage of required signatures or the basis of the percentage."

The Commission believes that there are legitimate policy reasons for the high threshold for new incorporations and special reorganizations. Incorporation should not be entered into lightly. It is a lengthy, expensive process and the result, if successful, carries a permanent responsibility. Many commissioners feel that it should be difficult for a community to incorporate in order to ensure needed and logical formation of new governments. Moreover, the success of many

Fig. 4-1

**Current and Recommended Voter/Land Owner Petition Requirements to Initiate Organization or Reorganization Proposals**

SOURCE: Commission on Local Governance for the 21st Century

| | | Current Requirement | | | |
|---|---|---|---|---|---|
| ***Gov Code Sec No*** | ***Description of Petition*** | ***Registered Voters*** | ***Number of Owners*** | ***A. V. of Land*** | ***Proposed Change*** |
| **56750** | Incorporation of a city | 25% | 25% | 25% | No change |
| **56751** | Disincorporation of a city | 25% | | | No change |
| **56752** | Consolidation of two or more cities | 20% | | | 5% |
| **56753** | Annexation to a city | 5% | 5% | 5% | No change |
| **56753 (b)** | Annexation to a city of more than 100,000 in Los Angeles County | 8% | 8% | 8% | 5% |
| **56754** | Detachment from a city | 20% | 20% | ss | 25% |
| **56755 (a)** | Annexation to registered voter district | 5% | 5% | 5% | No change |
| **56755 (a)** | Detachment from registered voter district | 5% | 5% | 5% | 25% |
| **56755 (b)** | Annexation to a landowner-voter district | | 5% | 5% | No change |
| **56755 (b)** | Detachment from a landowner-voter district | | 5% | 5% | 25% |
| **56757 (a)** | Consolidation of registered voter districts | 5% | | | No change |
| **56757 (b)** | Consolidation of landowner-voter districts | | 5% | 5% | No change |
| **56758 (a)** | Dissolution of a resident voter district | 5% | 5% | 5% | 10% |
| **56758 (b)** | Dissolution of a landowner-voter district | | 5% | 5% | 10% |
| **56760 (a)** | Merger of a district which overlaps a city or establishment of the district as a subsidiary district | 10% | | | 5% |
| **56760 (b)** | Merger of subsidiary landowner-voter district | | 10% | 10% | 5% |

incorporation efforts – including the recent experiences of Valley VOTE and Harbor VOTE – in successfully obtaining the requisite number of signatures is evidence that the current threshold, although it may be difficult, is not unattainable.

Although the Commission believes that signature thresholds should remain significant, it believes that LAFCO could assist proponents if advance notice of a petition were given. Currently, there is no requirement that proponents notify LAFCO before circulating a petition. This may lead to format or procedural errors on the part of proponents and may delay LAFCO's timely response to receipt of the petitions. The Commission believes that all parties would benefit if, prior to circulating petitions, proponents registered their intent with LAFCO. The Cortese-Knox Act already has such a provision for petitions circulated in Los Angeles County. This type of notification will help LAFCOs plan their

*The requirement that proponents cover the cost of verifying signatures... is unique to the LAFCO process*

workload, resolve any concerns or problems that proponents may have with the process, and provide consistent and reliable information to the public.

**RECOMMENDATION 4-2**
**The Commission recommends that proponents of a change in organization (e.g., incorporation or annexation) be required to file a notice with LAFCO of their intention to circulate a petition. Under current law, the first required notice to LAFCO is the actual filing of all petition signatures, which initiates LAFCO's certification of signatures and commencement of procedures. A provision similar to this proposal already exists for large cities in Los Angeles County (GC §56700.5).**

## Signature Verification

Currently, most LAFCOs require that proponents of an incorporation, annexation or other petition-generated proposal assume responsibility for the cost of verifying signatures. The requirement that proponents cover this cost is unique to the LAFCO process. In any other type of initiative, when voters submit signatures it is the responsibility of a government agency to verify the signatures without charging the proponents. This is true for both state and local initiatives.

This question also arose with regard to Valley VOTE. This organization submitted 205,000 signatures requesting a study of the secession of the San Fernando Valley from the City of Los Angeles. LAFCO informed Valley Vote that it would have to pay the cost of verification, which was estimated at over $200,000. After negotiations between Valley VOTE and the County, the County agreed to absorb the cost, citing the need for the process to move forward. During the deliberations in which the Los Angeles County Board of Supervisors agreed by a vote of 3-2 to pay for the signature verification, Supervisor Mike Antonovich stated, "Part of the democratic process is to allow people to address their government through petitions. . . Not to allow [Valley VOTE] to move forward would be a denial of their due process."

As a matter of fairness and equity, the Commission believes that a petition before LAFCO should be treated similarly to a state or local initiative with regard to signature verification.

**RECOMMENDATION 4-3**
**The Commission recommends that the cost of verifying petition signatures for a citizen-initiated incorporation, special reorganization, or other change of organization be considered a governmental cost in the same manner as a local initiative petition covered under the provisions of the Elections Code.**

## Clarification of Petitioner

A technical change to the petition process under the Act was recommended by Harbor VOTE, the advocacy group for a proposal from the Harbor communities of Wilmington and San Pedro to secede from the City of Los Angeles (the Los Angeles secession movements are discussed in further detail later in this chapter and in Chapter 8). During the drive to gather petition signatures, the group encountered an internal dispute when the petitions were submitted to LAFCO by one of the chief petitioners, who then created his own organization independently of the other two chief petitioners and Harbor VOTE. While this involved an internal struggle among the secession proponents, Harbor Vote correctly noted some possible discrepancies in the Act dealing with the term "Chief Petitioner."

Under current law, "Chief Petitioner" and "Proponent" are used interchangeably throughout the Act. For example, in GC §56706, which relates to the insufficiency of petitions, the "Chief Petitioners" are to receive notice of the insufficiency, while the "Proponent," as used in the next paragraph, is allowed additional time to gather signatures. The Elections Code uses only the term "Proponent" when referring to an initiative petition.

The Commission believes that clarification of these terms is needed, so that it is clear with whom LAFCO should communicate and negotiate. To avoid confusion, only one term should be used throughout. The Commission

agrees that the Act should be consistent with the Elections Code.

**RECOMMENDATION 4-4**
**The Commission recommends eliminating the term "Chief Petitioner" and redefining the term "Proponent" to include responsibilities of the chief petitioner. This will eliminate confusion, as the terms are used interchangeably, and will align petitioning procedures in the Act with those included in the Elections Code for other types of petitions.**

### Hearing and Protest

After a proposal for an organizational change is accepted by LAFCO, it is reviewed and, if it meets criteria established by the LAFCO, it may be approved or denied, following at least one public hearing. A LAFCO decision to approve is then subject to protest by residents or property owners in the affected area. Existing law provides a procedure whereby the conducting authority, usually the jurisdiction most affected by the proposed action, must hold a protest hearing. If there is dissatisfaction with the proposed LAFCO action, opponents may file a protest either at or before the protest hearing, which may be continued up to 60 days. The protest may be filed either in person or in writing directly to the conducting authority, or through a petitioning procedure. The law does not specify a uniform procedure.

The conducting authority must evaluate the validity of each protest and, if valid protests are received from a specified percentage (depending on the action) of landowners or voters, the proposal must be terminated or submitted to the voters for approval. The protest thresholds differ somewhat for various types of proposals. Generally speaking, however, if the protest rate is less than 25%, the LAFCO action is approved without an election; if 25%-50% protest, an election must be held; if a majority protest, the proposal must be terminated. The precise requirements are different for annexations in Los Angeles County and for inhabited versus uninhabited areas. The Commission reviewed the existing statutes specifying the various thresholds for protests and determined that the variations were not significant. Therefore, the Commission has not proposed revisions.

## Special Considerations When Setting Local Boundaries

Decisions to annex or incorporate are ones that affect several levels of public policy. When a LAFCO is considering such proposals, it must take into account who is affected, whether services can be provided by the new city or annexing jurisdiction, if there are sufficient revenues to sustain future development, and the potential impact on revenues for affected local governments. Among the considerations that a LAFCO must take into account are any implications for voting rights and any potential increase in taxes to registered voters and landowners. This section discusses the potential implications of a LAFCO decision on the Voting Rights Act and Proposition 218.

*Among the considerations that a LAFCO must take into account are any implications for voting rights.*

### Voting Rights Act

The federal Voting Rights Act imposes some special considerations on boundary determinations. The potential implications of this federal law are clearly a concern of some legislators. The statute which created the Commission specifically directed it to "report on proposals to ensure conformity with the requirements of federal law, including, but not limited to, the federal Voting Rights Act of 1965." (42 USC §1973 et seq.)

#### *Background*

The Voting Rights Act (VRA) was enacted in 1965 to guarantee minority voters an equal opportunity to elect the candidate of their choice. It has been amended in 1970, 1975, and 1982. In order to implement the VRA, the federal court is authorized to appoint examiners to certify persons as qualified to vote, and the Act empowers federal courts to require some political subdivisions to pre-clear election changes with a district court or with the U.S. Attorney General. The VRA allows the U.S. Attorney General to send federal registrars (or examiners) to register voters in

counties where the local registrar refuses to register minorities, monitor elections to ensure that eligible minorities are able to vote, and that their votes are counted.

There are special provisions, which apply only to several states, which have had a history of racial discrimination. These states include Arizona, Georgia, Louisiana, Mississippi, and Texas. Also included are several individual counties and towns, including jurisdictions in California (pre-clearance is required in Kings, Merced, Monterey, and Yuba Counties), Colorado, Florida, Idaho, and New York. Under Section 5 of the VRA, any election changes in covered jurisdictions to a voting qualification, prerequisite, standard practice, or procedure are subject to pre-clearance. Section 5 freezes election procedures in a covered jurisdiction until that jurisdiction proves that its proposed changes do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race. It is designed to combat effects which are retrogressive. In addition, Section 2, which applies in all jurisdictions, bars all states and their political subdivisions from maintaining any voting standard, practice, or procedure that results in denial or abridgment of the right to vote on account of race or color. This section was designed as a means of eradicating voting practices that minimize or cancel out the voting strength and political effectiveness of minority groups. To establish a claim of voting dilution under Section 2, it must be shown that the totality of the circumstances supports a finding that the voting scheme is dilutive.

The list of election issues potentially subject to challenge under the Voting Rights Act includes the following:

1. Changes in electoral boundaries resulting from reapportionment or redistricting.
2. Changes in the method of election.
3. Changes in the composition of the electorate resulting from annexations, consolidations or incorporations.
4. Provisions establishing voter registration requirements and candidate qualifications.
5. Changes in the form of government (from a council-manager to a strong mayor form).
6. Provisions setting bilingual election procedures and assistance.

### VRA and Local Boundary Changes

As noted previously, the provisions of the VRA apply to local government as political subdivisions of the state and to local government organization changes. An annexation or new incorporation brings about a boundary change that might affect the political access or representation of minorities, and if it results in ethnically-adverse gerrymandering, a challenge may be initiated by the Department of Justice (DOJ) or private parties in federal court. Changes resulting from annexation and incorporation must be reviewed case-by-case to analyze their impacts for purposes of the Voting Rights Act.

An example of an annexation, which provoked a Federal challenge, occurred in Houston, Texas, in 1977 and 1978. The annexations were approved by the city council, which did not believe the action to be covered by the VRA. A DOJ review of the annexations resulted in a formal objection on the grounds that they had substantially reduced minority voting percentages in Houston's at-large municipal elections. The DOJ indicated that it would consider withdrawing the objection if Houston reformed its electoral system so that minorities were afforded representation equal to their political strength. A process of negotiations began, leading to a change in Houston's city council selection procedure to a combination of district members and at-large members. This plan was approved by the DOJ and the voters.

### VRA and Voter Representation

A recent example of a voter discrimination complaint occurred in Santa Paula, California. In August 1999, the DOJ announced that it would sue the city if it didn't switch from at-large council selection to a district system in order to improve Latino representation. The DOJ found that while Latinos make up a majority of the city's population, they continue to be underrepresented on the city council. To support a claim of voting dilution, it must be established that (1) the racial group affected is sufficiently large and geographically compact to constitute a majority in a

single member district; (2) the group is politically cohesive; and (3) the white population votes sufficiently as a bloc to enable it usually to defeat the majority's preferred candidate. The person claiming dilution must also suggest a reasonable alternative voting practice to serve as the benchmark of "undiluted" voting practice, such as different voting district boundary lines.

These examples are directly related to the Commission's charge and should be heeded by LAFCO. An annexation may change voting patterns in a city if a new large voting bloc resides in the annexed territory. LAFCOs may be able to avoid challenges under the federal Voting Rights Act if they carefully ensure that communities of interest are left intact by annexations and that boundary lines for voting districts are not gerrymandered to affect voting patterns.

LAFCOs are often responsible for deciding, in concert with proponents, how a city council will be selected, either at-large or by districts, and how a new city's boundary will be drawn. The Commission sees no need for additional state statutory guidance in this area because federal law takes precedence. However, it is critical that LAFCOs be cognizant of potential federal jurisdiction and make their decisions accordingly. The Commission recommends (see Recommendation 4-16, below) that when an incorporation proposal is placed before the voters, the proposal may include establishing districts to elect council members at the same time, in which case the provisions of the Voting Rights Act should also be taken into consideration.

## Proposition 218

In 1996, California voters approved Proposition 218, which required local governments to obtain voter approval (majority or two-thirds) for all general and special taxes. In addition, Proposition 218 enacted stricter requirements on the use of assessments and fees. Effectively, this Constitutional initiative created another special consideration when setting local boundaries

Following passage of Proposition 218, the Legislative Counsel issued two opinions which concluded that the provisions of Proposition 218 would prevail over the provisions of the Cortese-Knox Act. Therefore, in the opinion of the Legislative Counsel, the imposition of a City's local taxes, assessments, fees, and charges to a territory approved for annexation must first be approved by a vote of those in the annexed territory. A special twist occurs with an uninhabited annexation, since there are no voters available to approve the new tax scheme.

In October, 1999, the Attorney General released a formal opinion which concluded, contrary to the views of Legislative Counsel, that "if LAFCO conditions approval of a change of organization or reorganization upon a requirement that the subject agency levy or fix and collect a previously established and collected tax, assessment or fee on parcels being annexed to the agency, the voter approval requirements of Proposition 218 do not apply." The opinion reasoned that the protest procedures in the Cortese-Knox Act provide for citizens to call for a vote if they object to the conditions of an annexation, and Proposition 218 was not intended to apply to LAFCO actions.

The Commission, while noting concern over the possible repercussions of a decision that might require all annexations to go to a vote of the people, believes that caution should be exercised in trying to craft legislative fixes pending further judicial treatment of these issues. Because Proposition 218 was a Constitutional measure, and statutes cannot directly change constitutional provisions, any additional statutory responses should be carefully crafted and must take into account any court rulings on these issues.

*The Attorney General opinion reasoned that the protest procedures in the Cortese-Knox Act provide for citizens to object to the conditions of an annexation, and Proposition 218 was not intended to apply to LAFCO actions.*

## Annexations

An annexation is a type of boundary change which increases the jurisdictional area of a city or special district. Under current law, LAFCO must establish a sphere of influence for each city and independent special district as a means of promoting advance planning. These spheres generally delineate the anticipated future boundaries of the entities and

*LAFCO must establish spheres of influence which delineate the future boundaries and serve as a plan for future annexations.*

serve as a plan for future annexations in order to provide for orderly growth and development. The Cortese-Knox Act prescribes that an agency may only annex territory that is within its LAFCO-approved sphere of influence. In reality, however, sphere extensions and coterminous annexations often occur simultaneously. The discussion which follows pertains directly to city annexations, but the procedures for special districts are essentially the same.

As stated previously, an annexation request may be initiated by voter petition or by resolution of the governing body of a city or special district, with the latter the more common means. In order for a city or district to annex land, the annexation area must be within the entity's sphere of influence and be contiguous to its boundaries. The petition or proposal is then submitted to LAFCO, which may approve or deny the application or may approve it subject to conditions, except as follows:

- LAFCOs cannot deny an annexation if the territory constitutes an "island," as defined in law.
- LAFCOs must approve a city annexation if the area is within the LAFCO-adopted Urban Service Area, the area is not prime agriculture land, and is designated for urban growth by the city's general plan.
- Territory to be annexed must be in the same county and be contiguous to one of the boundaries of the city. There are several exceptions to this law for annexations of noncontiguous state correctional facilities, which increases the official city population count and, in turn, can increase the revenues received from vehicle license fees and gas tax allocations.
- LAFCOs may approve an annexation of noncontiguous territory that does not exceed 300 acres, as long as it is within the county, is owned by the city, and is being used for municipal purposes.
- If 50% or more of the registered voters or land owners protest the annexation, the application is denied. If 25%-50% protest, the annexation must be submitted to the electorate for approval.

LAFCO terms and conditions may include changing or altering the boundaries of the proposed annexation. However, within LAFCO's ability to impose conditions is a specific prohibition, pursuant to GC §56375(2)(a), against imposing any land-use restrictions. Nevertheless, LAFCO actions usually carry land-use implications. In most cases, an annexation is part of a specific development proposal, and LAFCOs may, and

Figure 4-2

The former MCAS El Toro has been proposed as the future site of an international airport. The matter may ultimately be determined by an Orange County LAFCO annexation decision.

Photo courtesy of the Flying Leatherneck Aviation Museum, MCAS Miramar



the Commission recommends that they always should, require pre-zoning. In some cases, LAFCO decisions carry major regional land-use implications. A current example is an annexation proposal pending before Orange County LAFCO. The City of Irvine proposes to annex the former Marine Corps Air Station (MCAS) El Toro, now closed. Orange County has proposed converting the property, presently within its jurisdiction, into a major international airport, an idea which is strongly opposed by south county cities, including Irvine. The ultimate land-use decision, which may well be determined by the outcome of the annexation attempt, will affect future generations throughout the region.

## Technical Revisions

Annexation procedures are often difficult to explain in an understandable fashion to the general public. The Commission heard testimony concerning some annexation procedures which a citizen's committee believes need to be reformed or clarified. The Kern County Citizens' Advisory Committee on Annexations, a group formed to track annexation decisions by the local government, indicated frustration and general confusion regarding several annexation procedures, based upon its experience with an annexation proposal initiated by the City of Bakersfield that was unwanted by many property owners.

The Advisory Committee provided several recommendations to clarify and update current annexation procedures. For example, under existing law, a landowner is defined as that shown on the "last equalized assessment roll." Kern County Supervisor Barbara Patrick testified that "the Committee discovered that the last equalized assessment roll is not the most recent roll.... Due to technological advances, assessors' offices now continually update the assessment roll." It is the Advisory Committee's recommendation that the language be changed to the most recent assessment roll.

The Advisory Committee also noted that the existing statute provides that hearing notices must be published or mailed at least 15 days prior to the hearing date, and that it is during that period in which protests to the proposal may be filed. The Advisory Committee believed that the 15 day period should be increased to 30 days to allow the public more time to evaluate the proposal and prepare a case for or against it. The Commission found the Advisory Committee's arguments generally persuasive.

The Commission has noted concern about the possibility that these citizens were not given ample notice or information regarding the annexation. The Commission believes that these two recommendations would give property owners and citizens more information on future annexations, and more time with which to respond to such a proposal.

*LAFCOs may, and the Commission recommends that they always should, require pre-zoning.*

**RECOMMENDATION 4-5**
**The Commission recommends that the Cortese-Knox Act be amended to require use of the most recent assessment information available for purposes of mailing notices to property owners.**

**RECOMMENDATION 4-6**
**The Commission recommends that the time for gathering protests to an annexation be extended from 15 days to 30 days.**

The Advisory Committee also objected to the "bundling" of annexation proposals by LAFCO. Currently, if several small areas are proposed for annexation, a LAFCO often may bundle these proposals together for purposes of efficiency. The Advisory Committee believes that this bundling makes the protest requirement harder to attain than it would be if each of the areas were treated separately.

The Commission agrees that in some instances bundling could affect the ability of a particular community to protest an annexation and believes that LAFCO should not be allowed to bundle annexations in certain circumstances. However, the Commission does not want this "unbundling" to result in fragmentation of small segments or unincorporated islands (discussed in more detail later in this chapter).

*The creation of an unincorporated island can lead to difficult service delivery problems for both cities and counties.*

**RECOMMENDATION 4-7**
**The Commission recommends that, where annexation is proposed of two or more "bundled" non-contiguous inhabited segments, a protest from one must be considered separately if the segment has a population of more than 500. This provision would not apply to island annexations authorized under AB 1555.**

## Non-Contiguous Annexations

Generally speaking, LAFCOs may not approve the annexation to a city of territory that is not contiguous to the city. Very often, however, the Legislature has authorized such annexations through special legislation where state prisons are sited near an existing city. The cities seek the annexations because of the population increase they realize from the inmates. This, in turn, produces additional revenues from population-based state subventions, such as vehicle license fees and gas tax allocations. In fairness, the location of a prison near a city does require the city to provide additional services and increases road maintenance and other costs. The legislature has created a clear precedent for approving these special annexations by creating 11 special exceptions in statute currently. Therefore, the Commission recommends that it is more logical and less confusing to create a general statute which allows LAFCOs to proceed with such an annexation routinely under certain conditions.

**RECOMMENDATION 4-8**
**The Commission recommends that LAFCOs be given ongoing authority to authorize annexation of non-contiguous territory to a city where the territory is a state correctional facility. The Legislature routinely authorizes such annexations, with LAFCO approval. Generic language would obviate the need to pass special legislation and allow LAFCOs to establish processes to determine how and when such annexations should occur.**

The Commission proposes new language to replace existing Government Code Sections 56111.1, and 56111.6-56111.14, which would be repealed, and instead provide a process for any city to proceed with such an annexation. There is one annexation provision in the Act involving the City of Willits (GC §56111.5) that should not be repealed because it deals with a particular water facility rather than a correctional facility.

## Island Annexations

Since the enactment of the Cortese-Knox Act, unincorporated islands have always been a source of concern for LAFCOs and cities. Generally, islands are defined as unincorporated pockets of land which are completely surrounded by cities. Islands occur when an area is incorporated or annexed and a particular area does not want to be included. Often, the creation of an island is not the result of a deliberate action, but it nevertheless can lead to difficult service delivery problems for both counties and cities.

In 1977, legislation was enacted which allowed LAFCOs to initiate annexation of islands not exceeding 75 acres to cities without a protest vote. This program continued for eleven years. While certainly this legislation helped to eliminate some islands, many are still in existence today.

The Commission received testimony from numerous LAFCOs wishing to have this program reinstated or to simply have all islands eliminated by statutory decree. Santa Clara LAFCO noted that many of these islands are difficult to serve and that there is often confusion as to which agency is responsible for service delivery in these areas. Autumn Arias, Executive Director of Santa Clara LAFCO, testified that, "in light of these realities, we believe it is imperative to reexamine the issue of island annexations, even while we understand (many of us through personal experience), the bitter resistance of unincorporated residents toward forced city annexations. Most of us are familiar with the… MORGA annexation law, which allowed cities to annex island areas without the usual protest or election process for a time limited period from 1978-83….Santa Clara LAFCO approved the annexation of 3,791 acres of island areas during this time period, moving 26,400

residents into cities. Of the islands that were not annexed, many were larger than the 100 acres that MORGA law required as a maximum size."

As noted by Santa Clara LAFCO, there were significant successes in the previous program to eliminate islands, but reluctance and resistance continues. In some cases, as illustrated in Figure 4-3, an island may consist of only a few individual housing lots within a city's boundaries. San Bernardino LAFCO described a locally adopted policy which encouraged voluntary citizen-initiated efforts to eliminate islands by agreeing to waive all filing fees, but it still encountered resistance. As Diane Williams, Chairperson of San Bernardino LAFCO testified, "the County will not initiate the proceedings, the cities are reluctant to do so because of political and financial issues, the people within the islands typically see little urgency in the need to initiate proceedings, and of course LAFCO is not legally empowered to initiate island annexation proceedings. The San Bernardino LAFCO therefore suggests that your Commission revisit the island annexation provisions that existed . . . in the old Municipal Reorganization Act of 1977 (MORGA)."

During 1999, the Commission voted to support then-pending legislation (AB 1555, Longville) which proposed to restore for another limited period the island annexation program enacted in 1977. This legislation was signed by Governor Davis, but includes several restrictions, including a 75-acre limitation. Many LAFCOs testified that they have islands exceeding 100 acres within their counties. It should be noted that this legislation was opposed by residents and property owners who, like the Kern County Citizens' Advisory Committee members, indicated their objection to being annexed to a city without any ability to protest such a decision.

The Commission believes that the program reinstated through AB 1555 should be given an opportunity to succeed without immediate further revision. However, it believes that future consideration should be given to increasing or eliminating the size restriction and making the program permanent.




Figure 4-3

The shaded areas are unincorporated "islands" within a residential neighborhood in the City of Cupertino

SOURCE: Santa Clara County Planning Office

## Additional LAFCO Considerations

As noted previously, there are several factors which a LAFCO must consider when reviewing an annexation proposal. One factor that many believe LAFCO and cities should consider prior to approving development on the "fringes" are the current availability of vacant land and development densities within existing incorporated areas. John Benoit, Executive Officer, Glenn County LAFCO testified, "Infilling criteria should be established by local LAFCOs. Any annexation should be required to meet the locally established criteria. This would enable local LAFCOs to guide infilling to meet local needs."

Development on open-space and prime agricultural lands in California continues despite current LAFCO policies. The Commission believes that consideration by LAFCO of the current opportunities for development by cities within their existing jurisdictions should be encouraged prior to any approval of

*The Commission believes that an annexation proposal should not proceed without presentation of a clear development plan to LAFCO.*

an annexation which would entail development of prime agricultural or open-space lands. This type of review could help to decrease the development of these lands and help to curb sprawl in California.

**RECOMMENDATION 4-9**
**The Commission recommends that a LAFCO be authorized to address densities and in-fill when processing annexation requests of a city, as a specified factor to be considered in a LAFCO action.**

The Commission also heard concerns that LAFCO may not be fully aware of planned land uses for a proposed annexation or that proposed uses may change after LAFCO gives its approval. Some LAFCOs feel, therefore, that they should have some ability to enforce the land use assumptions upon which the approval was given. As John Benoit of Glenn LAFCO testified, "... some of LAFCO's conditions after approval of an annexation, for example, should be binding upon a jurisdiction."

The Commission believes that an annexation proposal should not proceed without presentation of a clear development plan to LAFCO. The city should then be expected to adhere to this plan unless unforeseen circumstances or legal obligations require a change.

**RECOMMENDATION 4-10**
**The Commission recommends that prezoning be required for territory proposed to be annexed to a city. The implementing plan and ordinances must remain in effect for five years following the annexation unless the legislative body makes a finding that a change is necessary to protect private property rights or public health or safety.**

## Property Tax Exchange

In any proposal for an annexation, the affected parties must enter into a property tax exchange agreement. In all annexations, the entity proposing the annexation, whether a city or a district, is removing that land, and potentially any tax sources accruing to the land, from a county government's jurisdiction. Therefore, an agreement is necessary to determine what portion, if any, of the county's property tax revenue generated in this area is to be ceded to the annexing jurisdiction.

Under current law, property tax exchange agreements are completed through negotiations between the affected city and the county before an annexation proposal can be submitted to LAFCO. To facilitate the property tax exchange agreement, existing law provides for a process which includes preparation of a comprehensive fiscal analysis and may include mediation and arbitration. If the matter is arbitrated, the city and the county ultimately must each present a last and best proposal. The arbitrator must select one of the proposals and recommend it to the governing bodies of the city and the county. However, if either party disapproves the proposal, stating its reasons at a public hearing, the annexation proceedings are terminated. This ability of either party to veto a proposed annexation has led many cities to believe that this process is weighted in favor of the counties.

The Commission believes that the property tax exchange process needs to be equitable to both parties and should allow for negotiations, mediation, and arbitration, as is available under current law. The Commission discussed several possible solutions, including binding arbitration and establishing LAFCO as the final arbitrator in tax exchange proceedings. However, the Commission recognizes that the negotiation and mediation procedures were only added to the Cortese-Knox Act in 1997 and were the result of extensive negotiations between the League of Cities and CSAC at that time. The Commission believes that this process should be given a longer period of time to work, but notes that LAFCO could be a valuable resource in the mediation process, especially if it were included at a much earlier time, before the parties have reached an agreement or deadlocked.

## Incorporation of New Cities

New cities in California can only be created by voter petition, followed by a lengthy study and approval process supervised by LAFCO. The Cortese-Knox Act procedures that must be followed for processing applications for the creation of a new city are schematically illustrated in Figure 4-4. Essentially, the first step is to gather signatures from 25% of the registered voters or landowners in the area proposed for incorporation. Generally, proponents are given six months to gather the signatures, which must then be validated by the LAFCO executive officer. Once verified, the executive officer must take each of the following actions:

* Prepare a report (including an environmental document), and make a recommendation to the LAFCO. The report must include a comprehensive fiscal analysis, which analyzes the proposed city's anticipated costs and revenues for its first three years of existence.
* Determine an equitable property tax exchange between the affected local entities. This exchange agreement and any related tax exchanges or required payments are subject to the revenue neutrality provisions of the Cortese-Knox Act, described subsequently.
* If the proposal is approved, the LAFCO confers conducting authority status upon the affected agency (usually the county). This entails the responsibility for holding a public hearing to receive protests to the proposal.
* The conducting authority must approve the proposal if it has received protests from less than 25% of the registered voters in the affected area. If protests are filed by more than 25% but less than 50% of the registered voters, the conducting authority must call an election on the question. An election requires majority voter approval in the area proposed for incorporation.
* If over 50% of the registered voters in the affected area file a written protest, the proposal must be abandoned.

## Revenue Neutrality

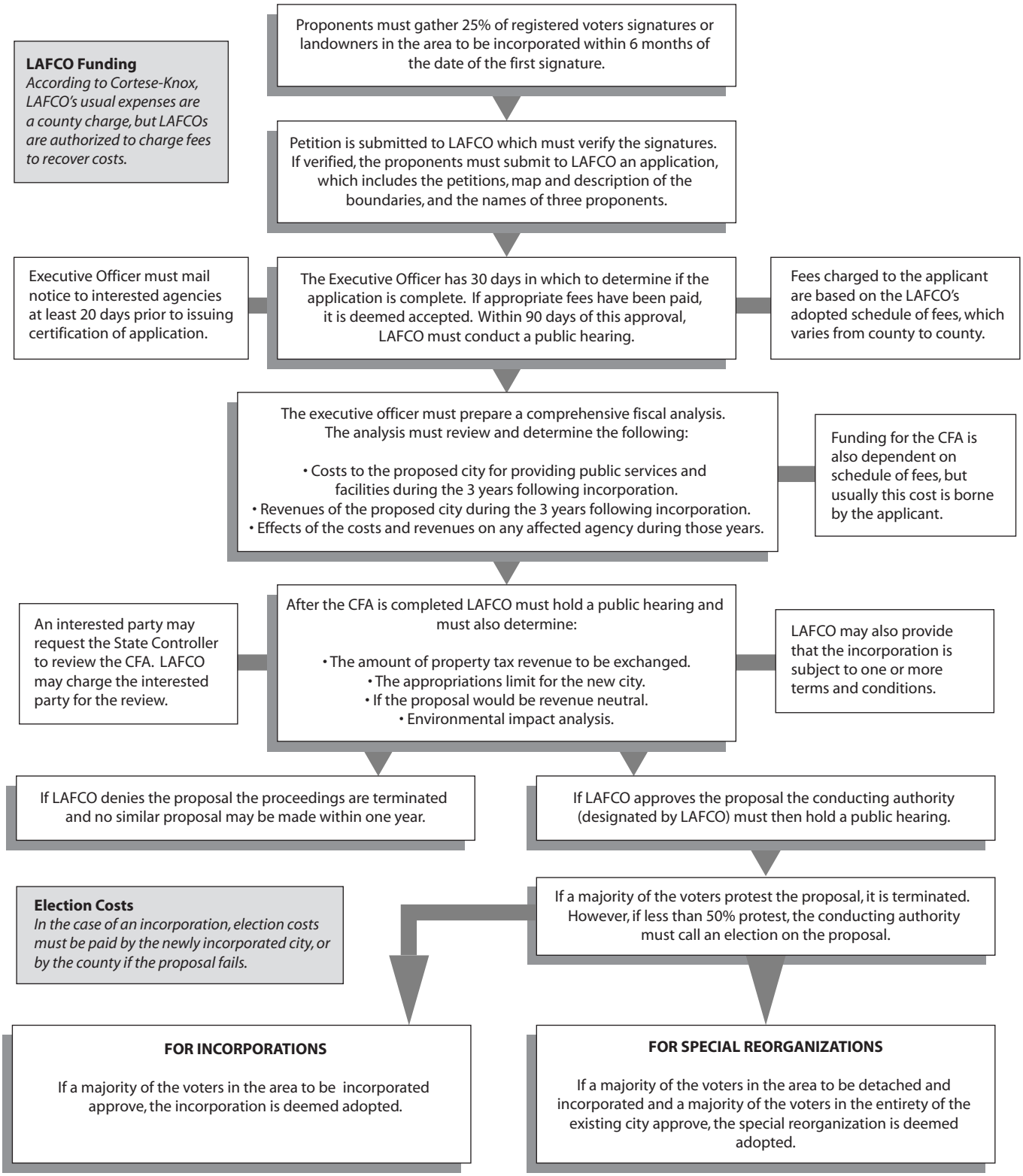
One of the major obstacles to forming a new city is the requirement that an incorporation be "revenue neutral." In 1992, as part of a package of budget "trailer bills" necessary to balance the State budget, Governor Wilson signed SB 1559 (Maddy) which required a finding of "revenue neutrality" for all incorporations. This bill was enacted as part of an agreement to placate counties somewhat by limiting the impact of the ERAF shift (see Chapter 2), which was also part of the 1992 budget package. Under the revenue neutrality law, LAFCO cannot approve a proposal for incorporation unless it finds that the amount of revenues the new city takes from the county after incorporation would be substantially equal to the amount of savings the county would attain from no longer providing services transferred to the new city.

Prior to enactment of the revenue neutrality law, when an incorporation occurred, LAFCO was required to split the property tax revenues among both jurisdictions, essentially by formula. However, because property taxes were constrained after Proposition 13, counties argued that this split resulted in a net loss to them because it did not take into account the continuing cost of countywide services, such as elections, jail operations, and probation, that still had to be provided. The revenue neutrality provision in SB 1559 was an attempt to make the tax allocation more equitable by requiring LAFCO to ensure that counties are held harmless from new incorporations. The unintended result was that in the seven years following enactment of revenue neutrality, only six incorporations have been successful: Citrus Heights, Shasta Lake, Truckee, Oakley, Laguna Woods, and Rancho Santa Margarita. This compares to 27 in the immediately preceding seven year period.

In 1999, two bills were introduced in an attempt to reform the process: AB 1495 (Cox) and AB 1526 (Thompson). These bills had many similar provisions to which both sponsors — the League of California Cities and the California State Association of Counties — have agreed. Nevertheless, some differences still must be resolved. The provisions in these bills (as amended in

Figure 4-4

**Incorporation and Special Reorganization Procedure**




SOURCE: California State Assembly, Committee on Local Government, Guide to Cortese-Knox Local Government Reorganization Act of 1985, November 1998 (with Commission modifications).

August 1999) include the following:

- Requires the county to provide fiscal data to the LAFCO within 120 days after an incorporation application is filed.
- Requires the LAFCO executive officer to specify the most recent fiscal year to be used as a basis for the fiscal analysis.
- Reduces allowed time periods for LAFCO to act during the incorporation process.
- Allows proponents to address LAFCO on any potential impacts or hardships on the incorporation effort that may result from a proposed delay in a LAFCO hearing on a proposal.
- Requires the Office of Planning and Research (OPR) to convene a task force to create statewide guidelines for the incorporation process.
- Provides that a new city may request that the California Highway Patrol continue to provide services for five years after incorporation.

Revenue neutrality is often viewed as a city versus county issue. As the following testimony presented to the Commission indicates, it is a fundamental, and at times emotional, issue for cities and counties. Both cities and counties and their advocacy associations believe that reform efforts will unquestionably continue to be contentious:

- Dan Carrigg, Legislative Representative, League of California Cities: "Any new city created after the passage of revenue neutrality law is automatically at a disadvantage compared to all other existing city and county governments. Saddled with revenue neutrality payments to the county, the new community is faced with providing lower levels of service than it otherwise could to its residents. On a per capita basis, the residents of a new city making revenue neutrality payments could potentially pay a higher proportion of their revenues toward the cost of countywide services than residents of other incorporated areas . . . Revenue neutrality law . . . is a one-sided solution that benefits counties and discourages future incorporations. The law is not the product of thoughtful, balanced, legislative deliberation. It is a law passed at a time of crisis and desperation. The time has come to revisit this issue and develop a balanced solution."
- DeAnn Baker, Legislative Coordinator, CSAC: "The revenue neutrality law is key to survival and assurance that counties are able to continue to provide countywide services by reducing revenue losses to new cities. In the annexation process it is important to ensure that counties receive a share of revenue from future growth. It is also important for fiscal stability and in order to promote efficient growth patterns."

The Commission had lengthy discussions regarding revenue neutrality and heard many recommendations from various entities. Included among these recommendations was making revenue neutrality binding on a new city council, requiring a time limit on revenue neutrality payments, and designating LAFCO as the final arbitrator of these agreements.

The Commission agrees that revenue neutrality provisions need to be reformed, but it also recognizes that the League of Cities, CSAC, and CALAFCO have been in negotiation over this matter for over two years and appear to be making progress. These on-going negotiations are being conducted as part of the legislative hearing process for AB 1495 and AB 1526. The Commission believes that any solution to the revenue neutrality dilemma must be agreed upon by the major parties and that introducing a third party solution is not likely to be productive at this time.

*Any solution to the revenue neutrality dilemma must be agreed upon by the major parties.*

## Comprehensive Fiscal Analysis

The comprehensive fiscal analysis (CFA) is a requirement of any incorporation. As noted above, LAFCO must prepare an analysis on the fiscal viability of the new city. A major concern of incorporation proponents has been the funding of the CFA. Under existing law, LAFCO may charge proponents for any costs to prepare a CFA. Therefore, the proponents must raise the money necessary to pay for petition verification, the CFA itself, possibly a CEQA analysis, and a revenue neutrality analysis. This can translate into significant

Figure 4-5

**Selected Incorporation Costs**

SOURCE: Commission on Local Governance staff, from various sources

| | *Status of Incorporation Effort* | *Filing Fee* | *Comprehensive Fiscal Analysis* | *EIR* |
|---|---|---|---|---|
| **Sacramento County** | | | | |
| **Citrus Heights** (According to Proponents) | Incorporated in 1997 | Unknown; initially filed in 1986 | LAFCO agreed to pay for the cost of the fiscal study | Cost between $50,000 –$60,000 (paid by proponents) |
| **Elk Grove** (According to Proponents and newspaper articles) | CFA and proposal currently before LAFCO for approval | $6,000 – paid when petitions were filed (paid by proponents) | LAFCO agreed to pay for the cost of the fiscal study estimated at $25,000 | Estimated at $81,000 (paid by proponents) |
| **Rancho Cordova** (According to Proponents) | Signature drive began in April, 1999 | $6,000 – to be paid when petitions are filed (to be paid by proponents) | Preliminary CFA cost $10,000; Comprehensive CFA projected to cost $15,000 (paid by proponents) | Projected to cost between $50,000 and $100,000 (to be paid by proponents) |
| **Orange County** | | | | |
| **Leisure World/Laguna Woods** (According to Proponents and LAFCO) | Incorporated in March, 1999 | $7,000 (paid by proponents) | $25,000 – $30,000 (paid by proponents) | Not requested – negative declaration on incorporation |
| **Rancho Santa Margarita** (According to LAFCO staff) | LAFCO working on CFA to be completed by late May | $7,000 (paid by proponents) | $57,000 – cost for two runs of CFA (paid by proponents) | Not expected to be any charge |
| **Los Angeles County** | | | | |
| **Calabasas** (According to newspaper articles) | Incorporated in 1991 | Raised $6,000 for application fees (paid by proponents) | No charge to proponents | Unknown |
| **Malibu** (According to Proponents) | Incorporated in 1991 | Filing fees were nominal – estimated at $200 (paid by proponents) | No charge to proponents | $18,500 charged by LAFCO to hire consultant to prepare EIR (paid by proponents) |

costs which some proponents find difficult to absorb and often leads to suspending an incorporation movement.

Figure 4-5 indicates the cost to organizers of several recent incorporation attempts. Generally, the cost is between $70,000 and $120,000 depending on the requirements of the LAFCO. With regard to the San Fernando Valley secession study, the funding requirement is staggering. Preliminary estimates by the Los Angeles LAFCO indicated that between one and two million dollars will be needed to complete the study.

As discussed previously, two bills were introduced in 1999 that dealt with incorporation issues - AB 1495 and AB 1526. Among the provisions in these bills is the requirement that the OPR prepare guidelines for LAFCOs on the preparation of the comprehensive fiscal analysis. Because the Cortese-Knox Act does not provide detail with regard to any specific requirements for the CFA, LAFCOs, cities, and counties have requested that an outside body, in concert with those entities affected, prepare guidelines for all LAFCOs to follow. Under current law, each LAFCO may employ different standards and methodologies in its CFA. By requiring OPR to prepare these guidelines, the Commission believes that some consistency among LAFCOs could be achieved.

**RECOMMENDATION 4-11**

**The Commission recommends that the Office of Planning and Research, in consultation with the State Controller, prepare guidelines for the preparation of a**

**comprehensive fiscal analysis, to ensure consistent methods and criteria.**

The statutory requirements for the CFA require that the data used for the analysis must be from the most recent fiscal year. The analysis must review and document each of the following:

- The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation.
- The revenues of the proposed city during the three fiscal years following incorporation.
- The effects of the costs and revenues of any affected local agency during the three fiscal years of incorporation.
- Any other information needed to make the findings.

One of the more technical issues regarding preparation of the CFA is the availability of fiscal data to LAFCOs. At Commission meetings, some incorporation proponents stated that by the time the CFA is complete and a proposal is placed on the ballot, the data is outdated, which may lead to fiscal uncertainty and problems for the new city. A CFA may be delayed for a number of reasons, and currently there is no deadline by which the CFA must be completed. Often this is an issue of funding, staff time, or problems receiving data from the affected agencies. The Commission believes that LAFCOs should have access to the most recent data, and that if significant time has lapsed, LAFCO should be allowed to request supplemental data.

**RECOMMENDATION 4-12**
**The Commission recommends that if the fiscal data submitted to LAFCO for the comprehensive fiscal analysis is more than one year old or is otherwise disputed, the executive officer may request supplemental data or, in the case of the incorporation of a new city, initiate a dispute resolution process.**

The Commission believes that the accuracy of the data used for the comprehensive fiscal analysis is critical, but, recognizing that this is a matter of continuing negotiation between the League of Cities and CSAC, does not propose specific dispute resolution language. Any resolution agreeable to both parties will likely be acceptable to the Commission, since mutual approval by the affected parties is the objective of any negotiation. Two proposals, which are not mutually exclusive, have been put forth to resolve two types of CFA data disputes. The first concerns the data used by LAFCO to determine the fiscal viability of the proposed new city. The second is a provision included in AB 1495 regarding resolution of a dispute over a revenue neutrality mitigation decision.

(1) Revise Section 56833.1 as follows:
56833.1. 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 56833. 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 the data requested by the executive officer in the notice to affected agencies are unavailable, the executive officer may request supplemental data ~~the analysis shall document the source and methodology of the data used~~. The analysis shall review and document each of the following: ....
(2) Adopt fiscal data dispute resolution language, such as that included in AB 1495 ( proposed new GC §56845.1), pertaining to fiscal mitigation for revenue neutrality determinations for a new city incorporation.

## Environmental Analysis

The Act does not include a specific requirement for an environmental analysis of an incorporation proposal. However, under the California Environmental Quality Act (CEQA) a public agency proposing to undertake a project or approve a discretionary action is required to consider the potential environmental impacts of that action. If the lead agency determines that there is no substantial evidence that the project would

*A new incorporation is simply a political change and does not commit the area to any specific changes in land-use.*

have a significant impact, a negative declaration may be prepared. Projects that may result in a significant impact on the environment require the more costly and time-consuming preparation of an Environmental Impact Report (EIR).

LAFCOs differ in their treatment of the need to prepare an EIR for incorporations. While some LAFCOs have required an EIR, other LAFCOs have simply filed a negative declaration. The cost implications for incorporation proponents are substantial. Many incorporation proponents see the preparation of an EIR as a delaying tactic which can cost several thousand dollars.

Orange County LAFCO noted that it always files a negative declaration for incorporations. Dana Smith, Executive Officer of Orange County LAFCO testified that, "the cost of preparing an EIR and the relative lack of value of an EIR to the incorporation process should be evaluated. CEQA should be amended to allow for a categorical exemption of incorporations — provided the new city adopts the existing general plan designations of the County."

Riverside LAFCO Chairman John McFadden went a step further, stating, "... we also have a proposal to reduce the burden on incorporation proponents ... A change of representation should not be a project [under CEQA]. To assume a range of land use decisions that might be taken by a future city council, as suggested by the court, is so speculative it is ridiculous. The range of potential actions is no different than that which might be taken by a future board of supervisors. We propose a new CEQA exemption for incorporations. This could save incorporation proponents $50,000 to $150,000."

The Commission concurs with the conclusion that a new incorporation is simply a political change and does not commit the area to any specific changes in land-use. The new city must initially adopt the existing county general plan land use designations. While the new city, if formed, could subsequently change plan categories, its actions would at that time be subject to CEQA and the public hearing process. The Commission agrees that an incorporation should not require an EIR in order to comply with the intent of CEQA.

**RECOMMENDATION 4-13**
**The Commission recommends that a statutory CEQA exemption be provided for a new incorporation. This recognizes that an act of incorporation constitutes only a political reorganization. Nevertheless, when the newly incorporated city adopts a general plan and zoning ordinances, these acts would not be exempt from CEQA.**

## Funding Incorporation Studies

On March 22, 1999, the Commission was asked by Assemblymembers Hertzberg and McClintock to make recommendations for the funding of the CFA for the San Fernando Valley secession. The Commission held two hearings on the issue. After considerable deliberation, it recommended that the Legislature appropriate an amount sufficient to establish a revolving loan fund, which could also help fund other incorporation proposals, for a portion of the cost of the fiscal study by Los Angeles County LAFCO.

In June, 1999, Governor Gray Davis signed the 1999 Budget Act, which included an appropriation of $1.8 million to the Los Angeles LAFCO to study the secession. Subsequently, the Governor signed AB 1630, which appropriated $320,000 to the Los Angeles LAFCO to study the secession of the Harbor communities from the City of Los Angeles. Neither measure required repayment of the funds.

The Commission believes that all jurisdictions should be treated in a consistent manner. While it agrees that the State should help fund LAFCO costs of reviewing the impacts of an incorporation, commissioners have also indicated that the availability of funding should not be so easy to obtain that it encourages incorporations when such a proposal is not economically viable or provides for illogical formation of government. A threshold or some other minimum test might therefore be warranted. The Commission believes that the State should consider making funds available on an ongoing basis so that incorporation propo-

nents could apply for funds if needed and if costs cannot be waived by LAFCO, as permitted under current law. Such funds, if provided, should be repaid if the new city incorporation is successful.

**RECOMMENDATION 4-14**
**The Commission recommends that if proponents of a new incorporation or special reorganization have successfully gathered the requisite number of petition signatures and are unable to fund the cost of required LAFCO studies, they may apply to LAFCO for a fee waiver. LAFCO may reject the waiver request, approve the request and fund the study itself, or it may ask for State funds to cover the cost of the studies. State funds, if provided, shall be in the form of a loan, to be repaid by the new city if the incorporation attempt is successful. If the incorporation is not successful, the loan must be forgiven.**

## Special Reorganization

Since 1977 there have been movements in several areas to secede from the City of Los Angeles and form new, smaller cities. Most prominent among these is the current proposal involving the 1.2 million residents of the San Fernando Valley. All of the past attempts to secede have failed, due, in part, to the statutory power of the City of Los Angeles (or any other city) to unilaterally veto a city detachment.

The equation was altered in 1997, when the Legislature passed and Governor Wilson signed AB 62 (McClintock & Hertzberg), which limited the ability of a city to veto a secession. The legislation was backed by Valley VOTE, which was created in 1996 in order to promote these legislative changes. The bill coined a new term, "special reorganization," which is defined as a reorganization that includes the detachment of territory from a city or city and county and the simultaneous incorporation of that entire detached territory as a city. It eliminated the authority of a city to veto such an action, but left in place the power to veto a detachment not involving a new incorporation. Consequently, the major procedural difference between forming a new city through a special reorganization and an incorporation of county territory into a new city is that the former requires a "dual majority" vote – approval in both the detaching area and the entire city — while the latter requires a majority only in the proposed new city.

Only three sections in the Cortese-Knox Act reference the term "special reorganization," and none of these describes a unique process for this type of action. Many other code sections refer to "any proposal which includes an incorporation" and are presumed to apply to a "special reorganization." Therefore, the procedures noted in the previous section regarding revenue neutrality, comprehensive fiscal analysis, and environmental analysis also apply to a "special reorganization."

On December 9, 1998, Valley VOTE submitted 205,000 petition signatures calling for a special reorganization study. On March 15, 1999, a sufficient number of these signatures were validated to authorize preparation of a comprehensive fiscal analysis (CFA), the statutorily-required financial study that must divide assets and liabilities and analyze whether the new city will be viable and the remaining city unharmed. Another secession movement was also proceeding during the same time period. The communities of Wilmington and San Pedro joined forces to create Harbor VOTE, which turned in approximately 13,000 signatures in July 1999. These were validated on July 30, 1999 by the Los Angeles LAFCO. Therefore, both the San Fernando Valley and the harbor area special reorganization proposals will be considered during the same period by Los Angeles LAFCO. Another petition movement is currently underway in Hollywood. (Figure 8-5 indicates all of the areas that have been involved in recent secession attempts in Los Angeles.) This pronounced interest in special reorganizations indicates that the procedures need to be clarified, not only for use by Los Angeles LAFCO, but possibly by other LAFCOs in the future.

*Pronounced interest in special reorganizations indicates that the procedures need to be clarified, not only for Los Angeles, but possibly for other LAFCOs in the future.*

*Many people who want to change the way they are governed are prevented from doing so either by lack of funding or because the process is too lengthy and complicated.*

**RECOMMENDATION 4-15**
**The Commission recommends that procedures be clearly specified for special reorganizations, generally establishing the incorporation procedure as applicable.**

Other issues have been raised as a result of current special reorganization actions. Currently, when a new city incorporates, it initially becomes a general law city with a five-member council. If the newly-incorporated city subsequently desires to adopt a charter, its city council may form a special commission to draft a charter or citizens may petition for creation of a charter commission. Among other things, the charter may propose increasing the size of the council. Valley VOTE proposed to the Commission that State law be amended to allow a charter to be placed on the same ballot with an incorporation proposal. While commissioners generally sympathize with this idea, they believe that this could in fact complicate the incorporation process further and confuse voters. The Commission believes that a charter should be carefully contemplated and subjected to full consideration by residents. It should not, therefore, be undertaken simultaneously with the proceedings to form the city.

Based upon public statements, however, it appears that the major interest of Valley VOTE in a charter is to allow election of a council comprised of more than five members. Jeff Brain, President of Valley VOTE, testified: "In the case of special reorganizations, new cities could contain significant amounts of residents as is the case in the San Fernando Valley with 1.4 million residents. The proponents should have flexibility of deciding on the number of council members they wish to have. It's subject to a vote of the public anyway so [it] must be approved by the voters."

The Commission believes that this could be accomplished through a minor amendment in the Government Code. Currently, a proposed new city may increase the number of city council members to 7 or 9 if specified in the incorporation petition. However, the law does not specifically reference "special reorganization" nor precisely define whether the "petition" is the instrument signed by the registered voters or the subsequent detailed proposal placed on the ballot by LAFCO. Thus, the ability of proponents to expand the council may be subject to challenge if the statute is not clarified.

The Commission agrees that a new city should be afforded the opportunity to have an increased number of city council members. This will help ensure that all the communities and residents within the proposed new city have more adequate representation. If the incorporation attempt is successful, the city could subsequently adopt a charter and expand its council size further.

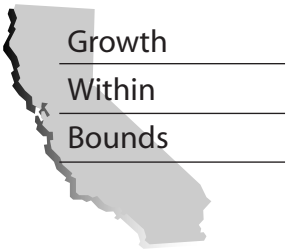
**RECOMMENDATION 4-16**
**The Commission recommends that the Government Code be clarified to permit a proposed new city pursuant to a special reorganization to become a general law city with 5, 7, or 9 council members, elected by district.**

## Conclusion

Procedures for annexations and incorporations are overly complicated under the Cortese-Knox Act. There are many unresolved controversies within these processes, including the requirement for revenue neutrality findings, the difficulty in reaching a property tax exchange agreement, and proponents' dismay at having to cover the entire cost of incorporation studies. Many people who want to change the way they are governed are prevented from doing so either by lack of funding or because the process is too lengthy and complicated to understand and complete. The Commission urges reforms to annexation and incorporation procedures through cooperative negotiations among affected parties and adoption of the recommendations in this report.

CHAPTER FIVE

# Special Districts: Tailor-Made Government for Californians




## The Birth of Special Districts

Until late in the 19th Century, cities and counties were the sole providers of local governmental services (excluding education) in California and throughout the nation. This meant that citizens desiring a different type or higher level of services than the city or county could provide were faced either with forming a city or petitioning county supervisors to provide additional attention to one particular realm of their jurisdiction.

Initially, interest in establishing specialized forms of government came from farmers seeking assistance with agricultural needs, especially irrigation, land reclamation, and levee maintenance. The essential need was usually for technical and engineering skills, not traditional municipal services. Because cities were not needed in these rural areas and the farmers likely did not regard county government as sufficiently responsive or well-versed in the types of technical expertise desired, a new form of government was devised in California. In the 1870s and 1880s legislation was enacted to authorize formation of single purpose local government agencies to construct and maintain levees and oversee drainage, reclamation, and irrigation projects.

This new form of government quickly took hold and, by the early 1900s, had spread to urban functions, including drinking water delivery systems, storm water drainage, and sanitation. Special district popularity mushroomed during California's period of rapid growth and urbanization in the three decades following World War II. Districts were popular because they could be put in place quickly, had flexible boundaries, and could efficiently provide those specific services in greatest need without saddling citizens with creation of complex municipal bureaucracies. They were a perfect fit for the dominant, low-density suburban lifestyle that characterized California almost from the beginning.

Special districts are formed to meet incremental needs rather than to provide a full range of government services. They have proved particularly useful in providing limited municipal services to rural areas just beginning to urbanize, when growth has outstripped the ability of individuals to provide for themselves, but before there is a clear need or desire for a general purpose city government. Californians seem partial to these districts. Even after urbanization is complete and cities are formed, the special districts often do not go away. The result is intertwined government boundaries in many California urban areas.

*Special districts were popular because they could provide those specific services in greatest need without saddling citizens with complex bureaucracies.*

## Special District Functions and Numbers

There is no consistent definition of a California special district, except that it is uniformly interpreted to exclude school and community college districts. Therefore, as explained in Chapter 2, the various sources may differ in their tallies of the number of districts. For purposes of this report, we will generally use data compiled annually by the Office of the State Controller. The Controller's financial data is the most comprehensive and the most consistently maintained over an extended period of time.

Currently, the Controller classifies districts into 54 functional categories. The services most frequently provided by districts are: water supply, storage, conservation, & replenishment; fire protection; maintenance; cemeteries; sanitary and sanitation; reclamation; highway lighting; recreation and parks; and resource conservation. Although most

*The focus of the public policy debate should be on the adequacy of provision of services to citizens, not on the number of districts.*

individual districts provide only one or two classes of services, the single most prevalent types of districts are multi-functional — community services districts (CSD) with independent governing boards and county service areas (CSA) governed by county boards of supervisors. Each CSD and CSA may exercise a broad array of powers, including water supply, police and fire protection, recreation, libraries, waste and sewage disposal, street lighting and maintenance, transportation services, some electric and communication facilities, pest and animal control, and graffiti abatement.

The Controller counted a total of 4,816 districts in 1995-96. The sheer number has provoked controversy, including several legislative attempts to initiate district consolidations. In fact, the number of districts has declined markedly in recent years, with the Controller's total having peaked in 1983-84 at 5,244. This raw statistic may not tell the whole story, however.

The Controller includes among the number of special districts several entities that have experienced rapid growth in recent years but are not true independent governing authorities. These include:

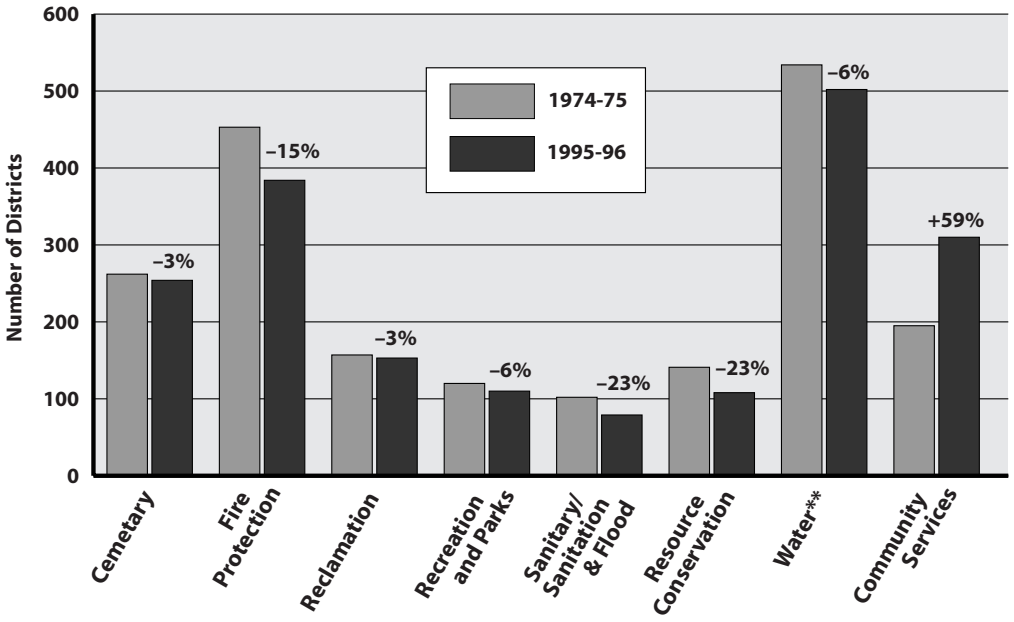
- joint powers authorities (JPA), which are agencies formed by two or more governments and are authorized to exercise jointly the powers possessed by any of the members (see text box),
- non-profit corporations, which are established as private entities by one or more local governments for a specific purpose, usually to finance or operate a particular public service;
- dependent financing districts, such as street lighting and maintenance and Mello-Roos districts, which are governed by city councils or county boards of supervisors and are formed solely for the purpose of financing capital improvements or limited specific services for inhabitants of the district, generally through a special assessment; and
- county service areas, which, unlike CSDs, are governed by county boards of supervisors rather than independent boards. They are funded through special assessments to the benefiting residents for the purpose of providing a higher level of service in an unincorporated area.

The increase in the numbers of these entities may, in reality, be a positive sign. JPAs are formed as a means of developing cooperative relationships among government entities. Their growth might be viewed as a sign of improved coordination and cooperation rather than simply a proliferation of govern-

Fig. 5-1

**Growth Trend in Special District Types**
1974-75 Through 1995-96

SOURCE: State Controller, *Annual Reports of Special Districts*, with adjustments by Stephen P. Morgan in *Special District Consolidations*




** Includes the following types of districts: California Water, County Water, Metropolitan Water, Municipal Water, Water Agency or Authority, and Irrigation

ment. Nonprofit corporations are often formed as an innovative means of financing a public service or meeting a public need without creating a new government bureaucracy. Financing districts, CSAs, and CSDs are created in response to the Byzantine financing restrictions faced by local governments in California, which must draw artificial lines and create special assessment areas to finance what once could be covered by property taxes. When these types of entities are excluded, the number of districts has actually declined in recent years, as indicated in Figure 5-1.

Even among the fast-growing district types, the instances of new district creation are quite circumscribed. Just seven counties — Del Norte, El Dorado, Humboldt, Inyo, Plumas, Riverside, and Tulare — accounted for nearly half of new CSD formations between 1974-75 and 1995-96. Nearly 90 percent of the increase in the number of CSAs is traceable to ten counties, none of which is among the seven having the greatest CSD gains. A possible explanation for the increase in the number of CSDs and CSAs is rapid suburbanization of rural areas, coupled with a declining ability of counties to provide services in the post-Proposition 13 era. This latter conclusion is supported by a study conducted for the Association of California Water Agencies by Stephen P. Morgan, which shows that the most rapid growth of these types of districts occurred after passage of Proposition 13 in 1978.

The Commission finds that 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

### Joint Powers Authorities and Agreements

Joint Powers Authorities or Joint Powers Agreements (both abbreviated JPA) are formal cooperative arrangements between two or more independent government entities. A Joint Powers Authority is an *agency* formed to carry out the purposes benefiting all of the members. A Joint Powers Agreement is a contract that authorizes an *existing agency* to do the work of the JPA member agencies. The agency only has the powers that are given it by the member agencies, which cannot grant powers to the JPA that they themselves do not possess.

There is no reliable accounting of the number of JPAs in California. The Secretary of State has received notifications of formation of over 1,400 JPAs, but some of these may no longer be active. The State Controller received reports from 652 in 1995-96, but not all JPAs must file with the State Controller. One thing is certain: the number has been increasing. The State Controller, for example, reported only 205 JPAs in 1974-75.

According to the Senate Local Government Committee, JPA activities fall into five basic categories:

***1. Financial.*** The most common type of JPAs are those formed to finance public projects under bond pooling arrangements, especially under the Revenue Bond Act of 1941 and the Marks-Roos Local Bond Pooling Act of 1985, which require the formation of a JPA. JPAs also are formed between cities and their redevelopment agencies, both of which are usually governed by the city council, in an unusual arrangement where a city, in effect, has a contract with itself.

***2. Insurance Pooling and Purchasing.*** These arrangements allow several agencies to save money by pooling funds to reduce risks and create market power that none enjoys individually.

***3. Services.*** Several agencies may combine to provide common services more effectively or at a lower cost. For example, JPAs may be used to jointly provide ambulance or animal control services over a wide area, or to fulfill federal and state mandates for solid waste management, special education, or regional transportation planning.

***4. Planning.*** This type of JPA is generally used to address regional problems jointly. They are often used to develop strategies for public health, education, law enforcement, transportation, and wildlife conservation. One of the most visible types of regional planning JPA is a council of government.

***5. Regulatory.*** This type of JPA enforces regulations as an agency independent of its individual members. Some air quality management districts are examples of regulatory JPAs, although most are created by statute.

The rapid growth of JPAs in recent years does not necessarily indicate increasing fragmentation in governance. Rather, it may signal the opposite. Although some JPAs are formed solely to take advantage of a financing mechanism not otherwise available, most are true collaborations of governments that promote greater cooperation and coordination of services, even if only for specific purposes. While noting that there are also difficulties involved with cooperative arrangements, the Senate Local Government Committee lists six advantages available to local governments by forming JPAs: (1) efficiencies may be attained in providing services; (2) public improvements may be financed more easily; (3) grants may be more easily captured; (4) organizational flexibility is enhanced; (5) regional problems may be addressed; and (6) local power is retained, since forming a JPA does not require assistance from LAFCO or the State Legislature.

numbers, however, is a disservice to the citizens who desire the services provided.

## Special Districts and Government Fragmentation

The contention that California has too many special districts has recently been brought into question in a study on government "fragmentation" published by the Public Policy Institute of California (PPIC). PPIC notes that the number of independent special districts has not been increasing and the relative share of local government spending by special districts, as compared to cities and counties, changed little from 1972 to 1992. The report asserts that "…there is no supportable theory for the right-sized budget or jurisdictional boundary." It goes on to state, however, that "…'excessive' governmental fragmentation may complicate the coordination of services and the planning of land and infrastructure development."

Does California have "excessive" governmental fragmentation? Compared to other states and trends within California, the answer appears to be "no." According to the PPIC, California's local government structure is less complex than the national average. Figure 5-2 indicates that California is far below the national average in local governments per 100,000 population, and the gap is widening.

Fig. 5-2
**Local Governments per 100,000 Population**
California and the United States 1992 and 1977

| | *Counties* | *Cities* | *Special Districts* | *School Districts* |
|---|---|---|---|---|
| **1992** | | | | |
| **California** | 0.19 | 1.49 | 9.05 | 3.49 |
| **Other 49 states** | 1.33 | 8.39 | 12.83 | 5.95 |
| **1997** | | | | |
| **California** | 0.26 | 1.85 | 9.96 | 4.96 |
| **Other 49 states** | 1.51 | 9.35 | 12.02 | 7.12 |

SOURCE: Paul G. Lewis, Public Policy Institute of California, *Deep Roots: Local Government Structure in California*, from *Census of Governments* (1992, 1977)

Moreover, local government fragmentation within California has changed little over the past two decades, despite rapid population growth. PPIC offers proof through a "political fragmentation index," or PFI, which it devised to measure the degree to which spending activity is divided among local governments. Technically speaking, the PFI estimates fractionalization in government by measuring the probability that two randomly selected dollars of local expenditure are spent by different local governments. From 1972 to 1992, the statewide PFI and the PFI for counties, both on average and weighted for population, were virtually identical throughout the period, indicating that there had been almost no additional fragmentation in the local political structure. PPIC attributes this governmental stability, in part, to the creation of LAFCOs in each county.

The Commission believes that one role for LAFCO should be to determine the most appropriate form of government to provide a particular service to citizens in an efficient and responsive manner and that will enjoy the support of those governed. Inevitably, this will mean balancing cost with the ability to meet the needs and desires of the taxpaying customers and with overall coordination of government services. In some instances, the most logical entity to provide a particular function will be a general purpose local government that can judge the cost and service trade-offs that are most acceptable to citizens. In other cases, it may be a special district, especially if service area boundaries do not logically coincide with city limit lines. The Commission finds that there should be no *a priori* presumption that one particular level of local government is better able to provide services than another, and that this finding should be stated in statute.

**RECOMMENDATION 5-1**
**The Commission recommends that GC §56001 be amended to declare that single purpose agencies have a legitimate role in local governance, while recognizing that multi-purpose agencies may be a better mechanism for establishing service priorities and that services should be**

**provided by the local agencies which can best accommodate and provide necessary services.**

This recommendation can be implemented by revising the wording in GC §56001, which states the overall legislative statutory intent of the Cortese-Knox Act. The Commission proposes that the latter portion of this section be amended to read as follows:

> "…The Legislature finds and declares that a single multi-purpose governmental agency ~~rather than several limited purpose agencies~~, is ~~in many cases better able to assess and be~~ accountable for a wide range of community service needs and financial resources and, therefore, ~~is~~ 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."

## Financing Special Districts

As explained in Chapter 2, most special district revenues derive from three broad sources: taxes, intergovernmental transfers, and user charges. Special district activities (as distinguished from the districts themselves) are broadly grouped, based upon their financial traits, into two categories: non-enterprise and enterprise. In most cases, all of the activities of a particular special district fall into just one of these activity groupings. Some districts, however, exercise both types of functions and consequently must account for them separately.

While the technical distinction has to do with accounting methods, there is a practical aspect to this differentiation. Non-enterprise activities are traditional governmental functions that are funded mostly from taxes, but often augmented with user fees. Examples of non-enterprise activities are fire protection, parks, libraries, and road maintenance.

Enterprises are operated more like a private entity or a public utility than a government agency, because the services lend themselves to customer charges. The Controller recognizes seven classes of enterprise activities: airport, electric, harbor and port, transit, waste disposal, water utility, and hospital. With the exception of transit and hospital districts, which receive sizeable amounts of tax and intergovernmental transfer revenues, enterprise districts are almost entirely reliant upon user charges. Statewide, enterprise activity revenues are about three times as much as non-enterprise revenues. Figure 5-3 summarizes non-enterprise and enterprise special district funding.

In testimony before the Commission, representatives of non-enterprise special

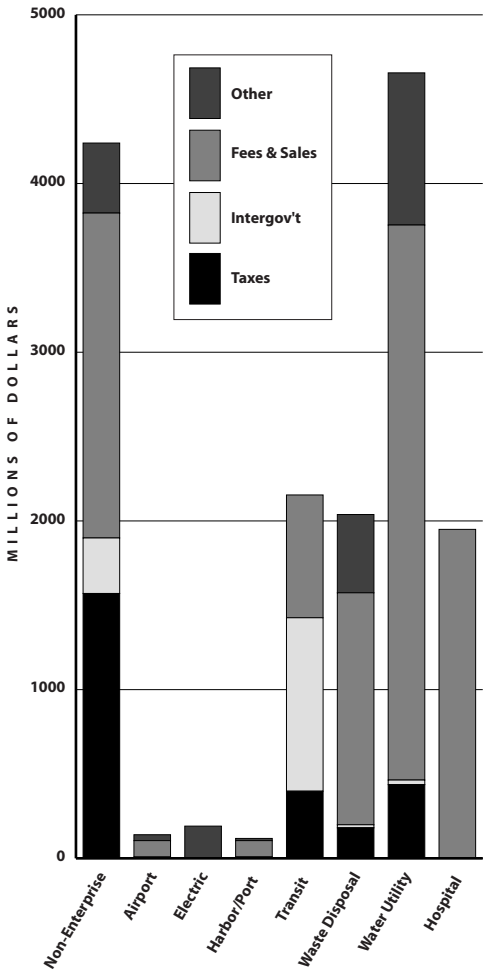



Fig. 5-3

**Special District Revenues by Activity Type**
1995-96

SOURCE: State Controller's Office, *Special Districts Annual Report*, 1995-96




Fig. 5-4

Like many rural fire departments, this one in Mendocino is staffed by volunteers. Some funds are raised through sale of merchandise to tourists.

Staff Photo

districts described financial hardships experienced by their districts due to property tax reductions resulting from Proposition 13 and, more recently, the shifts of property tax revenues into the Educational Revenue Augmentation Fund (ERAF), as described in Chapter 2. The number of fire protection districts, which are funded almost entirely from property taxes, has been reduced through consolidations from 450 in 1978 to 384 today. Many of these, especially in rural areas, are "volunteer" departments, largely dependent upon unpaid firefighters. The state's 47 mosquito abatement districts report that it is more difficult to deal with new strains of pests and to serve expanding populations in infested areas. Park and recreation districts are forced to charge higher admission fees and to close facilities. Small, independent library districts struggle to keep their doors open.

While the commissioners are sympathetic to the difficulties faced by these districts, they recognize that there is no simple solution. Implementation of area-wide service reviews by LAFCOs, as recommended in Chapter 6, and comprehensive reform of local finance, as suggested in Chapter 7, will help strengthen the ability of local governments to provide these important public services. In some cases, district consolidations or integration of the functions into general purpose local governments may be necessary, and should be studied by LAFCOs on an ongoing basis. In addition, future government reformers may wish to consider reallocating a portion of property tax revenues currently accruing to enterprise districts (e.g., airport, electric utility, harbor and port, waste disposal, water utility) that have access to fee revenues. These types of districts currently receive over $300 million in property taxes statewide. It should be noted, however, that some of these districts provide traditional property tax supported services in addition to enterprise activities.

## Laws Governing Special District Reorganization

### *Principal Acts*

Special district governance is anything but simplistic. Formation, reorganization, and operations for a particular type of district are governed by numerous statutes enacted over more than a century. These statutes, known as the "principal acts" for the districts to which they apply, were enacted incrementally in response to the desire of citizens for new classes of districts and to unique circumstances that existed in specific areas calling for exceptions to general rules of district formation or organization.

Principal acts may pertain to a large number of like districts or may be enacted especially for a specific district. Water functions alone are covered by 39 "general acts" and 116 "special acts." A general act is a generic statute that applies to all districts of a particular type. Examples include the "Community Services District Law," the "Municipal Water District Law of 1911," and the "Fire Protection District Law of 1987." Special acts have been adopted to authorize individual districts having a unique need that is not covered by a general act. Examples include the "Castaic Lake Water Agency Law," the "Humboldt County Flood Control District Act," and the "San Francisco Bay Area Rapid Transit District Act."

Principal acts may establish such features of the district as its purposes, powers, voting requirements, governing board selection and composition, financing options, and dissolution procedures. The acts also may define the territory or establish criteria for determining the territory of covered districts.

Generally speaking, most proposals for reorganization of special districts, including annexations, consolidations, and dissolutions, now fall under the jurisdiction of the Cortese-Knox Act and LAFCOs, pursuant to the directive of GC §56100. Four types of districts — schools, special assessment, improvement, and Mello-Roos — are completely exempted from Cortese-Knox pursuant to GC §56029(a), however, and special procedures apply to several other types of districts in accordance with GC §56029(b) and §56029(c). Moreover, many new district formations are not subject to LAFCO involvement. Many, if not most, principal acts specify that petitions are to be presented to the board of supervisors, not LAFCO.

The Commission feels that this creates a hodge-podge of procedures and contributes to the confusion that often surrounds government organization. It would be more orderly and efficient to adopt greater consistency in formation and reorganization procedures for all special districts by making them subject to LAFCO proceedings wherever possible. The criteria and requirements for district formation should, nevertheless, continue to be governed by the district principal acts because of the wide variety of district purposes.

**RECOMMENDATION 5-2**
**The Commission recommends that the Cortese-Knox Act be reinforced as the sole authority for special district reorganization and that LAFCO rather than the county board of supervisors be designated as the conducting authority for proceedings for the formation of a special district, in accordance with the relevant principal act.**

Implementation of this recommendation will require an amendment to GC §56100 to ensure adherence to LAFCO proceedings for district reorganization, and additional statutory provisions in Parts 2 and 3 of the Cortese-Knox Act and possibly in the principal acts to require that petitions for district formation are submitted to LAFCO rather than the board of supervisors.

When a reorganization involving a special district occurs, the district is not entirely on its own to protect its interests. If the reorganization involves an exchange of services, the county auditor prepares an estimate of the cost of services so transferred and allocates a share of the property taxes to the receiving entity from the entity giving up the services accordingly. If, however, a district assumes responsibility for delivery of services not previously provided by any local agency, the district may negotiate with other property tax recipients for a share of the property tax, or it may request the county board of supervisors to act on its behalf. If the district negotiates for itself and fails to reach an agreement with the other property tax recipients, the board of supervisors for the county which includes the area affected by the jurisdictional change shall negotiate the property tax exchange for the district.

The Commission agrees with the California Special Districts Association that this arrangement does not serve the interest of good government. It believes that the district should continue to negotiate for itself until agreement can be reached, or if no agreement can be reached, the proposal to provide the additional service should be terminated. The Commission believes that revenues should always be available before service is provided; if there are no revenues, there should be no services.

*Revenues should always be available before service is provided; if there are no revenues, there should be no services.*

**RECOMMENDATION 5-3**
**The Commission recommends that, if no master property tax exchange agreement is in place, the county board of supervisors must consult with all affected independent special districts prior to conducting negotiations on their behalf regarding property tax exchange. Such consultation shall include, at a minimum, provision of written notification and an opportunity to comment.**

### *Latent Powers*

Each type of district is authorized by its principal act to exercise certain powers, such as water delivery, fire protection, or park maintenance. Whereas some principal acts narrowly define the functions that may be

performed by a district, others are quite broad. Public utilities districts, for example, may provide over a dozen types of services. Community services districts, possibly the broadest classification of special district, may supply water for domestic, agricultural, and most other purposes; collect, treat, or dispose of sewage, storm water, or garbage; and provide police and fire protection, recreation, street lighting, mosquito abatement, library, street repair, ambulance, transportation, and graffiti abatement services, among other things. The reach of these districts is so broad and their visibility to citizens so great that some are referred to as the "town halls" of many rural areas.

Most districts do not exercise all of the powers authorized them. Those powers which are authorized in statute but are not actually exercised by a district are known as its "latent" powers. Absent restrictions to the contrary, a special district board of directors could theoretically vote to begin offering new services within its boundaries, even if they are in competition with services already offered in the territory by another public agency. To preclude such duplication, many LAFCOs have required as a condition of representation on the commission, as authorized by GC §56332, that special districts obtain LAFCO approval before exercising any additional latent powers.

As discussed below, the Commission believes that special districts should be seated on LAFCOs unconditionally. Nevertheless, the Commission feels that it is appropriate for LAFCO to review the provision of public services by all agencies within their jurisdictions. This review of the exercise of powers could be part of the periodic review of spheres of influence authorized under GC §56425 or the comprehensive service review proposed in Chapter 6. A special district considering exercise of an additional latent power could notify LAFCO through a request for amendment to its sphere of influence.

**RECOMMENDATION 5-4**
**The Commission recommends that special district representation on LAFCO under §56332 and §56450 not be contingent upon the districts giving up their right to exercise latent powers. Those LAFCOs which already regulate their special districts' latent powers as a condition of membership should be required to repeal the relevant regulations, upon request of the Independent Special District Selection Committee. In addition, the Commission recommends moving the language in §56450 regarding review by LAFCO of the activation of a new power by an existing district to spheres of influence (§56425).**

This recommendation requires that special district spheres of influence be amended to specify the services provided by the district and that any expansion of services or service area be preceded by amendment to the sphere.




Fig. 5-5

The headquarters of the Truckee-Donner Public Utilities District is literally the town hall for Truckee, incorporated in 1993

Staff photo

This could be implemented through addition of a new paragraph (d) to GC §56425, regarding spheres of influence. This new section would require, as part of a regular update to special district spheres of influence or as a component of the review of a request to expand the sphere to include an additional area or a new service function, that the LAFCO do all of the following:

1. Require the district to file a written statement with the commission specifying the functions or classes of service provided by the district.
2. Establish the nature, location, and extent of any functions or classes of service provided or proposed to be provided by the district.
3. Determine that the new or different function or class of service is not currently provided by another local agency and that the district is an appropriate provider of the service.

## Special Districts and LAFCO

In 1993, the Cortese-Knox Act was amended to permit the expansion of LAFCO in any county by the addition of two members representing special districts, if requested by a majority of the special districts in the county and approved through adoption of LAFCO regulations "affecting the functions and services of special districts." The procedure for adding special district members is detailed and somewhat onerous. Of California's 57 LAFCOs, 33 have to date added special district members; 24 do not have special district representation.

If LAFCO is to comprehensively study public service needs and availability and to determine the most efficient agencies for providing government services within a county, it should have the benefit of regular input from all segments of local government. Consequently, the Commission recommends that special district representation be made an integral part of all LAFCOs and that such participation should come without strings. Special districts should not be required to surrender powers or authority as the price of LAFCO representation. Those LAFCOs which currently have special district members and which require by regulation the surrender of the ability to exercise latent powers in exchange for membership should repeal the relevant part of those regulations.

**RECOMMENDATION 5-5**
**The Commission recommends that special districts be given the automatic option to select 2 LAFCO members, if requested by the special districts selection committee or a majority of the independent special districts in the county.**

*Special districts should not be required to surrender powers or authority as the price of LAFCO representation.*

## District Consolidation

The 1993 amendments to the Cortese-Knox Act also gave LAFCOs the authority to initiate the consolidation, dissolution, and reorganization of special districts. This power is potentially a very important tool for use by LAFCOs to rationalize the structure of local governance within their counties. To date, however, it has been used very sparingly. During the first three years after adoption of this amendment, in fact, only one LAFCO-initiated consolidation had occurred, in San Diego. According to the California Association of Local Agency Formation Commissions (CALAFCO), however, the rarity of LAFCO initiated consolidations is deceiving. CALAFCO asserts that the threat of LAFCO action is by itself an inducement to districts to voluntarily merge and that voluntary consolidations are much more likely to be successful.

Many individual LAFCOs and other associations agree with this assessment, while nevertheless believing that voluntary consolidations are much more desirable and more easily implemented. San Diego LAFCO has overseen a dozen non-hostile special district consolidations since 1992 and finds that the willingness of districts to negotiate is probably enhanced by the threat of LAFCO intervention. Orange County officials believe that water district consolidations that were voluntarily accepted in 1998 and 1999 were successful largely because of the introduction of legislation in 1995 which would have forced consolidation of all county water and sewer districts into a single "mega-district." Al-

*The current LAFCO authority to initiate consolidations can be very powerful, especially when available to an independent LAFCO and used in combination with other tools.*

though the legislation did not pass, the threat prompted more serious negotiations.

District consolidations rarely are easy, and hostile mergers are always difficult. The recent agreement to voluntarily merge the two largest fire districts in the Sacramento region came after several years of negotiation over such diverse issues as levels and areas of service, employee agreements, the name for the new district, and composition of the new board of directors. In early 1999, the Butte County LAFCO voted to dissolve a water district that had sold its water system several years earlier but continued to receive property tax allocations. Although seemingly logical, this action was nevertheless very controversial, occupying several LAFCO hearings prior to the final action. Another LAFCO was criticized in a county grand jury report for failing to dissolve a hospital district that sold its facilities two years earlier but continued to receive property taxes, which it uses to operate a health care grants program. The tax-supported grants program is popular among the agencies which are eligible for the subventions and see it as one of their few opportunities to obtain funding for special projects.

The Commission believes that the current LAFCO authority to initiate consolidations can be very powerful, especially when available to an independent LAFCO and used in combination with other tools like service reviews, clearer policy guidance, and streamlined processes. So equipped, LAFCO will have significant capacity to restructure the institutions of local governance to be more responsive to citizen desires for efficiency and responsiveness. Nevertheless, some additional capabilities may be needed. Testimony presented to the Commission indicated that once a hostile merger is approved, there is risk that the "lame duck" directors may take actions that are not in the best interests of taxpayers. In these instances, restrictions should be imposed upon the ability of directors to take actions that are not in the best interests of the public or that impose financial obligations beyond their terms of office.

**RECOMMENDATION 5-6**
**The Commission recommends that, where LAFCO approves a consolidation or dissolution of an agency and the action is not supported by the district or districts involved, that LAFCO may impose conditions which provide that the outgoing board may not take the following actions:**

1. **Approve increases in compensation or benefits for the Board of Directors or officers.**
2. **Appropriate or obligate any funds beyond the current year's revenues without making a finding of an emergency.**

## Multi-County Special Districts

Although most special districts are confined to a single county, this is not always the case. Unlike cities, special district boundaries may extend beyond the county line resulting, occasionally, in controversy when boundary changes are proposed (see text box for an interesting example).

The Cortese-Knox Act envisions the existence of multi-county districts and makes provision for decision-making precedence. Each special district has a designated "principal county" of service. The principal county is defined in GC §56066 as the county having all or the greater portion of the entire assessed value of all taxable property within the district. Moreover, the LAFCO for the principal county has exclusive jurisdiction over any proposed change of organization or reorganization involving the district, even if the change affects only the portion of the district located in another county. Jurisdiction may be transferred to the LAFCO of another affected county only with the approval of the principal county LAFCO and acceptance by the LAFCO of the affected county.

LAFCOs in two regions have recognized the need for orderly response to multi-county special district organizational changes. Alameda and Contra Costa LAFCOs and the Nevada and Placer LAFCOs have entered into agreements to govern proceedings involving multi-county districts. 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 dialog among adjoining LAFCOs, thereby providing more comprehensive guidance to applicants, ensuring consistency in the decision-making process of the participating LAFCOs, and developing a regional perspective on issues. Finding this first agreement a success, both Alameda and Contra Costa LAFCOs have proposed similar agreements with San Joaquin LAFCO.

LAFCOs are not prohibited from entering into such agreements. The fact that there are only two in place may, nevertheless, indicate that greater encouragement is needed, and perhaps clarification of the authority of LAFCOs to enter into joint powers agreements. Adding statutory language to the powers of LAFCO would clarify existing law and might encourage development of more regional cooperative relationships among LAFCOs.

**RECOMMENDATION 5-7**
**The Commission recommends that LAFCOs be authorized to enter into agreements with the LAFCOs of adjoining counties for the purpose of determining procedures for consideration of matters concerning multi-county districts.**

At a minimum, the LAFCO and other local government jurisdictions in an affected county should be notified when the LAFCO of a principal county contemplates a decision, the effects of which may cross the county line. Currently, the Cortese-Knox Act requires the LAFCO of an affected county that has been granted jurisdiction by the LAFCO of the principal county to provide the various notices required by law. However, there is no requirement that notice be given by the principal county LAFCO to an affected county LAFCO if jurisdiction is not transferred. The Commission believes that this is an oversight that should be remedied.

## LAFCO and Utility Deregulation

In an era in which public sector entrepreneurism is assuming growing importance, cross-county issues sometimes take on an unusual flavor. The question of LAFCO jurisdiction has arisen in a matter intertwined with the complex deregulation occurring in the electric power industry. The Modesto Irrigation District (MID), headquartered in Stanislaus County, has proposed providing electric power services to areas in San Joaquin County which are currently served by PG&E, a private, investor-owned utility company. To do so, MID proposes to construct parallel power lines into the areas it wants to serve.

PG&E has filed suit, claiming that MID cannot expand its service area without LAFCO approval, citing the Cortese-Knox Act. MID contends that its principal act, the Water Code, specifically authorizes it to provide electric services outside its boundaries. Stanislaus County LAFCO, which has principal county jurisdiction, agrees with MID. San Joaquin LAFCO, on the other hand, believes that the Cortese-Knox provisions should prevail, but, under GC §§56123-56124, it does not have jurisdiction without the approval of Stanislaus LAFCO.

Other publicly owned utility districts have indicated interest in entering the newly-competitive electric power industry. The Merced Irrigation District advertises its low rates and interest in expanding its service area and the City of Pittsburg has entered into a joint venture with an investor-owned utility to provide power outside its boundaries. In some ways, the widespread offers of cheaper power from non-profit, tax exempt utility districts is similar to the use of Owens Valley water as bait for annexation to the City of Los Angeles in the early part of the 20th Century. Although expansion of utility districts has not been widely viewed as a LAFCO issue, the perception may change in the future.

**RECOMMENDATION 5-8**
**The Commission recommends that notice be provided to all affected jurisdictions of multi-county proposals for changes of organization or reorganization under GC §56123.**

## California's Complex System of Water Governance

*California's most valuable natural resource was not gold, but the water that was often fouled and wasted in the quest to extract the metal.*

James Marshall's discovery of gold in 1848 instantly made California a destination for wealth-seekers throughout the world. The fortunes made by prospectors, however, proved short-lived. In the years to follow, California's most valuable natural resource was not gold, but the water that was often fouled and wasted in the quest to extract the metal.

The need for water to support development in California was apparent even to the early commentators. Overlooking the Los Angeles Basin as he made this entry in his journal in 1860, William H. Brewer, member of the First Geologic Survey of California, wrote:

> *"As we stand on a hill over the town, which lies at our feet, one of the loveliest views I ever saw is spread out. . . . a most lovely locality; all that is wanted naturally to make it a paradise is water, more water."*

Initially, water was tamed by private companies for their own purposes. Mining companies, like the operators of the huge North Bloomfield Mine in Nevada County, built hundreds of miles of ditches, flumes, and canals to divert rivers to their hydraulic excavation sites. Ironically, the lasting contribution of these enormous engineering works was the cadre of professional engineers they brought to California and who were later freed to apply their new-found expertise to other water projects, such as irrigation canals, levees, and municipal water systems.

In Southern California, early water development was the province of mutual water companies, owned by the shareholder-customers that they served. This form of service provider was very popular at the turn of the last century (see text box) and remains a significant provider of water in many parts of California today. There are 426 mutual water companies still operating in California, with the bulk of them in Southern California (184 are located in five counties).

The water supply activities of mutual water companies are regulated only by the Department of Health Services, which oversees the State's public drinking water program. Until recently, they were not subject to any form of control by LAFCO. However,



Fig. 5-6
Hydraulic mining operation at the North Bloomfield Mine in Nevada County, circa 1870
Courtesy, California Department of Parks & Recreation

under 1997 amendments to the Corporations Code, mutual water companies formed after January 1998 must contact the Public Utilities Commission and the county LAFCO to determine if the proposed area will overlap an existing water service area or if an existing water service area could more appropriately serve the subdivision. Also, the company's source of water for distribution and fire protection systems must be sufficient to satisfy expected demands for water from the subdivision.

Even many of the early city water systems were privately owned. In the 1860s, most of San Francisco's water was supplied by the Spring Valley Water Company. In 1868, Los Angeles leased its entire local water supply to a private company. Despite misgivings about government ownership of complex systems, it soon became evident that the needs of urban growth would require a stable, publicly-owned supply of water and a significant investment in facilities. Early in the 20th Century, therefore, San Francisco obtained rights to Tuolumne River water and constructed a dam in the Hetch Hetchy Valley in Yosemite National Park. At about the same time, William Mulholland was acquiring water rights in the Owens Valley and laying plans for a massive system of aqueducts to ship the water to the City of Los Angeles.

In smaller communities, development of water systems under public ownership was made possible by the creation of special purpose districts. The earliest districts supervised land reclamation and levee maintenance in the 1860s. As agriculture developed, especially in the Central Valley, irrigation districts were organized under the Wright Act of 1887. The first of these, the Turlock Irrigation District, continues to deliver water and power to Valley residents today.

The State Legislature recognized the growing importance of municipal water supplies through enactment of the Municipal Water District Act of 1911 and the County Water District Law of 1913. The surge in municipal water district growth began in the 1950s and 1960s, spurred by rapid suburban growth and the enactment of new laws, most notably the Community Services District Law of 1951, that liberalized the powers and service options for many water districts.

In all, the Legislature has enacted 39 general laws for establishing various categories of water utility districts and 116 special acts authorizing individual districts. The complexity of this legal scheme recognizes the critical importance of water development to California's communities and the need for many options to deal with it. On the other hand, it can lead to confusion and compli-

### Mutual Water Companies

Some of California's first water delivery systems both for agricultural and community needs were developed by mutual water cooperatives, like the Anaheim Water Company, established by German settlers in 1857 to supply water to irrigate newly-planted vineyards and for community consumption. The company was created to capitalize on two key strengths: (1) the ability to capture and hold water rights and (2) the availability of pooled capital from shareholders to build needed dams and other infrastructure. Residents owned and controlled the company through possession of stock which entitled each settler to water for farming and a town lot. Shareholders were required to maintain the system and could vote on company policies. Within four years of the company's creation, the original 50 shareholders had increased to 300 and the venture continued to grow. The Anaheim Water Company inspired imitators throughout Southern California. Several suburban communities were formed in San Bernardino County on the strength of mutual water company water rights.

Here are some examples of mutual water companies that have recently operated or continue to operate in California:

- The Palo Alto Park Mutual Water Company was formed by farmers in 1924. It continued to serve over 600 residential users after the land was subdivided in 1983. Each property owner is a shareholder with voting rights based on the size of his or her property.
- The Valley Water Company in La Canada Flintridge, founded by farmers in 1910, currently serves 3,500 suburban customers who are shareholders and part owners.
- The Garden Grove Acres Mutual Water Company was formed in 1927, when it installed a system of pumps and pipes to recover water from a mini-lake below ground. In return for building and helping to maintain the system, each landowner was given one voting share in the company for each one-half acre owned. In 1990, after contaminants were found in one of the wells, Garden Grove and two other mutual water companies were sold to City of Garden Grove in an effort to bring drinking water up to state standards. The reorganization was done through negotiation with the shareholders of the companies, since these private corporations are not subject to reorganization by LAFCO.

Fig. 5-7

Canal and power generating facility operated by the Turlock Irrigation District

Courtesy, Turlock Irrigation District



*The linchpins of California's water delivery systems are the massive federal Central Valley Project (CVP) and the State Water Project (SWP).*

cates reorganization procedures, thereby indirectly encouraging proliferation of water functions among various limited purpose districts and making consolidations less likely. It has also created a situation where the public finds it almost impossible to understand water governance.

A better understanding of water governance could be promoted if each LAFCO, as part of its studies of spheres of influence, periodic service reviews, and other governance issues, were to consider potential functional consolidations of districts providing water utility services, such as combining water and sanitary districts where feasible. The purpose should be not only to reduce costs, but, more importantly, to promote a more comprehensive approach to the use of water resources. Nevertheless, consolidations should not be initiated solely for the purpose of reducing the number of districts.

The linchpins of California's water delivery systems are the massive federal Central Valley Project (CVP) and the State Water Project (SWP). The CVP, which began operations in 1958, transports water 450 miles from Lake Shasta to Bakersfield, mostly for use by farmers in the San Joaquin Valley. In a year with normal precipitation, it stores and distributes about 20 percent of the State's developed water, or about 7 million acre-feet, and generates over 5 billion kilowatt hours of energy. The SWP, authorized by the Burns-Porter Act of 1960, operates 32 storage facilities, reservoirs and lakes; 17 pumping plants; 3 pumping-generating plants; 5 hydroelectric power plants; and about 660 miles of open canals and pipelines from Oroville to Riverside County. It delivers about 3 million acre-feet of water, 70% of which is destined for urban uses, primarily in Southern California. Both the federal and state projects route their water deliveries through the San Francisco Bay-Delta Estuary system.

The most visible component of California's water governance system to the average citizen, with the possible exception of the federal and state water projects, is the retail water supplier who mails the monthly bill. Most often, these retailers are counties, cities, or special districts. In some locales, however, they are mutual water cooperatives or private companies.

There are many other layers of water governance, however, that are less visible to the public and which handle the water both before and after it is delivered to consumers. These include agencies involved in wholesaling, recycling, and otherwise managing water supplies. The largest of these, the Metropolitan Water District of Southern California (MWD), is a wholesaler of water mostly from the SWP and the Colorado River. MWD serves 27 member agencies, several of which are themselves water wholesalers. The San Diego County Water Authority, for example, is

a MWD member agency that, in turn, distributes water to 23 water retailers, supplying 90 percent of San Diego County's water.

Special districts have been established to serve numerous water related functions other than the delivery of drinking water. As previously mentioned, *irrigation districts* were established initially to divert water to farmers for crop use, although many today deliver more water for urban than for agricultural uses. *Sanitary* and *county sanitation districts* and some *reclamation districts* treat waste water and often recycle it for subsequent beneficial uses. *Water storage* and *water conservation districts* operate reservoirs, spreading basins, and similar facilities to preserve and expand water supplies. Two *water replenishment districts* recharge groundwater supplies by purchasing water and spreading it in holding basins where it seeps back into the ground. The largest of these, serving 43 cities in southern Los Angeles County, was sued by several member agencies which claimed that it had established unreasonably high rates, exceeded its legal authority, initiated unnecessary and duplicative projects, and provided campaign assistance to its board members. The critics implied that the district may no longer be necessary for its established purposes.

Another type of public institution has been established in "adjudicated" groundwater basins that is not officially counted as a government agency by the State Controller. In 16 groundwater basins, legal disputes have arisen over how much groundwater can rightfully be extracted by each land owner.

Fig. 5- 8

**Water Project Facilities in California**

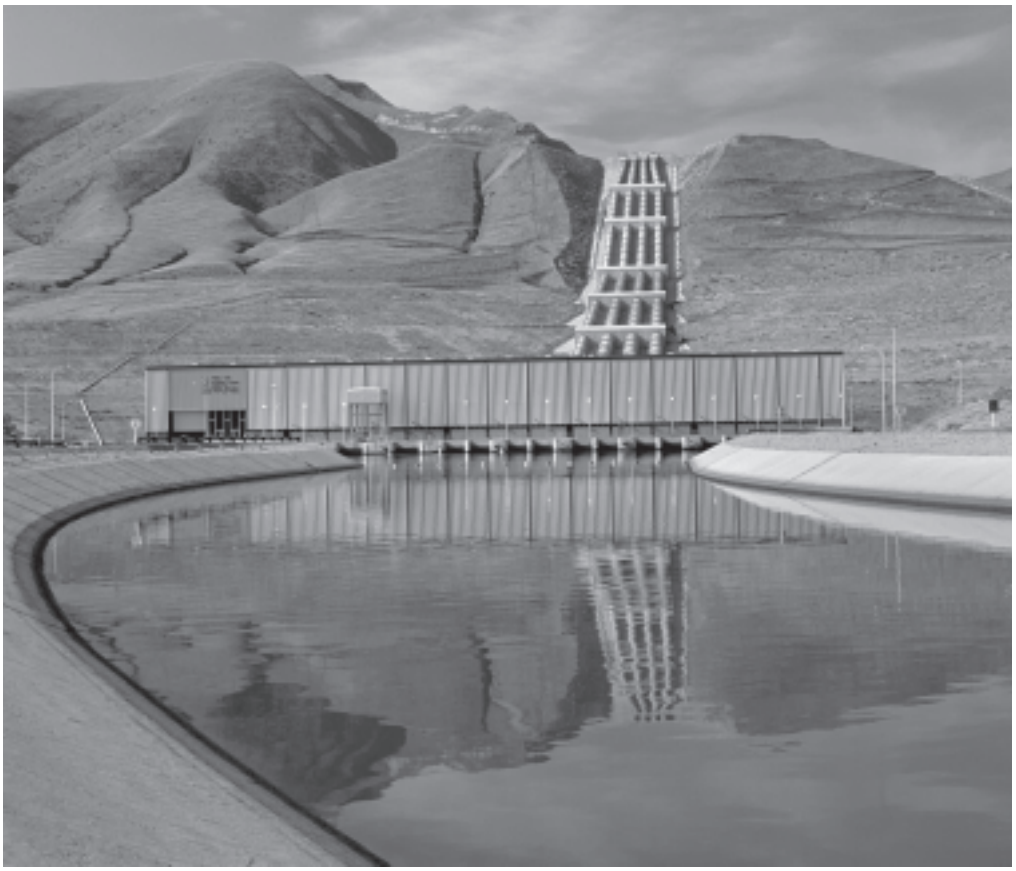



SOURCE: Department of Water Resources, *California Water Plan Update*, Bulletin 160-93, October 1994

Fig. 5- 9

The Wind Gap Pumping Plant transports State water over the Tehachapis to Southern California

Courtesy: Department of Water Resources



These disputes have been resolved by the courts directing or approving a settlement and appointing a watermaster to oversee the judgement. The watermaster is answerable directly to the court, not to the Legislature, and is authorized to assess fees to cover the cost of his or her office. Courts have granted watermasters the authority to determine water allocations to each party and to regulate water quality.

There has not been a comprehensive study of California Water governance in many years and it has become far too complex in many regions to be adequately addressed by LAFCOs. An examination of the less visible, non-retail layers of the water bureaucracy may be particularly important. The Commission believes that now may be an opportune time to convene a task force to study the current state of water governance and consider options that may better prepare California for its 21st Century water needs. Technical knowledge of engineering and hydrological sciences, as well as experts in water governance systems, are essential to determining the appropriate governance structure to assure efficient and responsive services to taxpayers and ratepayers. This commission should not be comprised solely of practitioners, however. It should include representatives of general purpose local governments, community organizations, business leaders, and involved citizens.

**RECOMMENDATION 5-9**
**The Commission recommends that the State appoint a special blue ribbon commission to undertake a study of water governance in California. The purpose of such a commission is not to duplicate the work of existing agencies, but to examine the local governance structure for water delivery and to make specific recommendations for any necessary reform.**

Among the objectives of the commission should be the following:

1. Identify opportunities to coordinate the activities of water and waste-water agencies to enhance the supply and use of recycled water.
2. Find a way to deal with the problems

created by undercapitalized mutual water companies and the proliferation of small providers without the capital or governance structure to cope with contemporary water quality regulations or to maintain adequate fire flows.

3. Investigate the need to rebuild the post-World War II infrastructure that predominates in Southern California and options for raising the required capital, probably without state or federal assistance.
4. Review organizational issues, such as district functions, expenditures, potential duplication of activities, director compensation, etc.

## The Challenge of Water in the 21st Century

California's growing population, the preeminence of its agricultural sector, and the continued expansion of urban areas will be particularly taxing on available water supplies in the next millennium. The Department of Water Resources (DWR) and a host of other parties interested in water development policies in the state have sought solutions to meet the needs of the three basic water claimants: urban interests, agriculture, and the environment. The most notable effort has been the Cal-Fed consortium of State and federal agencies that has sought long-term

| *Court Name* | *Filed in Court* | *Final Decision* | *Basin Location/County* |
|---|---|---|---|
| **Scott River Stream System** | 1970 | 1980 | Siskiyou County |
| **Santa Paula Basin** | 1991 | 1996 | Ventura County |
| **Central Basin** | 1962 | 1965 | Coastal plain, Los Angeles County |
| **West Coast Basin** | 1946 | 1961 | Coastal plain, Los Angeles County |
| **Upper Los Angeles River Area** | 1955 | 1979 | San Fernando Valley, Los Angeles |
| **Raymond Basin** | 1937 | 1944 | San Gabriel Valley, Los Angeles |
| **Main San Gabriel Basin** | 1968 | 1973 | San Gabriel Valley, Los Angeles |
| **Puenta** | 1985 | 1985 | San Gabriel Valley, Los Angeles |
| **Cummings Basin** | 1972 | 1972 | Cummings Valley, Kern County |
| **Tehachapi Basin** | 1973 | 1973 | Tehachapi Valley, Kern County |
| **Mojave Water Agency** | 1990 | 1996 | Mojave River Valley, San Bernardino |
| **Warren Valley Basin** | 1976 | 1977 | Warren Valley, San Bernardino |
| **Chino Basin** | 1978 | 1978 | Santa Ana Valley, San Bernardino and Riverside counties |
| **Cucamonga Basin** | * | * | Santa Ana Valley, San Bernardino |
| **San Bernardino Basin Area** | 1963 | 1969 | Santa Ana Valley, San Bernardino and Riverside counties |
| **Santa Margarita River Watershed** | 1951 | 1966 | San Diego and Riverside counties |

* Watermaster not yet appointed; currently operated as part of Chino Basin

Fig. 5-10

**Adjudicated California Water Basins**

SOURCE: Department of Water Resources, "Adjudicated Groundwater Basins in California," *Water Facts*, No. 3, January 1996.

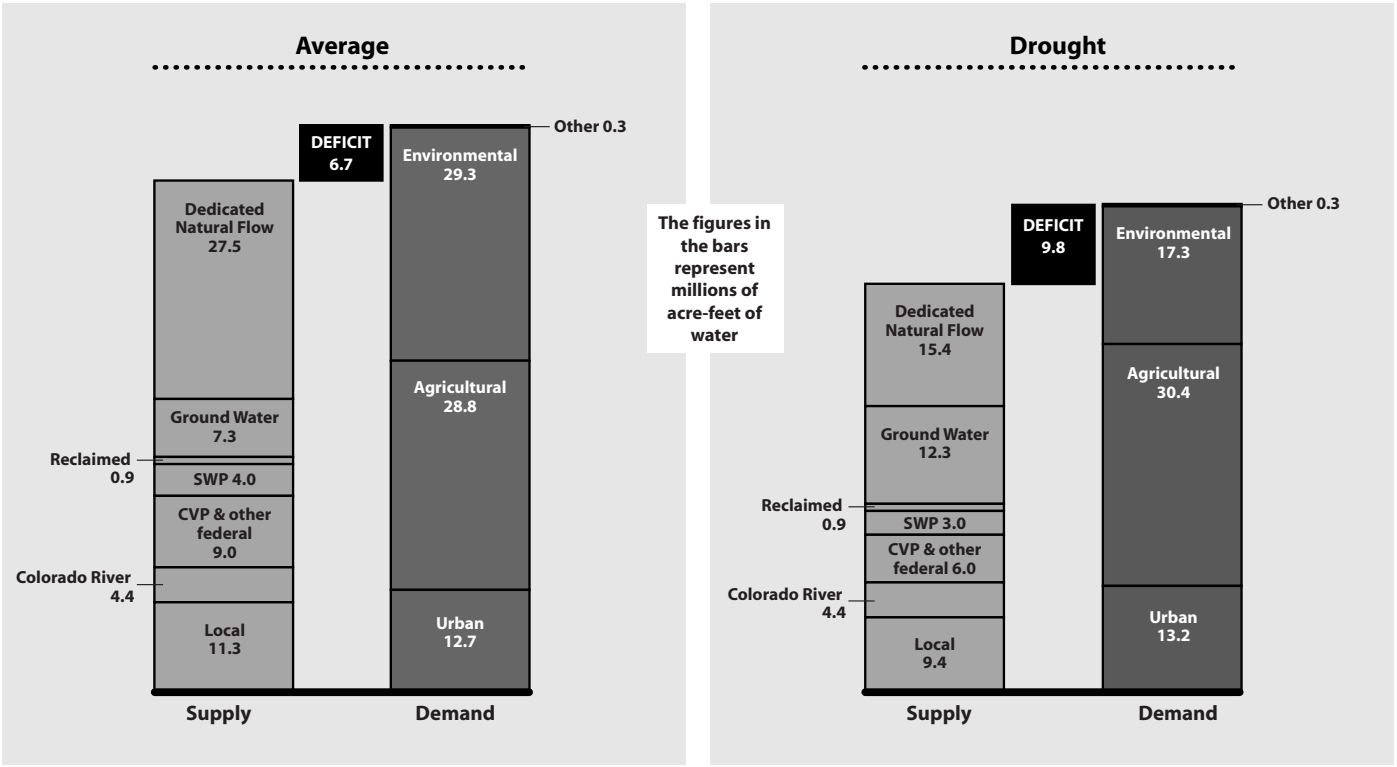



Fig. 5-11

**California Water Budget, 2020**

SOURCE: Department of Water Resources, "California Water Plan Update," *Bulletin 160-93*, October 1994

solutions to protect the vital Bay-Delta ecological system while meeting demands for water supply reliability, protection from natural disasters, and maintenance of water quality. Similar efforts to negotiate truces in other water wars throughout the state are also underway.

The central problem is the growing demand placed upon a supply of water that is essentially fixed in years of normal precipitation and is subject to severe decline during periods of drought. Figure 5-11 depicts a "water budget" based upon DWR projections for the year 2020 under normal and drought conditions. The supply and demand estimates include application of all currently known and available water supply enhancements, environmental limitations, land fallowing and crop shifts, and other conservation measures. The resultant gap between supply and demand — representing approximately 10 percent of available supplies — must be closed through additional, more drastic, measures that may include additional off-stream storage facilities, a long-term Delta solution, additional groundwater storage, greater use of reclaimed water, increased agricultural land fallowing, and more wide-ranging conservation measures.

Although no one expects LAFCO to resolve the evolving water crisis, LAFCO decisions should recognize the critical role of water to California's future. Low density suburban development, continued urban sprawl, and intense development in regions not having adequate water supplies will contribute to the impending water shortage. LAFCOs should be required to consider these factors when reviewing annexation or sphere of influence requests.

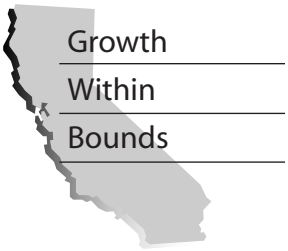
**RECOMMENDATION 5-10**

**The Commission recommends that water supply considerations be integrated into LAFCO decision-making regarding boundary changes (annexations and spheres of influence).**

Water supply is clearly an Achilles Heel for future California growth. If not adequately addressed, water shortages could limit urban growth, threaten California's pre-eminent agricultural industry, and harm the environment. The link between water supply and land use needs to be strengthened, and LAFCO decisions should be part of the effort.

CHAPTER SIX

# LAFCO and the Prevention of Sprawl




Local elected officials run for public office believing that they can make policies and take actions that will benefit the people who elected them. Indeed, if they fail to respond to their constituents, they may find their careers shortened. In some cases, however, responding to issues from a local perspective may not be in the best interests of the wider populace, or even the long-range interests of local denizens. A slogan that is gaining in popularity in planning circles is increasingly good advice: "think locally, but act regionally."

Polling indicates that Californians are most interested in the issues that are closest to their homes and their lives — schools, crime, jobs, traffic, housing costs, health care. These and other issues, however, often cannot be managed by individual local governments acting alone. Regional or sub-regional approaches may therefore be needed. Except for transportation and a few specific environmental areas, California does not have regional government. LAFCOs are currently the only bodies empowered by the State to consider general governance powers beyond an individual local government jurisdiction, and LAFCO powers are of an indirect nature. This can present a problem, because not all planning and growth matters are neatly contained within the boundaries of a single city, special district, or county.

## When Urban Growth Becomes Sprawl

In 1950, the most productive agricultural area in the United States was Los Angeles County. At the same time, San Jose was mostly orchards and Sacramento was a sleepy farm town that was besieged for a short period each year as 120 part-time Senate and Assembly members visited the State Capitol. Today, the greater Los Angeles metropolitan area stretches over an unbroken urban expanse that is 100 miles from north to south and extends over 75 miles inland from the ocean. The Bay Area has nearly as large a reach and San Jose and Sacramento seem to be following the example. Author and urban planner William Fulton, in *The Reluctant Metropolis* (Solano Press Books, 1997), described a three-hour journey in 1990 from his home in Ventura to Moreno Valley, in Riverside County:

> "I traveled through suburb after suburb, past shopping center after shopping center and tract after tract. Camarillo. Calabasas. Woodland Hills. Sherman Oaks. Studio City. Glendale. Pasadena. Duarte. San Dimas. Pomona. Corona. The suburban monotony was so continuous that it was numbing. Then, after a hundred and thirty miles, I stopped and saw a meadow. Rich and green from the spring rains, hard up against the San Jacinto Mountains, this was obviously the edge of town. . . . It had taken almost half a day, and I had covered a distance that would have taken me through three or four Northeastern states, but I had finally found the other end of Los Angeles."

Sprawl of this type may occur for many reasons, but the most significant are availability of cheap land that is easy to develop; easy access to major transportation arteries, especially freeways; a desire to flee the problems of congested inner cities and older suburbs; and Westerners' general attachment to large, uncrowded housing lots. The difficulty in reversing the tendency to sprawl was reflected in a 1999 survey conducted by the National Association of Home Builders, which targeted mostly homeowners and concluded that "Americans overwhelmingly

*LAFCOs are currently the only bodies empowered by the State to consider general governance powers beyond an individual local government jurisdiction.*

Fig. 6-1

High density housing, like this complex in Davis, need not feel congested

Staff photo



*"Americans overwhelmingly prefer a single-family detached home on a large lot in the suburbs to any other type of home."*
*— National Association of Homebuilders survey finding*

prefer a single-family detached home on a large lot in the suburbs to any other type of home." A *Los Angeles Times* poll reached essentially the same conclusion in a survey of suburbanites in metropolitan Los Angeles, finding that "…most people who live in these communities wouldn't think of leaving, and they want their children to live there when they grow up, too."

The preference of many people for a suburban lifestyle cannot be ignored. In response to the question, "what's wrong with California," one participant in a focus group session organized by California 2000, a coalition of public interest organizations interested in governance issues, replied "People being pushed too close to where we are." To reverse the trend toward sprawl, the image and amenities of living in denser housing in mixed-use neighborhoods must be improved. The common perception of housing density as apartments stacked upon apartments must be changed.

Although it has no uniform definition, sprawl seems to be universally understood as land uses that spread development over a large expanse and that consume more space than "necessary." In recent years, it has gained considerable attention nationally and it is now acknowledged that sprawl is not a phenomenon unique to California. Vice President Gore, through his "Livability Agenda," has made the war against sprawl a cornerstone of his presidential aspirations. Reports have begun to proliferate, including a federal land use survey showing that the rate of sprawl has doubled in the last decade and a ranking by the Sierra Club of the states' relative standing in the war against sprawl. (California ranks somewhere near the middle.) The latest catchphrase in growth planning circles is "smart growth," roughly defined as targeting public infrastructure investment and other incentives toward support of actions that will limit sprawl, preserve agricultural land and open-space, and reduce environmental impacts in general. Smart growth advocates often downplay the option of using regulatory measures to achieve these goals, except to suggest that permit approvals should be facilitated for central city and in-fill projects.

Smart growth inevitably calls for regional decision making, perhaps its most controversial feature. It is exemplified by several frequently-cited experiments throughout the nation:

- **Maryland** has enacted a statewide smart growth plan that targets state capital investments to encourage location of development in existing urban areas and preservation of agricultural land.
- **Tennessee** requires counties to define

growth boundaries for all their municipalities.

- **New Jersey** established a State Planning Commission to prepare a statewide development and redevelopment plan. The plan includes a statewide map, which is advisory to local governments, that designates development, redevelopment, and conservation areas.
- **Minneapolis/St. Paul** formed a Metropolitan Council in 1967 to plan regional infrastructure development and establish a metropolitan urban services area, which limited the point to which infrastructure could be extended in the metropolitan region.
- **Portland, Oregon** established a Metropolitan Planning Commission in 1957, a multi-purpose Metropolitan Service District in 1975, and an urban growth boundary in 1979. Combined, these actions have resulted in comprehensive policies for development densities and transportation standards for the three-county region. All city plans in the region must comply with the policies.
- **Chicago** created an independent nonprofit agency, the Metropolitan Planning Council, which promotes regional cooperation on planning decisions and is pursuing an incentive-based strategy to encourage compact development.

## The Effects of Sprawl

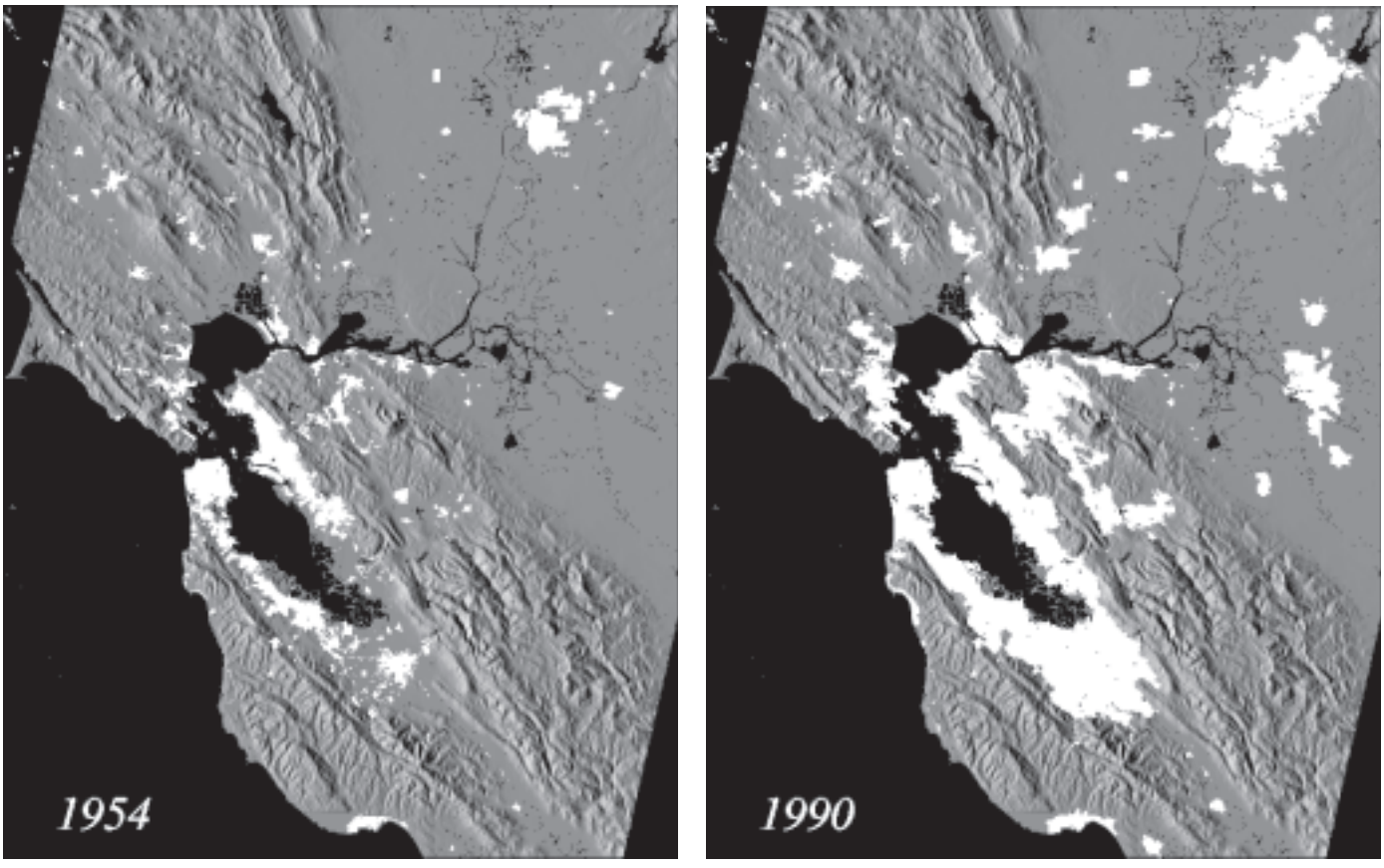
As sprawl consumes more land, it also creates other environmental and livability problems. Citing a variety of discrete information sources in its testimony before the Commission, the California Futures Network, an Oakland-based coalition of more than fifty organizations representing social, economic, environmental, and community interests, itemized the following impacts of leapfrog suburbanization and low-density development:

- Thirty-two percent of California's native plant species are "at risk" from development (Nature Conservancy).
- Over the past two centuries, 95 percent of California's original wetlands have been

Fig. 6-2

**Comparative sprawl in the Bay Area and Central Valley, 1954 and 1990**

Courtesy: Bay Area Greenbelt Alliance



destroyed (Bank of America, et al, *Beyond Sprawl: New Patterns of Growth to fit the New California*).

- About 16 percent of the oak woodlands in the Western foothills of the Sierra Nevada have been lost in the past 40 years, endangering several other species (Sierra Nevada Ecosystem Project, Institute for Ecological Health).
- Five to 10 percent of California's urban areas, some 250,000 to 520,000 acres, are "brownfields" suffering from toxic contamination (*Beyond Sprawl*).
- All of California's major metropolitan regions are classified as non-attainment areas for air pollutants, exposing more than 80 percent of the population to unhealthy air.
- Due to declining water quality and water availability, 42 percent of freshwater fish species have been identified as "at risk" (Nature Conservancy).
- In Southern California in 1997, there were more than 750 beach closings due to the inability of sewage treatment facilities to process adequately the region's waste (Natural Resources Defense Council).

*Eight of the nine leading agricultural counties in the United States are in California.*

Other problems have been cited, as well. These include the wide physical separation of affordable housing from major job centers, increased expense in provision of infrastructure to far-flung areas, increased consumption of water for suburban uses such as landscape maintenance, the loss of open-space, and infringement upon agricultural lands. This latter issue has received wide-spread attention in California because of the importance of agriculture to California's economy and its historic place in California's culture.

## Loss of Agricultural Lands

Although several others could justify a claim, the title of "California's leading industry" has traditionally been conferred upon agriculture. The 1997 Census of Agriculture lists the direct value of California's agricultural production as $23 billion. The California Department of Food and Agriculture estimates that the total value of the agriculture industry, including production and related economic activity, exceeds $100 billion, or nearly 10% of the State's economy. Eight of the nine leading agricultural counties in the United States are in California.

Fig. 6-3

**Agricultural Production of California Counties**

| County | Market Value of Agricultural Products Sold (1997) | Rank Among U.S. Counties |
|---|---|---|
| **Fresno** | $2,772,785,000 | 1 |
| **Kern** | $1,968,513,000 | 2 |
| **Tulare** | $1,921,381,000 | 3 |
| **Monterey** | $1,749,747,000 | 4 |
| **Merced** | $1,273,475,000 | 6 |
| **Stanislaus** | $1,208,524,000 | 7 |
| **San Joaquin** | $1,179,706,000 | 8 |
| **Riverside** | $1,047,525,000 | 9 |

SOURCE: U.S. Department of Agriculture, National Agricultural Statistics Service, *1997 Census of Agriculture*, May 1999.

This underscores what is perhaps the most far-reaching effect of suburban sprawl, the permanent loss of productive agricultural lands. The other effects of sprawl — air pollution, traffic, housing costs — can conceivably be remedied through investment in infrastructure and technological breakthroughs. Paving over farmland, however, results in an irreversible loss. And it has been occurring at a steady pace, as illustrated in Figure 6-6.

The loss of farmland has been a special concern in California's Central Valley. A lack of housing availability in the Bay Area and Silicon Valley and the relatively low cost of agricultural land has contributed to expansion of suburban growth into the heart of California's most productive farming region. Growth pressure is also being felt in Fresno, Bakersfield, and throughout the southern San

Fig. 6-4

**Projected Urban Sprawl in the Central Valley in 2040**

SOURCE: American Farmland Trust, *Alternatives for Future Urban Growth in California's Central Valley: the Bottom Line for Agriculture and Taxpayers*, 1995.

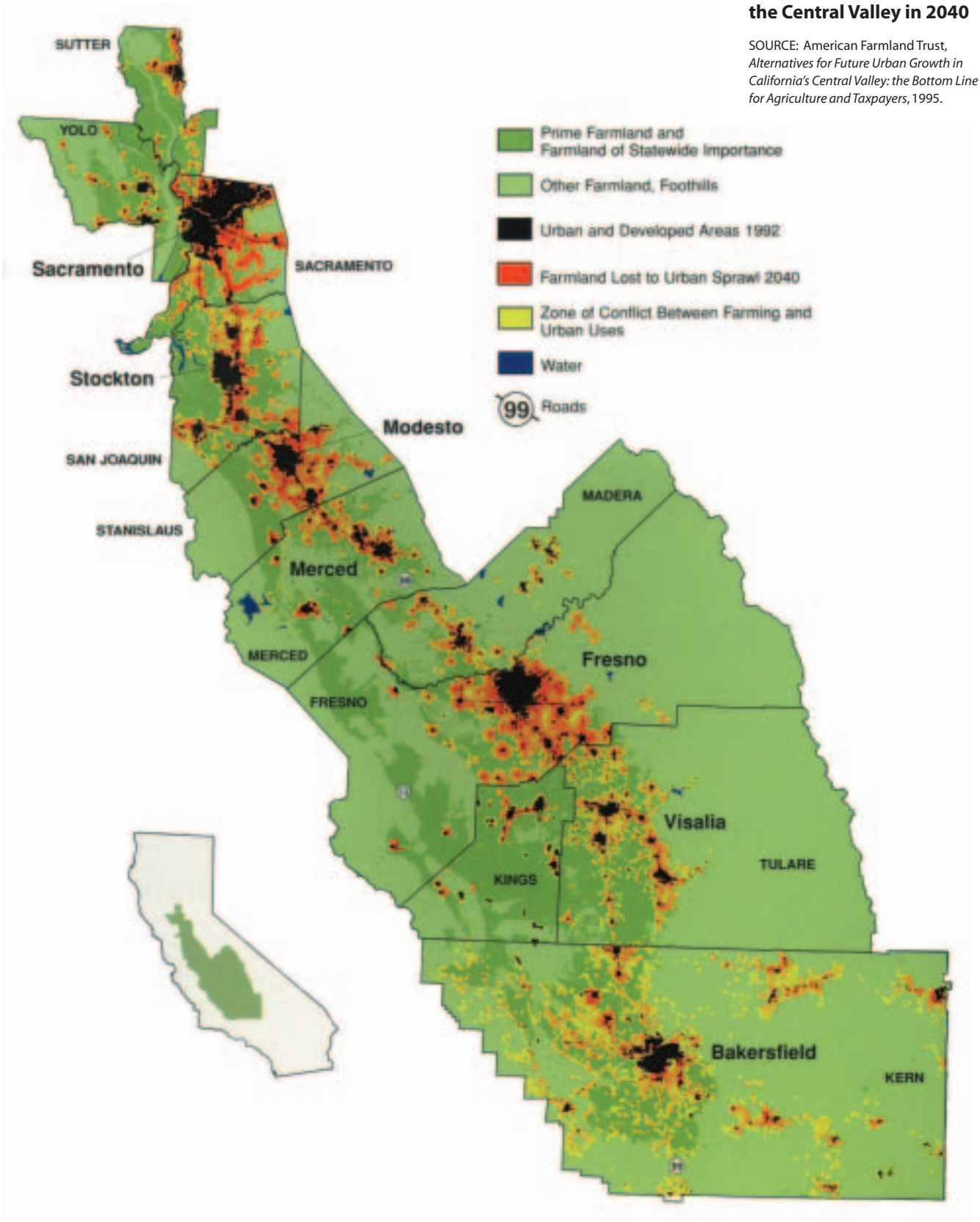


Fig. 6-5

**Alternative Compact Growth Model for the Central Valley in 2040**

SOURCE: American Farmland Trust, *Alternatives for Future Urban Growth in California's Central Valley: the Bottom Line for Agriculture and Taxpayers*, 1995.

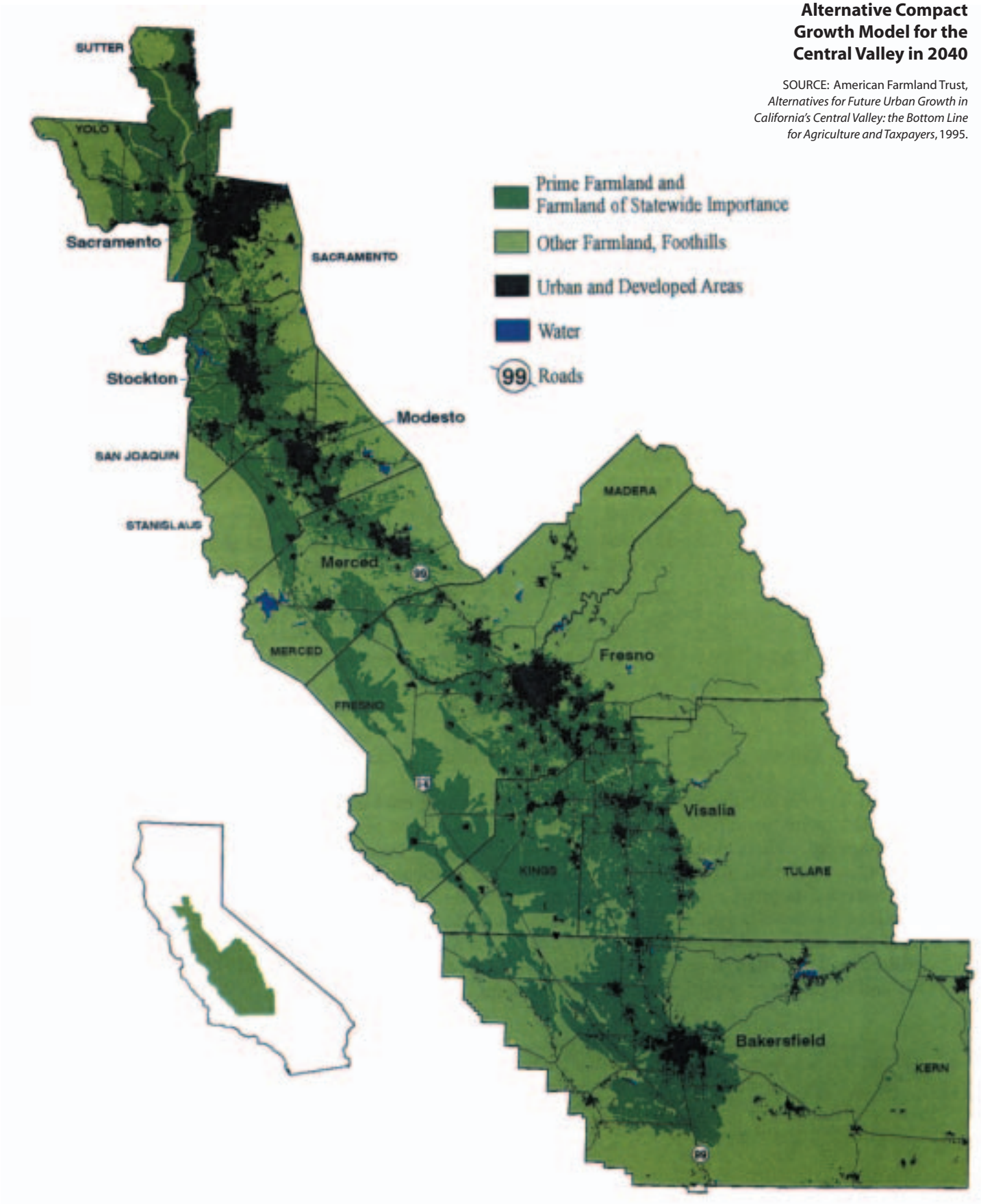


Fig. 6-6

**California Farmland**

| Year | Acres in Farms & Ranches | Percent of Total Land Area |
|---|---|---|
| **1964** | 37,012,000 | 36.9% |
| **1969** | 35,328,000 | 35.3% |
| **1974** | 33,386,000 | 33.4% |
| **1978** | 32,727,000 | 32.7% |
| **1982** | 32,157,000 | 32.1% |
| **1987** | 30,598,000 | 30.6% |
| **1992** | 28,979,000 | 29.0% |

SOURCE: U.S. Department of Commerce, Bureau of the Census, *Census of Agriculture*, various years.

Joaquin Valley. The American Farmland Trust (AFT), a national, nonprofit organization working to stop the loss of productive farmland, has devised urban growth models for the Central Valley in 2040, based upon probable future land use patterns under various assumptions, for comparison with current urban development. This comparative model indicates, in Figure 6-4, farmlands likely to be lost to urban sprawl if current development patterns continue, and includes delineation of a potential "zone of conflict" where agricultural productivity suffers because of conflicts with suburban development. This is compared to a "compact growth" scenario in Figure 6-5. The AFT estimates that by 2040, current development patterns will result in the loss of 1 million acres of farmland in the Central Valley and another 2.5 million acres that would fall into zones of conflict. More compact growth patterns, on the other hand, could reduce the farmland loss to less than 500,000 acres and cut the zones of conflict by 38%.

Several State programs have been enacted in an effort to preserve agricultural and open-space lands. Most of the programs, like the Farmland Mapping and Monitoring Program in the Department of Conservation, are designed to provide information or technical assistance that will indirectly benefit preservation of the resources. At least three major State programs, however, directly support preservation. These are:

1. The Williamson Act, passed in 1965 as the California Land Conservation Act, provides subventions to local governments that enter into voluntary contracts with land owners to restrict such property to agricultural or open-space uses by reducing the owner's property tax burden.
2. Several Fish and Game Code provisions promote cooperation with developers to protect wildlife habitat and significant natural areas by allowing exchanges of development rights. For example, under the Natural Community Conservation Planning Act, a conservation plan is prepared for an area that sets aside land for habitat purposes and permits appropriate development on the remainder of the property.
3. Conservation easements, authorized under various sections of State code, are a means of restricting use of open-space or agricultural lands. The easements generally take the form of a deed limitation and are purchased by the government entity from the property owner. The purpose of such an easement, which typically is recorded and is binding upon successive owners, is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition. The last State program that provided significant funding for the purchase of agricultural easements was financed through Proposition 70, the $776 million California Wildlife, Coastal and Park Land Conservation Bond Act approved by the voters in 1988. A small portion of the funds were available to local governments for purchasing conservation easements.

Today, many California LAFCOs are placing a high value on preserving prime agricultural lands and open space, often with controversial results. The Commission's survey of LAFCOs found that most have

*Many California LAFCOs are placing a high value on preserving prime agricultural lands and open space, often with controversial results.*

*The commission encourages all LAFCOs to adopt strong policies regarding conversion of agricultural and open-space lands.*

agricultural or open-space policies, though the nature and rigor of the policies vary greatly. Napa LAFCO prohibits inclusion of agricultural land in a sphere of influence unless a city makes a compelling argument and discourages any urban development outside designated urban areas. The Monterey LAFCO has convened a City Centered Growth Task Force of cities and the county to develop a joint plan for preserving farmland by channeling growth to cities and guiding the direction of city expansion. Ventura LAFCO has established a similar agricultural policy working group of "stakeholders" in long-term survival of the agricultural industry. In one of the most interesting innovations, Yolo County LAFCO has developed a Land Evaluation and Site Assessment Model, which scores boundary change proposals to provide quantitative assistance to decision making.

The Commission finds these efforts commendable and encourages all LAFCOs to adopt strong policies regarding conversion of agricultural and open-space lands. To emphasize the importance of preserving agricultural and open-space lands, the Commission previously recommended (in Chapter 3), that the statutory admonitions be more clearly stated in the overall legislative and LAFCO intent sections, GC §56001 and §56301. In addition, the Commission believes that the definition of prime agricultural land, which receives deferential attention by LAFCO under various provisions of the Cortese-Knox Act, should be revised and clarified.

**RECOMMENDATION 6-1**
**The Commission recommends that the definition in GC §56064 of "prime agricultural land" be amended to add clarity and permit the designation of lands of local economic significance.**

The revised definition, described in detail in Appendix C, should include a qualification that the land meets the prime agricultural standard if irrigation is reasonably feasible and it is rated as class I or class II in the Natural Resource Service land use capability classification. The definition should also update the economic criteria required for such classification and provide an "escalator" provision, and should provide for designation by LAFCO of agricultural land of local economic significance based upon the record and after a public hearing. This will allow implementation of stronger measures to protect local agricultural industries, such as grazing or low margin crops, even if they do not meet a strict statewide definition. To avert unwarranted banking of land that might otherwise be appropriate for suburban expansion, findings should be required at a public hearing to support such designation. These provisions will not only improve the ability to protect key resources, but will also create greater certainty as to the classification of lands for agricultural purposes.

With a clearer definition of prime agricultural lands, the Commission believes that LAFCOs should strengthen their resolve to protect this important resource. Similar to the approach taken by some individual LAFCOs, all LAFCOs in California should have agricultural land protection policies and should not approve proposals that could lead to development of prime lands if alternatives are available.

**RECOMMENDATION 6-2**
**The Commission recommends that an additional policy and priority be included in GC §56377, providing that LAFCOs shall not approve a project that might lead to development of prime agricultural lands or open-space lands if there are other feasible alternatives to the proposal.**

Inevitably, this will mean that LAFCOs must request information on in-fill prospects and density options when cities or special districts submit applications for annexations. LAFCOs should also develop inventories of lands and potential development patterns to make informed decisions, and will need to define the location of prime agricultural lands within their jurisdictions.



Fig. 6-7

Artichokes thrive in the microclimate and soils unique to California's coastal agricultural region

Staff photo

## Popular Response to Sprawl

Sprawl is becoming a visible and contentious issue throughout California. Dozens of California communities have considered slow-growth initiatives in recent years. The most common type of measure, adopted by voters in numerous communities, has been enactment of an "urban limit line" or "urban growth boundary." This is an artificial border drawn within the jurisdiction to limit urban growth only to those areas within the confines. More extreme measures in Livermore, Pleasanton, and San Ramon were defeated in November 1999, albeit by narrow margins in some areas. These measures would have required submittal to voter approval of even moderately-sized new development proposals.

Urban limit lines are understandably controversial. Properly drawn, they can be very useful for protecting irreplaceable resources. Inappropriately implemented, however, they may sometimes lead to exclusionary policies that simply push development elsewhere and may actually hinder efforts to promote more compact growth. The Commission has not taken a blanket position on any specific local growth policies. It is appropriate for local governments to consider and plan for the effects of growth, but this planning should be done in concert with other jurisdictions within the region.

In response to their voters, many jurisdictions have adopted or are considering ordinances to regulate development. Some 95 jurisdictions have adopted urban limit lines or urban growth boundaries, either by ordinance or voter initiative; 49 cities and 6 counties have included a growth management element in their general plans; 75 cities and counties have adopted "sustainable development" policies. Many people are looking to LAFCO to help control sprawl. In Contra Costa County, where an urban limit line was established by county voters in 1990, LAFCO has adopted a policy not to approve any annexations outside the line. Ventura LAFCO has similarly vowed to honor voter approved urban limit lines in that county, while noting that the voter-adopted lines would actually allow more urban development than the existing LAFCO spheres of influence.

A locally adopted urban limit line, the meaning of which the Commission believes should be defined in State statute, is not binding upon LAFCO, even if implemented by the voters. This is because LAFCO authority is established by State law, which takes precedence over a local ordinance. While the Commission neither supports nor opposes urban limit lines and similar measures, it feels that each LAFCO should recognize the existence of any such measures and consider them at the time that it takes action on an application that is affected by the growth policy. Other regional growth goals or policies that have been established by a collaboration

*The central purposes for establishing LAFCOs — prevention of sprawl and preservation of agricultural and open-space lands — require consideration of potential land uses when decisions are made.*

of elected officials formally representing their local jurisdictions should be similarly recognized by LAFCO. Such acknowledgement will help to encourage local officials to consider regional approaches to complex planning and growth issues.

**RECOMMENDATION 6-3**
**The Commission recommends that a new definition be added to the Cortese-Knox Act for the term "urban limit line."**

**RECOMMENDATION 6-4**
**The Commission recommends adding additional factors to be considered by LAFCO in GC §56841 to include the existence of an established urban limit line, alternative locations which could accommodate a proposal, and regional growth goals and policies already established by elected officials.**

## LAFCO As an Agent for Supporting Change

The Commission has recommended measures in Chapter 3 to strengthen LAFCO powers and make the commissions more independent and representative of the full range of local government service providers in the region. Following these reforms, LAFCOs will be in a better position to credibly address issues concerning growth and sprawl. This is an appropriate role for LAFCO, as the only body established at an intermediate level between the State and individual local governments that is empowered by the State to look at broad future planning concerns. LAFCO's vantage point derives from its general oversight over establishing boundaries and approving extensions of government services. LAFCO currently exercises this authority through review and approval of actions in three areas, and the Commission proposes a fourth and fifth:

1. incorporations and annexations;
2. spheres of influence;
3. extensions of service outside existing boundaries;
4. periodic service reviews (proposed); and
5. extensions of backbone infrastructure (proposed).

The Commission does not propose that LAFCO assume a direct role in land use planning. This clearly is not the intent of the Legislature, nor is it appropriate for any local jurisdiction except cities and counties. It should nevertheless be recognized that decisions regarding boundaries and provision of urban services clearly have land use implications. The central purposes for establishing LAFCOs — prevention of sprawl and preservation of agricultural and open-space lands — require consideration of potential land uses when decisions are made.

### Annexations and Incorporations

LAFCO responsibilities in the important areas of annexations and new incorporations are discussed in Chapter 4. As recommended by the Commission, annexation procedures should be clarified and made more consistent. In addition, LAFCOs should consider various factors, including urban limit lines, existence of prime agricultural lands, and open-space needs, when considering annexations and new incorporations. Traditionally, city boundaries defined the limits of urban development, and expanding those boundaries indicated an extension of urbanization. LAFCOs can best support this notion, and thereby regulate the directions of growth, by confining city annexations and new incorporations to those areas that logically should become urbanized within a reasonable timeframe. Generally speaking, these would not include prime agricultural areas or open spaces needed as permanent buffers or for protection of resources, public health and safety, outdoor recreation, or other recognized regional purposes.

### Spheres of Influence

Spheres of influence are LAFCO designations of the probable future physical boundary and service area of a city or special district. A sphere should designate the area that the agency will annex in the foreseeable future. Many LAFCOs use the time horizon in

a city's general plan, often 15 to 25 years, for the sphere designations. The Local Government Reorganization Act requires LAFCOs to prepare a written statement of determinations on the following factors when determining spheres of influence:

- The area's present and planned land uses;
- The area's present and probable future need for public facilities and services;
- The agency's present capacity of public facilities and adequacy of public services provided; and
- The existence of any social or economic communities of interest in the area.

The Legislature first required LAFCOs to adopt spheres in response to criticism that LAFCOs were making boundary decisions without the guidance of long-range goals. The initial statutory mandate, in 1971, imposed no deadline for completing initial sphere designations. When most LAFCOs failed to act, legislation was enacted in 1984 requiring all LAFCOs to establish spheres of influence by 1985, a deadline which was met. However, many of the sphere boundaries were set with little analytical basis and only 30 LAFCOs have since completed comprehensive studies to update their spheres.

The Commission believes that carefully considered, up-to-date spheres of influence determinations are critical to LAFCO's responsibility to assure orderly growth and development and prevent sprawl within their jurisdictions. As stated in testimony to the Commission by Holly A. King of the Great Valley Center,

> "... Boundary and sphere of influence designations are the local government issues that have the most potential to allow us to realize the vision of successfully accommodating growth without sacrificing valuable resources or community character."

The Commission agrees that local agencies and communities should be able to rely upon spheres of influence as a dependable guide to future growth. Spheres should not be routinely updated as a component of a previously unforeseen annexation request from a local agency, as is often the case today. Meaningful spheres will not be possible unless they are regularly updated based upon comprehensive studies and they incorporate actual and projected information on trends in growth and development, service capacities, and public preferences.

**RECOMMENDATION 6-5**
**The Commission recommends that LAFCO be required to update spheres of influence at least every five years. Procedures for updating spheres should be the same as those for adopting spheres, with regard to public notice and hearing requirements.**

Sphere updates should follow adequate notification to the public and to affected agencies, and should consider all views expressed at a public hearing, as well as information obtained through detailed analytical studies. LAFCOs should initiate their own sphere studies, in addition to reacting to requests from local agencies for reconsideration of sphere boundaries.

*Up-to-date spheres of influence determinations are critical to LAFCO's responsibility to assure orderly growth and development and prevent sprawl.*

## Extensions of Service Outside Existing Boundaries

Another power available to LAFCOs to guide growth within their regions is the review of requests by cities or special districts to provide new or extended services outside their jurisdictional boundaries. Under authority of GC §56133, any contract or agreement to provide service outside jurisdictional bounds is subject to approval of LAFCO. There are three exceptions to this requirement to obtain LAFCO approval for such a service extension:

1. LAFCO approval is not required if the service extension solely involves two or more public agencies.
2. LAFCO approval is not required for contracts to transfer nonpotable or nontreated water.
3. LAFCO approval is not required if the project solely involves the provision of surplus water to agricultural lands for projects that serve conservation purposes or that directly support agricultural industries.

Requests to extend service are usually non-controversial and often involve only provision of nonpotable water to an isolated

*A service review would encompass a comprehensive study of each identifiable public service provided by counties, special districts, and cities in the region.*

field or facility that otherwise would have no service. Consequently, the Commission believes that the second and third enumerated exemptions in GC §56133 generally do not pose a threat of promoting sprawl, since they do not contemplate transfer of drinking water. However, the Commission is concerned about the first exemption — that applying to projects involving only public agencies — and recommends that this exemption be removed.

Public agency projects, especially those involving institutional facilities, often have growth implications that should be considered by LAFCO. One instance in which a service extension may involve only public agencies, but may nevertheless be growth-inducing and may impact the orderly extension of public services generally, occurs when a new school site is proposed on agricultural lands or open-space lands. Generally speaking, a city or special district must extend service to the site to enable development of the school. Currently, LAFCO has no authority to review such extension.

Bill Engels, Chairman of San Luis Obispo LAFCO, recounted for the Commission a specific instance regarding a school district's advocacy of an application to LAFCO to annex a non-contiguous, agriculturally-zoned parcel to a special district for water and sewer service. The ultimate beneficiary of the annexation was to be a new school site. "LAFCO denied the proposal, but the school district built the school anyway with the approval of the State Architect's Office and an outside user agreement. Two public agencies do not need LAFCO approval to contract and provide services."

A similarly complicated situation exists in Santa Clara County, where the Morgan Hill School District received a donation of land to build a new high school. The site, however, is located within a permanently dedicated greenbelt area within the adjoining City of San Jose. To take advantage of existing proximate facilities and capacity, water and sewer services would have to come from the City of Morgan Hill, which by law cannot provide services without San Jose's approval. LAFCO is not involved because the interested party is a school district and the service extension, if agreed to, would be between public agencies. Although in this case the land donation was from a private individual who sought no gain, anecdotal evidence suggests that developers, knowing that school districts are exempt from land use controls, will sometimes donate land to school districts to induce development of land that is zoned for agricultural or open space uses.

**RECOMMENDATION 6-6**
**The Commission recommends that any extension of services for a public agency proposal (including service to a new school site) outside a city or special district be subject to LAFCO review under GC §56133, in the same manner as an extension of services under contract to a private party would be subject to LAFCO review.**

## Periodic Service Reviews

Among the most fundamental purposes of LAFCO iterated in GC §56001, §56300, and §56301 are to "encourage orderly growth", provide "… planned, well-ordered, efficient urban development patterns …", and "… advantageously provide for the present and future needs of each county and its communities." These directives imply that each LAFCO has 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 service reviews. LAFCOs could conduct such reviews prior to or in conjunction with amendments to spheres of influence. A service review would encompass a comprehensive study of each identifiable public service provided by counties, special districts, and 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.

**RECOMMENDATION 6-7**
**The Commission recommends that LAFCOs be required to periodically initiate service reviews of services provided within the county. A service review is defined as an independent county-wide or sub-regional, as appropriate to the service, review by LAFCO of public services offered by various local governments. The review should be done in conjunction with any update of spheres of influence. A service review should not replace designations and updates of spheres of influence, but should be conducted in the establishment or amendment of any spheres. It is the intent of the Commission that this function be considered a state mandate because of the benefits for achieving a logical extension of local services to meet California's future growth and development.**

These reviews would examine, on a regional or sub-regional basis, the adequacy and future needs for various "municipal services." Services studied would include, but not be limited to, water supply, sewers, and wastewater treatment services, sanitary waste collection (garbage), and other services the LAFCO judges to be important to future growth. Service reviews should be designed to determine the following:

- Infrastructure needs/deficiencies
- Growth and population projections
- Financing constraints and opportunities
- Cost avoidance opportunities
- Opportunities for rate restructuring
- Opportunities for shared facilities
- Government structure options
- Evaluation of management efficiencies
- Local accountability and governance

The information obtained would be applicable to spheres of influence studies and to consolidation studies. The addition of this new requirement to the Act, along with other new duties and expenses for LAFCOs, may ultimately result in a determination that such provisions impose state mandated costs. The Commission believes that, in light of the State's responsibility to meet the demands of California's inevitable future growth, the investment in establishing a rational system for ensuring service provision is a reasonable one. Consequently, the State should provide funds to LAFCOs sufficient to conduct the recommended service reviews and other special studies affecting regional governance.

## Extensions of "Backbone" Infrastructure

Not all new development in California occurs in cities or existing built-up communities within the unincorporated areas of a county. A controversial issue among advocates for planned growth is the occasional appearance of a proposal for an entirely new community to spring up in unincorporated territory separated from any existing developed areas. "New community" developments may sometimes be very appropriate and well-planned, leading growth in a direction desirable for the region. Sometimes, however, they have less beneficial results. Besides consuming agricultural or open-space land, these developments often prove to be a tentacle that ultimately results in suburban development filling the entire gap between existing urban areas and the new subdivision. Because such developments frequently do not require boundary changes, they do not come before LAFCO for a broad regional governance review.

The Commission believes that more coordinated, better decision making would result if more thorough review is initiated before any extension of major public works "backbone" infrastructure (e.g., water, sewer, or roads) is approved. Any proposal to extend such infrastructure, or a decision that will

*Not all new development in California occurs in cities or existing built-up communities*

*A proposal to extend infrastructure should be subject to LAFCO review to identify proposals which have the potential for inducing sprawl*

allow another party to extend such infrastructure, or a decision to approve development which will require an extension of such infrastructure, should be subject to LAFCO review. The intent is to identify proposals which have the potential for causing significant effects on the orderly extension of governmental services or for inducing sprawl. Consequently, a minimum size threshold should be imposed to avoid referring minor projects unlikely to have such effects to LAFCO. In addition, a provision must be made for cumulative projects that, combined, would exceed the threshold. As an initial proposal for defining the threshold, the Commission has modified existing criteria which identify a project of statewide, regional, or areawide significance in Section 15206 of the *CEQA Guidelines*. The Commission's proposed criteria are as follows:

1. A proposed residential development of more than 500 dwelling units.
2. A proposed shopping center or business establishment employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space.
3. A proposed commercial office building or buildings employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space.
4. A proposed hotel/motel development of more than 500 rooms.
5. A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor space.
6. A proposed institutional use for public or private purposes which would satisfy the equivalent of any of the above numerical criteria.
7. A proposed mixed use development for public or private purposes which would satisfy the equivalent of any of the above numerical criteria.

Three types of actions could comprise LAFCO approval of a proposal meeting these criteria, depending upon the level of government proposing the service extension:

1. For a city, the legislative body could be required to make a finding of consistency with the city's general plan, similar to the finding that would be made for a zoning change. This finding could be subject to LAFCO review and concurrence.
2. For a special district, a new or amended sphere of influence could be proposed under current law, or a "community growth plan," described below, if the proposed extension is already within existing service boundaries and is not subject to a county action.
3. For a county unincorporated area, the county could propose a "community growth plan" for the affected area, using criteria similar to those used for LAFCO review of spheres of influence in GC §56425. The community growth plan should be subject to LAFCO hearings, review, and approval.

**RECOMMENDATION 6-8**

**The Commission recommends that LAFCO approval be required for extension of major "backbone" (i.e., water, sewer, wastewater, or roads) infrastructure to previously undeveloped or underdeveloped areas, either in an incorporated or an unincorporated area. LAFCO should review and approve a finding of general plan consistency for such a proposal in a city. In an unincorporated area, it should approve a special district sphere of influence amendment or a newly-defined "community growth plan" if the area is an unincorporated community. Specific criteria should be established to define an area requiring such approval.**

The "community growth plan" is a new concept, so many details must be worked out. Proposed statutory language to be added to the Cortese-Knox Act is included in Appendix C, and amendments may also be needed to State planning and zoning law. Presumably, LAFCO will view growth within an existing defined unincorporated community, which is the primary source of new cities in California, more favorably than creation of an entirely new suburban enclave. This proposal could, on the other hand, help stem the speculative tendency for developers to buy cheap farm or grazing land for the purpose of subdividing it

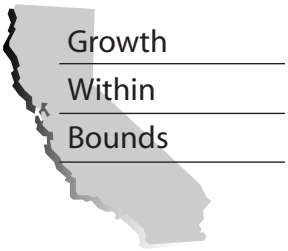
into ranchettes or far-flung suburbs. Ultimately, the cost of such development is borne by the taxpayers who are unable to enjoy the benefits of the suburb, through the cost of improving or extending roads and other infrastructure to the new development and through the loss of unencumbered open space.

## Conclusion

LAFCOs presently have a very limited role in planning for the growth that California will face in the 21st Century and constrained ability to curb sprawl. The Commission believes that this must change. LAFCOs should work with councils of government, transportation authorities, regional environmental agencies, school districts, public-private sector planning coalitions, individual cities and counties, and others having a role in determining the vision for the future of California's counties and regions. Because of the unique role of LAFCO as the State's only true regional growth agent, it should be an integral participant in all regional growth and planning forums. With the new powers and responsibilities recommended by the Commission, local and regional planners will find it is desirable to have LAFCO at the table.

CHAPTER SEVEN

# Reform of Local Government




When Californians demand a solution to a government problem, the response is often to create a study commission. Judging by the number of task groups created recently, local government must, indeed, be in a state of crisis. No fewer than 10 commissions, task forces, and project teams have been formed since 1998 to make recommendations for solving a myriad of public policy problems relating to the purposes, structure, and objectives of state and local government. Among these are the following:

- **Commission on Local Governance for the 21st Century** – Heading the only project established by legislation, this commission is charged with recommending revisions to laws regulating local government boundaries, and other related governance issues.
- **Speaker's Commission on State-Local Government Finance** – Established by Assembly Speaker Antonio Villaraigosa, the mission is to recommend changes that will enhance community power over the financing and delivery of local services, including schools.
- **California Governance Consensus Project** – Formed as a broad based coalition representing government, higher education, businesses, and public interest groups, this independent consortium is interested in state/local fiscal reform.
- **State Controller's State Municipal Advisory Reform Team (SMART)** – The Team was formed to collaborate on rational land use policies to stimulate local revenues and structural changes to improve resource delivery to local governments.
- **State Treasurer's Smart Investments Initiative** – This effort was initiated for the purpose of targeting state capital investment programs in directions that promote "smart growth."
- **Local Finance Forum of the Senate Budget & Fiscal Review Committee** – The purpose of the Committee forum is to develop a consensus proposal for reform of local finance and infrastructure funding.
- **Commission on Building for the 21st Century** – Appointed by Governor Davis, the mission is to identify critical infrastructure needs and develop a comprehensive long-term capital investment plan.
- **Working Group on Transportation Investment** – Initially formed by the President Pro-tem of the Senate, the group is tasked to develop a major legislative proposal on infrastructure and transportation financing, which may include changing the voting requirements on local taxes.
- **State Housing Task Force** – Appointed by Governor Davis, this group is charged with developing plans for improving housing affordability.
- **California 2000 Project** – Sponsored by the James Irvine and William and Flora Hewlett Foundations, this collaboration was established to support policy research and public education on fiscal, governance and land use issues in California.

*Judging by the number of task groups created recently, local government must be in a state of crisis.*

In addition, numerous government, business, and non-profit public interest organizations have joined the governance bandwagon. While there may be a perception that this is duplicative and overly-zealous, in fact, it is a sign that public policy is awakening to the reality of growth and the long-standing problems of state-local relations. Like hurricanes, public policy shifts rarely appear without warning. They are preceded by debate and attempts to focus widespread attention on an issue. The change occurs

*The Commission believes that there is an immediate and urgent need to examine the structure of governance in California.*

when the problem attains meaning to the everyday lives of citizens and leaders are convinced that there is public support and interest in change.

It is apparent that the opinion leaders involved with the various government reform efforts are convinced that change is needed. But have they succeeded in persuading the public? Surveys by public opinion pollsters like PPIC seem to indicate that the populace has not reached the point of demanding change. In fact, in light of the strong economy, people seem pretty content with their current governmental structures.

The Commission is convinced that there are fundamental flaws in California governance that do not lend themselves to simple fixes. They are at the heart of many of the frustrations felt by people who try to deal with their government. Responsibilities of the State, cities, counties, and special districts are often blurred and no one is singularly accountable. Many cities, counties, and special districts are "wrong-sized" — too large, too small, too remote, or too confined — to deal with the issues they are expected to resolve. Governments often do not communicate. School districts, in particular, may view their role apart from the objectives of general purpose local governments. The Commission believes that there is an immediate and urgent need to examine the structure of governance in California and to recommend changes. The Commission had hoped to undertake such an evaluation as part of its charge, but, with 16 months of hearings and deliberations to fully examine local government reorganization law, it simply ran out of time to expand its efforts.

**RECOMMENDATION 7-1**
**The Commission recommends that the Legislature establish a task force to identify needed or recommended structural changes in California state and local governance to improve government accountability, representativeness, efficiency, and effectiveness in delivering public services and responding to broad-scale public needs, and to recommend statutory and constitutional changes, as appropriate.**

This should not be an academic study. It should comprehensively look at public service needs and capacities, areas where duplication may be present, opportunities for improved coordination, and the effects of projected growth. It should recommend specific restructuring, which might include consolidations, elimination of some agencies, or possibly entirely new organizational structures that would clearly delineate tiers of responsibility and accountability at the state, regional, and local levels.

## Governance and Growth in California

Problems with governance and coordination of services are heightened by growth pressures. As awareness of future growth projections increases, government leaders and the public at large will demand more comprehensive solutions and may look more seriously at government structural reform. Unlike in many other states, growth is clearly an issue in California's future.

West Virginia, for example, does not have a growth problem, at least not by Western States' standards. The Census Bureau projects that its population will increase by less than one percent between 1995 and 2025. It is unlikely, therefore, that its cities will face pressure to sprawl into the countryside, or that its schools will be overcrowded, or that air pollution will rise to intolerable levels. There is, of course, an opposing problem. West Virginia faces the challenge of avoiding stagnation, both economically and culturally. Its tax base is likely to shrink as the population ages, making it more difficult to replace aging infrastructure and housing stock. Fewer social and entertainment opportunities may open for its residents because of insufficient demand to support the investments. And it is unlikely that vast new employment centers will open in a region that faces a declining number of employable residents. In short, instead of facing growth, change, diversity, and opportunity, West Virginia's future may be quite constrained.

California's future is much different, and most would agree more enticing. Its population is growing rapidly and the state is

continually diversifying, creating a synergy that could lead to an ongoing economic boom. But California is at a critical juncture. The difference between a future of unbounded opportunity and expanding options and one marked by alienation and despair will be California's ability in the next few years to make substantial progress in dealing with several interrelated governance issues. These include protection of agricultural land and open space; controlling urban sprawl; balancing jobs and housing within sub-regions (and taking steps to make housing more affordable); relieving traffic snarls; renovating and expanding public infrastructure; meeting the varying demands for water delivery and quality; reducing air pollution; and adequately and equitably financing local public services. One of the most challenging demands will be bringing together all levels of government, including school districts, in the preparation of integrated approaches to guide California into the 21st Century. If California fails to show the resolve to tackle these issues, many employers and the state's most productive citizens will abandon it in search of new horizons.

Confronting these issues will require comprehensive growth planning and smart public investment decisions. To avoid Balkanization of plans, this effort must be initiated and the goals and general parameters set by the State. Ultimately, however, local governments, which determine land use and are closest to the people, must be the leaders in implementing the necessary reforms. Additionally, an intermediate level of authority between the state bureaucracy in Sacramento and individual local jurisdictions, is probably needed. Armed with clearer policies and new powers recommended by the Commission, LAFCO can play an important contributing role at this intermediate level.

A comprehensive approach to California's future will simultaneously consider all of the intertwined problem areas enumerated above. Attempting to address one or two in a vacuum will not contribute to a lasting solution and may, in fact, prove self-defeating. California must house 28 million additional residents in the next 40 years. Only the State can establish broad parameters to determine where and how this population should be accommodated and where population expansion should *not* occur. And only the State can establish a system of incentives to guide these directions. Without such leadership, the population will arrive nevertheless, but the cost of growth will be a permanent loss of open space, air quality, and the other amenities that have made California synonymous with excellence in quality of life.

In Chapter 6, approaches were discussed for dealing with urban sprawl, managing development, and preserving agricultural and open space lands, largely through the intervention of LAFCOs. Acting alone, LAFCOs do not have the ability to resolve all of California's growth issues. Nevertheless, as the State's only direct agents for steering growth at the regional or sub-regional level, their decisions should support overall state policies. LAFCO policies should consider various options for dealing with emergent planning issues that, according to public opinion polls, are growing concerns of California residents.

Recently, the PPIC surveyed Central Valley residents regarding their views and outlook for the future of the region likely to experience the most dramatic changes in the coming decades. Figure 7-1 (next page) indicates responses to the question: "What do you think is the most important public policy issue facing the Central Valley today?" The responses favored environmental and quality of life issues faced daily by general purpose local governments, although a substantial number of respondents were seemingly satisfied and did not identify a concern. This contrasts with statewide surveys asking a broader question regarding the most important issue facing the Governor and Legislature. The most frequent responses to the latter are education, crime, and immigration.

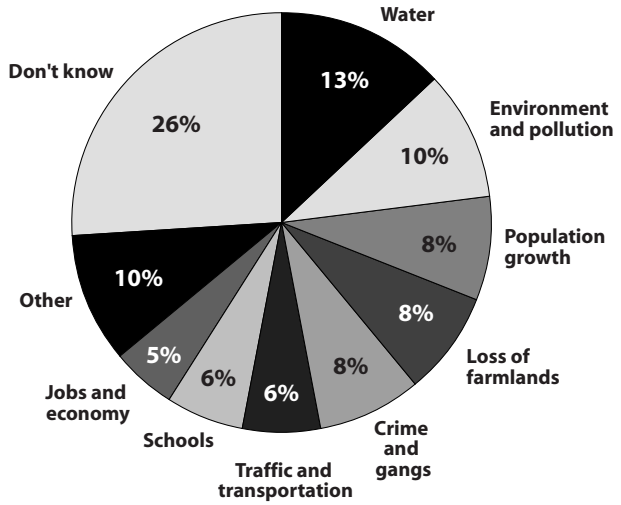
Local governments and LAFCOs must respond to citizen needs in these important policy areas that will become even more critical in light of future growth. Some of the issues of particular importance to residents, and possible LAFCO responses, are the following:

**Traffic and transportation.** Public opinion polls rate traffic and transportation among

*One of the most challenging demands will be bringing together all levels of government, including school districts, in the preparation of integrated approaches to guide California into the 21st Century.*

Fig. 7-1

**Public Policy Issues of Greatest Concern to Central Valley Residents**




SOURCE: Mark Baldassare, *Special Survey of the Central Valley*, Public Policy Institute of California, 1999

the top growth issues on the minds of the public. Two hour commute days are now common. As the population grows, this situation is likely to get worse. A wide range of ideas have been put forth to deal with the growing transportation crisis. These include new freeway construction, greater investment in transit, tying transit to development clusters, and new modes of commute vehicles.

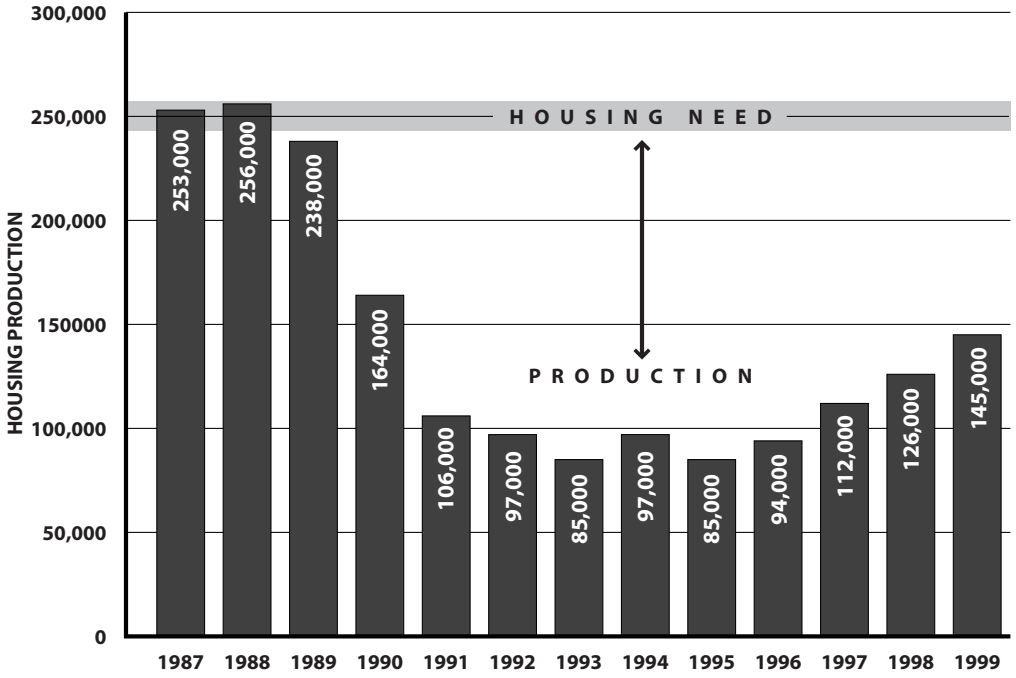
LAFCOs might consider the effects of a proposal on traffic and transportation when considering annexations and other potentially growth-inducing actions.

**Jobs/housing balance and affordability.** To an increasing extent, California is dividing into "jobs sub-regions" and "housing sub-regions" as housing prices in job-rich areas like the Silicon Valley and Orange County push their workers to distant locations — the Central Valley and the Inland Empire, for example — to live. The National Association of Homebuilders rates 7 California metropolitan areas among the 10 least affordable housing areas in the nation, and 15 among the top 25. No California community, on the other hand, is listed among the 25 most affordable areas. What's more, homebuilding is not keeping pace with job and population growth, especially in the most job rich regions, like the Silicon Valley. Figure 7-2 indicates the lag in housing production, compared to the level of construction needed, as estimated by the California Department of Finance, to keep up with housing demand. Although individual LAFCOs might help by considering the effects of jobs/housing balance in their decisions, a better solution is for multiple LAFCOs and local agencies to address this issue regionally.

Fig. 7-2

**California Housing Production Compared to Housing Need**

SOURCE: California Building Industry Association website, www.cbia.org, siting Construction Industry Research Board, 1999



**Public infrastructure.** The California Business Roundtable estimates public infrastructure needs to be $90 billion over the next 10 years. Although LAFCOs cannot directly authorize infrastructure construction, they should not permit annexations or other growth-inducing actions unless a plan is in place to ensure that infrastructure is available and maintained.

**Water supply and quality.** LAFCO actions, either individually or regionally, cannot produce additional water supplies and can have only limited effect on water quality. Therefore, LAFCOs should base their decisions on the assumption that a fixed supply of water is available from existing agencies, unless clear evidence is presented that additional supplies can be made available.

**Air pollution.** The primary capacity of LAFCOs to deal with air pollution problems is through examining the effects of proposals on traffic and transportation.

## Dealing with Larger-Than-Local Issues

All of the above problems are larger-than-local in nature. For the most part, no single jurisdiction can solve them. This raises the controversial question of the need for some sort of regional planning. Currently, LAFCOs, which have limited reach and powers and are specifically prohibited in GC §56375 from directly regulating land use, are the most empowered direct agents of State government for implementing growth planning directives. By clarifying mandatory and permissive LAFCO policies, the Legislature has a potentially effective means of influencing the spread of urbanization into undeveloped areas while still permitting local discretion over the ultimate land use and development decisions. Other existing regional mechanisms — councils of government (COGs) and regional transportation or environmental agencies — are less suitable to implementing broad state-directed land use policies. COGs have little formal authority while regional agencies are established for limited purposes.

The absence of a formal comprehensive regional planning mechanism has encouraged business, government, and community leaders in several areas to form coalitions to look at future governance and growth needs. The Joint Venture Silicon Valley Network has devised a *Silicon Valley 2010* plan to serve as a framework for resolving some of the problems faced by the region. The Great Valley Center and Valley Vision are actively promoting "regional thinking" for the Central Valley and Sacramento region, respectively. The Los Angeles Metropolitan Forum Project (MFP) is an independent, non-partisan effort to promote a government that is responsive to civic engagement, accountable, and encouraging of citizen participation. All of these organizations are engaged in the daily task of seeking consensus on critical regional planning issues.

While these regional coalitions have proved very effective in raising public awareness and interest in governance, they have no authority to implement their visions. Implementation falls uniquely into the realm of government. At least four options have been discussed for improving California's ability to deal with planning and governance problems regionally:

- Regional Government
- City-county consolidation
- Regional alliances
- Enhanced coordination among existing agencies

All of these options evoke some degree of

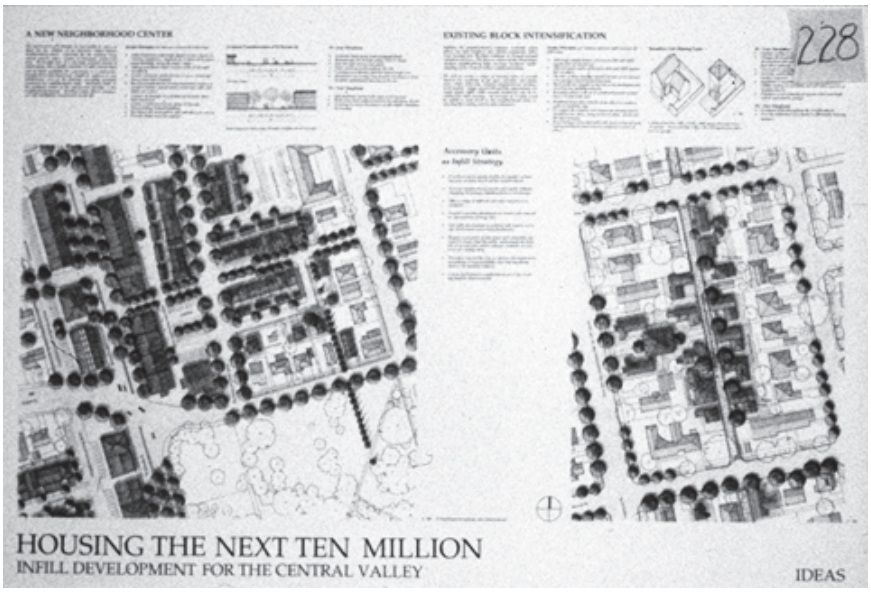



Fig. 7-3

The Great Valley Center recently held a design competition to promote ideas for housing future population growth in the Central Valley

Courtesy, The Great Valley Center, Dennis Hinrichs of San Rafael, Architect

*Perhaps the most acceptable and feasible regional option at the present time is to facilitate cooperation and planning consistency among local agencies reinforced through LAFCO policies.*

controversy. Californians have an inherent distaste for any semblance of big government. To the extent that people perceive governance changes to mean more government or more layers rather than greater efficiency and accountability, they will likely oppose them. Devising a balanced approach to regional planning that will fit each region individually is a task best left to another entity formed exclusively for that purpose, possibly the governance task group recommended by the Commission. The Commission does not propose any single specific solution for managing future growth. Nevertheless, a discussion of the options is in order.

## Regional Government

California already has significant regional government, albeit of a specialized nature. Air and water quality, transportation planning, solid waste management, and many other functions are formally charged to state-sanctioned regional authorities. However, comprehensive regional government — allowing a single agency to control several region-wide planning and land use functions, which might include transportation, water quality and supply, air quality, major facility siting, and possibly even broad land use determinations — has frequently been discussed by academics, but has never been implemented in California.

The two examples of this governance option most frequently cited are the Twin Cities Metropolitan Council in Minneapolis-St. Paul and the Portland, Oregon Tri-County Metropolitan Council. Although both are relatively weak as governing bodies, they have successfully coordinated many growth-related functions, such as sewers, transportation, airports, housing, parks, and open space. The most recent proposal to enact regional government throughout California came in 1990, when then-Speaker of the Assembly Willie Brown introduced legislation that would have created seven regional governing bodies in the State to handle land use planning, infrastructure planning, and development and siting of locally undesirable facilities. Although the bill received some notoriety, even the considerable clout of Speaker Brown was not sufficient to garner significant legislative support and eventually it died. Currently, Senator Steve Peace is considering legislation that would establish a San Diego Regional Infrastructure and Transportation Agency to take over many major regional planning and infrastructure functions in San Diego County.

## City-County Consolidation

In an effort to improve coordination or efficiency, city and county governments have been combined in several parts of the country. While most of the early consolidations — including the 1856 merger of the City and the County of San Francisco — were initiated by state legislatures, the more recent practice has been through popular vote. While consolidation movements were most popular between 1960 and 1970, there has been a recent resurgence in these types of reorganizations, especially in the South (see Figure 7-4).

City-county consolidations generally follow calls to eliminate service duplication, reduce costs, or simplify government. Most city-county consolidations comprise only partial reorganizations. In these instances, some existing services are excluded from the reorganization and continue to be performed by another unit of government. As with regional government, academics find the consolidation of responsibilities for a wide area attractive. Voters, however, have not usually found this form of government enticing. Nationwide since 1990, only 4 out of 17 attempts at consolidation have passed. Consolidation measures in Sacramento have been defeated twice, and proposals in San Diego and Stanislaus counties never reached the ballot.

## Regional Alliances

Creation of regional alliances, essentially expanding upon the public-private coalitions that have been formed in several regions by encouraging local governments to formalize them through joint powers agreements, has generated little interest in California, possibly because of the lack of incentive to engage in such cooperation. Councils of government

could form the nucleus of these alliances. Absent very strong public leadership to push local governments into an alliance, however, their viability seems suspect. Moreover, there is no assurance that local agencies would be willing to voluntarily cede any planning or land use powers to such entities, at least not without strong state incentives.

## Coordination of Existing Local Agencies

Perhaps the most acceptable and feasible regional option at the present time is to facilitate cooperation and planning consistency among local agencies. This would require establishing state goals and priorities that could be reinforced through LAFCO policies. A productive first step could be a State-initiated forum to discuss future planning and governance needs with representatives of local governments and to develop a program of incentives and inducements for cooperative planning.

Notably absent from many regional governance forums are public school officials. School districts often view their mission apart from that of the general governance structure of a community. School districts are exempt from local planning ordinances and LAFCO procedures. Yet, the decisions of school boards and administrators may have a considerable effect on the ability of local government officials to exercise planning controls and to meet the needs of their residents. Greater cooperation and closer communication among local governments and schools is essential to successful governance in the 21st Century. The current efforts of the CCS Partnership of cities, counties, and schools is an important first step, but additional incentives are needed to promote greater cooperation between local governments of all types on a regional basis.

**RECOMMENDATION 7-2**

**The Commission recommends that the State 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. State infrastructure financing programs should create incentives that further State growth planning goals and priorities, and all State policies,**

Fig. 7-4

**Successful City-County Consolidations**

| City/County Government | Type | Date |
|---|---|---|
| New Orleans-Orleans County, Louisiana | Legislative | 1805 |
| Boston-Suffolk County, Massachusetts | Legislative | 1821 |
| Nantucket Town, Nantucket County, Massachusetts | Legislative | 1821 |
| Philadelphia-Philadelphia County, Pennsylvania | Legislative | 1854 |
| New York-New York County, New York | Legislative | 1854 |
| **San Francisco-San Francisco County, California** | **Legislative** | **1856** |
| New York and Brooklyn-Queens and Richmond Counties, New York | Legislative | 1898 |
| Denver-Denver County, Colorado | Legislative | 1902 |
| Honolulu-Honolulu County, Hawaii | Legislative | 1907 |
| Baton Rouge-East Baton Rouge Parish, Louisiana | Referendum | 1947 |
| Hampton-Elizabeth City County, Virginia | Referendum | 1952 |
| Newport News-Warwick County, Virginia | Referendum | 1957 |
| Nashville-Davidson County, Tennessee (Previously defeated in 1958) | Referendum | 1962 |
| Virginia Beach-Princess Anne County, Virginia | Referendum | 1962 |
| South Norfolk-Norfolk County, Virginia | Referendum | 1962 |
| Jacksonville-Duvall County, Florida (Previously defeated in 1935) | Referendum | 1967 |
| Indianapolis-Marion County, Indiana | Legislative | 1969 |
| Juneau-Greater Juneau Borough, Alaska | Referendum | 1969 |
| Carson City-Ormsby County, Nevada | Referendum | 1969 |
| Columbus-Muscogee County, Georgia (Previously defeated in 1962) | Referendum | 1970 |
| Sitka-Greater Sitka Borough, Alaska | Referendum | 1971 |
| Lexington-Fayette County, Kentucky | Referendum | 1972 |
| Suffolk-Nansemond County, Virginia | Referendum | 1972 |
| Savannah-Chatham County, Georgia | Referendum | 1973 |
| Anchorage-Greater Anchorage County, Alaska | Referendum | 1975 |
| Anaconda-Deer Lodge County, Montana | Referendum | 1976 |
| Butte-Silver Bow County, Montana (Defeated in 1924) | Referendum | 1976 |
| Houma-Terrebonne Parish, Louisiana | Referendum | 1984 |
| Lynchburg City-Moore County, Tennessee | Referendum | 1988 |
| Athens-Clarke County, Georgia (Defeated in 1969) | Referendum | 1990 |
| Lafayette-Lafayette Parish, Louisiana | Referendum | 1992 |
| Augusta-Richmond County, Georgia (Previously defeated in 1974 and 1976) | Referendum | 1995 |
| Kansas City-Wyandotte County, Kansas | Referendum | 1997 |

Sources: Peggy Beardslee, *Questions and Answers on Consolidation*, National Association of Counties, July 1998; Daniel R. Grant and H.C. Nixon, *State and Local Government in America*, 1975.

*The primary mission of LAFCOs is to rationalize government service delivery systems, not to manage future growth. However, these concepts cannot be fully segregated.*

**regulations, and programs should be implemented in a manner consistent with these goals. LAFCO policies should be revised, as necessary, to support growth planning goals.**

The primary mission of LAFCOs is to rationalize government service delivery systems, not to manage future growth. However, these concepts cannot be fully segregated. The ability of government agencies to effectively and efficiently provide services is interlinked with the spread of the service area and the individual and communal needs of the people served. To make realistic decisions about the need for public services, LAFCO must therefore be part of an integrated planning network that includes the State, cities, counties, special districts, school districts, and the private and non-profit sectors.

## The Need for Local Fiscal Reform

Serving California's inevitable growth will require viable local governments that are fiscally sound and are empowered to meet the service demands of their citizens. Local fiscal reform is one of the most critical components of the broader movement to prepare California for the demands of the 21st Century and to enable local governments to provide the services that California's growing populace will require. In recent years, California has been moving in the opposite direction, a trend that must be reversed.

Chapter 2 documents the erosion of local government self-determination since the passage of Proposition 13 in 1978. As local governments have become more dependent upon external sources — predominantly the State and payers of service charges — for revenues, they have lost much of the flexibility to establish priorities and meet the most pressing demands of their constituents. Moreover, much of the discretionary revenue left to local governments has tended to promote a "fiscalization of land use," whereby planning decisions are heavily influenced by the revenue potential of a proposed project. Some examples are sales taxes, which favor retail over other uses; redevelopment projects, which increase a city's share of property tax revenues but may encourage designating an area that would not be a high priority for revitalization if not for the tax subsidy; and developer fees, which shift a portion of planning and infrastructure costs onto a new development, sometimes exceeding the true direct impact of the development.

### *Sales Taxes*

Taken individually, basing a land use decision on its fiscal implications is probably




Fig. 7-5

Due to extraordinary sales tax receipts, the City of Commerce in Los Angeles County has per capita general revenues more than 4 times the state average for cities without having to impose hotel occupancy or utility user taxes

Staff photo



Fig. 7-6

Santa Monica's downtown redevelopment project has helped revitalize the city's central business district

Staff photo

the correct choice for a city council. Cumulatively, however, these decisions may not only produce the wrong land use verdict, but may even be counterproductive in terms of long-term revenues. Land use decisions favoring retailers have long been the subject of criticism by government reformers, but recently have also gained the attention of fiscal experts. Sales taxes, as noted previously, have failed to keep pace with general economic growth for several years, and will in the future be subject to further downward pressure from the growth in non-taxable services and Internet sales. What's more, to obtain or hold on to sales tax revenues, many jurisdictions have engaged in such tactics as offering tax rebates to large retailers or covering a portion of their infrastructure costs. Besides the questionable public policy implications of such transactions, a municipality is ever vulnerable to future attempts by other jurisdictions to employ similar tactics to lure the businesses away.

### *Redevelopment*

Redevelopment agencies, 97% of which are controlled by cities, can tout a long and proven record of public improvements that have benefited not only the sponsoring jurisdiction but also an entire region. There have also been some questionable redevelopment practices in the past, however, and this financing tool has steadily eaten into local property tax allocations that could otherwise be used for general governmental services, such as police and fire protection and parks. Redevelopment "tax increment," the increase in property taxes in a redevelopment area that comprises the central funding source of redevelopment agencies, accounted for a relatively small share of total statewide property taxes before passage of Proposition 13. Today, however, these agencies lay claim to over eight percent ($1.5 billion) of annual statewide property tax proceeds. The number of agencies has increased from 197 in 1980 to 403 in 1998. The total acreage included in redevelopment project areas nearly doubled during the decade from 1988 and 1998.

The interest by cities in redevelopment is understandable, both because of the improvements that can be made to a city's infrastructure and appearance and because of the additional revenues it can produce. On average, cities receive only about 11% of local property tax revenues, making property taxes an important but not decisive source of funding for the typical city. By way of comparison, sales taxes produce somewhat higher revenues for cities, other taxes are nearly double property tax proceeds, and fees

*Taken individually, basing a land use decision on its fiscal implications is probably the correct choice for a city council. However, these decisions may produce the wrong land use verdict.*

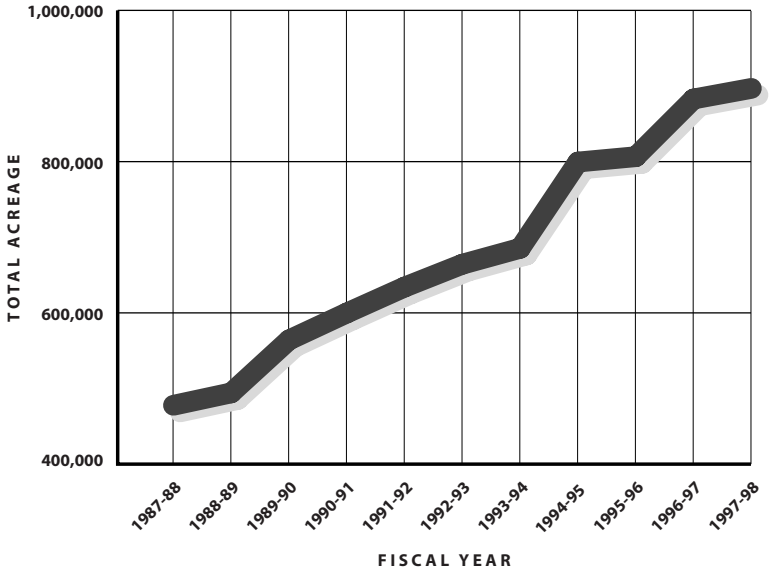



Fig. 7-7

**Total Acreage in Redevelopment**
1987-88 Through 1997-98

SOURCE: California State Controller, *Community Redevelopment Agencies Annual Report*, various years

and service charges produce over six times as much city revenue as property taxes. Within a redevelopment project area, however, the city's share increases from its average base of about 11% to over half of the incremental property tax proceeds. Even though redevelopment revenues are dedicated to repaying bonds issued for capital expenditures within the project area and cannot be used for general city services, this higher funding allocation is nevertheless an attractive prospect. Broader implications should be taken into account when approving a redevelopment project. Besides reducing funds available to other local agencies and for other governmental purposes, the length of a redevelopment project, typically 30 to 40 years, results in a long-term land use commitment.

## *Developer Fees*

Fees imposed upon new construction have long been a source of friction between developers and local governments. Under current fiscal circumstances, however, they are a necessary antecedent to local government approval of major new developments. Unquestionably, they contribute to the high cost of housing in California. The Building Industry Association of San Diego sponsored a study that indicates that the total cost of "regulation" on the cost of a new home can be up to 33% of the home's value. While this represents more than just the impact fees, it indicates the degree of controversy over the topic.

Much of this fiscalization could be diminished if property-related services were supported to a greater extent by the property tax and if a broader base of discretionary taxes were available to localities. The over-reliance upon any single source of taxation leaves local governments at the jeopardy of economic downturns and runs the risk of the unintended consequences of tax sources being too attractive or not attractive enough to promote balanced governmental decisions. Although there are many problems with the local system of taxes, the Commission finds that the most pressing issues concern the allocation of sales taxes according to the point-of-sale and the inadequacy of property tax revenues relative to the cost of providing property-related services.

**RECOMMENDATION 7-3**
**The Commission recommends that the point-of-sale allocation of the sales tax be revised to mitigate its effect as an incentive for "fiscalization of land use" and that the allocation of property taxes be increased to more completely fund property-related services. Any changes to existing tax allocations should be phased-in over a limited period of time and all units of local government should be held harmless by the initial reallocation plan.**

Others have made similar recommendations and have offered various ways to approach this sort of reallocation. The State Municipal Advisory Reform Team ("SMART") appointed by State Controller Kathleen Connell proposed reducing by 10% and capping the point-of-sale ("situs") portion of local sales tax revenues, reallocating this 10% and any future increment among local governments proportional to statewide population, and returning a portion of the "ERAF shift" of property taxes. While this recommendation offers an important contribution to the debate, the Commission feels that the individual tax reallocations among local jurisdictions under the proposal may not be equitable or realistic. Additionally, the tax allocation mechanism offers little in the way of reforming property tax incentives.

By basing revenue growth largely on population, it may reduce the incentive to promote job-generating industrial or commercial land uses.

An alternative approach that seems to satisfy the principles expressed in the Commission recommendation has been proposed by the Speaker's Commission on State and Local Government Finance. The Speaker's Commission has proposed a "swap" of a portion of the locally levied sales tax for an equal amount of property tax, shifted from either school or community college district allocations. The State would back-fill the education institutions' losses and, in compensation, would retain the "swapped" sales tax share. The result would be to hold all parties harmless initially and to protect the existing investment by many communities in retail establishments, but to reduce the incentive to approve new retail applications at the expense of other types of land uses and to make other land use choices, especially housing, more attractive by increasing the property tax proceeds from those uses.

The Commission urges the Legislature and the Administration to seriously address state-local fiscal reform as a 21st Century initiative. The recent decision by the Sonoma County Superior Court *(County of Sonoma v. Commission on State Mandates)* determining that the shift of ERAF funds away from local government constitutes a new program that requires State reimbursement under Article XIIIB of the California Constitution, should provide further incentive to all parties to reach an equitable agreement on the realignment of State and local revenues and responsibilities. If and when such an agreement is reached, it should be placed in the State Constitution so that local governments can truly be held accountable for providing the services expected of them by the taxpayers.

**RECOMMENDATION 7-4**
**The Commission recommends that fiscal reform negotiations between the State and representatives of local governments begin immediately and that provision for a comprehensive State-local fiscal realignment be amended into the California Constitution, guaranteeing an adequate and permanent local revenue source to provide local services.**

## Accountability for Local Services

Taxpayers have a right to hold their government accountable. They should be able to understand how their tax dollars are spent and, if expected services are not provided in a satisfactory manner, they should be able to understand what higher priorities consumed the available funds. Today, this degree of accountability is impossible for several reasons, including the following:

- In most cases, there is a lack of a nexus between taxes levied and services delivered. For example, most taxpayers believe that their property taxes support schools, public safety, roads, parks, libraries, and other property-related municipal services. In fact, property taxes are insufficient to cover all of these costs and the allocation of those property taxes that are available is not under local control.
- Unified responsibility is absent for many types of services and governmental functions. For example, responsibility for homeless assistance falls upon many agencies, including cities and many county departments, all of which may operate with little recognition of one another's activities.
- The State imposes mandates upon local governments which often are not funded, despite the Constitutional decree to do so. As a result, scarce local revenues must be used to cover the costs.

The current separation of taxation from services rendered has not always been the practice. In simpler times, when government responsibilities were admittedly less complex, taxes were closely related to the services rendered and, if officials failed to satisfy the electorate, they were voted out of office. If government is to regain its credibility among those governed, some way must be found to restore this level of accountability. Doing so will mean better aligning the responsibility for providing services with the responsibility for raising revenues and making the activities of government more understandable to the people governed. For a start, promoting a

*The Commission urges the Legislature and the Administration to seriously address state-local fiscal reform as a 21st Century initiative.*

*One of the most insidious accountability problems occurs when costs are shifted from one government to another, as when the State mandates service requirements upon local governments.*

better understanding of government finance would be helpful.

**RECOMMENDATION 7-5**
**The Commission recommends that county tax collectors be required to itemize in each property tax bill the agency which receives funds, including the county-wide 1 percent allocation, and the responsible taxing authority for imposition of the tax.**

This would primarily affect county property tax billings, though other local tax or fee assessments should include similar information. Typically, a county's property tax bill itemizes all special assessments and bonded debt payments, but does not itemize allocation of the "countywide 1%" general tax levy, nor explain how the allocation is determined. In an appearance before the Commission, the City of Chino Hills presented information that it provides to all of its taxpayers, explaining in detail where their property taxes go and who is responsible for determining allocations. Similar information should be provided to all taxpayers throughout the state.

Accountability also entails assigning clear responsibilities. Although consolidating many related functions into a single level of government or a single agency would best improve accountability, this is not always possible and may involve trade-offs in other areas, such as accessibility. Where consolidation is not possible, agencies offering similar services should collaboratively establish one-stop intake and information centers, so that clients are not continually referred from one bureaucracy to another.

One of the most insidious accountability problems occurs when costs or responsibilities are simply shifted from one level of government to another, as frequently occurs when the State mandates service requirements upon local governments but does not provide the funding. State imposition of mandates on local governments has long been a source of contention. Article XIIIB, Section 6, of the California Constitution declares as follows:

> "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 such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: (a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

Despite this clear requirement for the State to reimburse all local mandates, legislation enacted regularly includes a disclaimer of mandated cost, thereby delegating determination of a local government's claim to the Commission on State Mandates. Many local governments believe that the Mandates Commission is generally unfavorable toward reimbursement of local cost claims. Even if the Mandates Commission approves a claim, the resulting delay in payment due to the lengthy appeals process and the expense of making the claim result in a financial burden for the local appellant.

**RECOMMENDATION 7-6**
**The Commission recommends that any proposal for modification of State and local government financing must include a legally adequate commitment by the State to continually and adequately fund its obligation to local government for State mandated costs. In furtherance of this recommendation, the Commission finds as follows:**

**a. Meaningful State and local government financing modifications to ensure adequate financing availability for local government can only be assured if the State acknowledges and legally confirms its constitutional obligation to reimburse local government for the full costs associated with State mandates that have been imposed on local government.**

**b. For over 20 years, the State has consis-**

**tently avoided any on-going, periodic and legally binding commitment to provide funds for reimbursement for State mandated costs imposed on local government. Any reallocation of revenue sources for local government to ensure the stability of local government financing as well as the extent of its availability must include a legally binding commitment by the State to reimburse local government for State mandated costs.**

In her SMART Task Force Report, State Controller Connell addresses this issue. She acknowledges that the State frequently violates the Constitutional directive "... by imposing expensive mandates on localities and then routinely proclaiming them to be neither mandates nor expensive." She recommends that every bill mandating an action by local governments include an appropriation adequate to cover the cost of the mandate, subject to approval of test claims filed with the Commission on State Mandates. This effectively puts the State rather than local governments at risk for the "carrying cost" of mandate claims. Additionally, she recommends that, whenever a local government agrees to administer a State program, a bilateral compact be formed to specify expectations and obligations of both parties and to ensure adequate funding for the responsibilities transferred.

## Pulling It All Together: Local Governance in the 21st Century

California can be assured of four certainties in the new millennium: growth, change, diversity, and opportunity. The State's ability to respond to the challenges posed will depend, to a large measure, on its willingness to approach growth in a smart way by enhancing the adequacy of its local government infrastructure. Local governments — counties, cities, special districts, and school districts — must work together cooperatively as they have not done before to accommodate the needs of the vast numbers of additional residents. Funds will probably be more strained than ever before, so collaborative programs that can take advantage of all available governmental resources will benefit all parties.

The Commission has recommended a thorough examination of the fundamental structure of local government in California, including school districts. Government structure should be modified as necessary to meet people's needs and service expectations in the 21st Century, while recognizing fiscal constraints and the need for greater efficiencies. Wherever possible, fragmentation should be discouraged and consolidation should be facilitated by State and local policy. Government service delivery systems should be transparent to the people so that an individual seeking services or assistance can quickly and logically determine the appropriate provider.

Government will need to reach out to the people as never before, making full use of advanced technologies, as well as continuing to employ traditional means of communication. Large jurisdictions will need to find ways to reduce their scale, so that individuals can achieve better access to decision making. This means empowering neighborhoods to determine their own destinies and decentralizing bureaucracies.

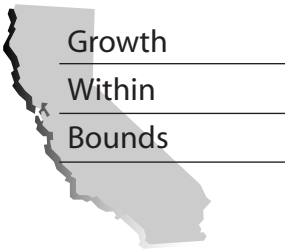
Finally, the state and local tax structure should support good government decisions and preservation of resources. Local elected officials must have the authority to raise revenues and must then be accountable to the taxpayers for their expenditure decisions. Land use decisions should not be made by the municipal treasurer. State mandated services should be financed on a "pay-as-you-go" basis, with funding available whenever services are required.

If the people are assured that their elected officials will be provided the tools to act and are expected to be fully accountable for their decisions, the trends in voter and citizen apathy will begin to change. People will not respond to the call for public participation and community service if their efforts are ignored, either intentionally or because of lack of empowerment. They will respond, however, if they believe that their opinions matter. That is the true challenge to maintaining the relevance of government in the 21st Century.

*The state and local tax structure should support good government decisions and preservation of resources.*

CHAPTER EIGHT

# Government Of the People, By the People, and For the People




The legislation which created the Commission on Local Governance for the 21st Century (AB 1484, Hertzberg) asked it to investigate ways to increase public participation in government. This chapter provides background on the level of public participation in government, descriptions of current programs in use by local governments to increase participation, and ideas for further improving public involvement in policies and decisions.

## Public Interest and Involvement in Government

Many political observers are understandably concerned about public attitudes toward government and public affairs. Voter turn-out in California elections has declined fairly steadily over the past 40 years. For example, in the November 1998 gubernatorial election, the turnout of registered voters was 58%, compared to over 60% four years earlier. In the November 1996 presidential election it was 66%. By comparison, presidential election turn-outs were 75% in 1992 and 88% in 1960.

The Public Policy Institute of California (PPIC) has been conducting a series of comprehensive statewide surveys on the theme of "Californians and Their Government." A recent poll sampling 2,013 California residents between August 26 and September 3, 1999 found that most Californians are apathetic toward government, with only 12% of the general public indicating that they follow political news "very closely," and nearly half saying they follow it "not too closely" (36%) or "not at all closely" (11%). The PPIC notes that the number of Californians who report a high level of interest in government and public affairs has dropped sharply since 1998, a gubernatorial election year. In September 1999, 28% say they follow government and public affairs "most of the time," compared to 39% a year earlier (See Figure 8-2, next page), and comparison with national polls indicate that apathy appears to be more pronounced in California than in the rest of the United States. Moreover, in testimony before the Commission, Mark Baldassare, PPIC's project director for Californians and their Government, noted that surveys conducted 20 years or more ago indicated a much higher level of public interest in politics and government.

The PPIC survey also found that Californians feel that their taxes are too high, and a majority believe that state and local government are wasting some or all of their tax dollars. When Californians were polled on the performance of their local governments, however, most were satisfied with the way crime, jobs, parks, open space, water quality,

*Political observers are concerned about public attitudes toward government and public affairs.*

Fig. 8-1

**California General Election Voter Participation**
1960-1998

SOURCE: Secretary of State

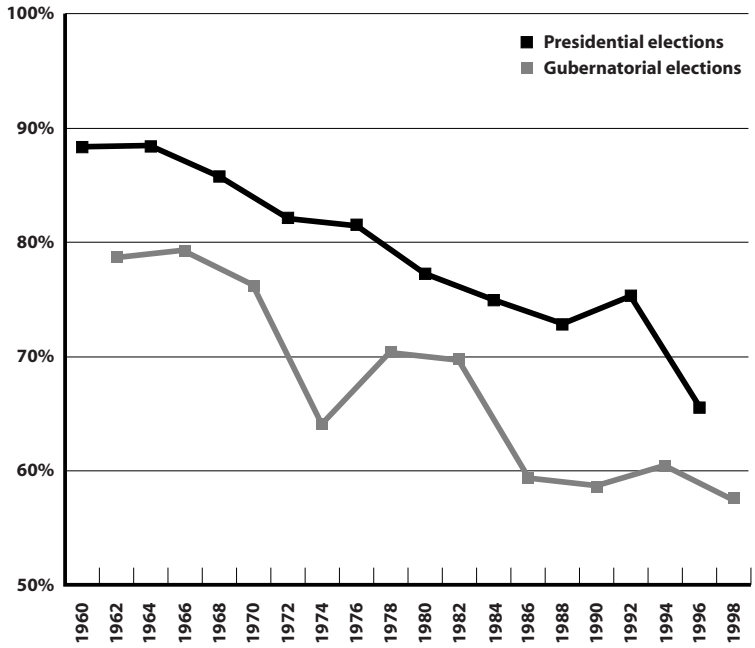


Fig. 8-2

**Citizen Interest in Government**

"Would you say you follow what's going on in government and public affairs most of the time, some of the time, only now and then, or hardly ever?"

| | *Sept 1999 CA* | *Sept 1998 CA* | *June 1998 US* | *Nov 1997 US* |
|---|---|---|---|---|
| **Most of the time** | 28% | 39% | 36% | 41% |
| **Some of the time** | 42% | 37% | 34% | 36% |
| **Only now and then** | 22% | 17% | 21% | 16% |
| **Hardly ever** | 6% | 5% | 9% | 7% |
| **Never** | 2% | 2% | - | - |

Source: California Figures are excerpted from the PPIC Statewide Surveys of September 1999 and September 1998; the United States figures are excerpted from the Pew Research Center's surveys from June 1998 and November 1997.

*focus group members believe that if citizens get involved, problems can be solved.*

and other local issues are handled. Respondents nevertheless indicated dissatisfaction with the way local government handles affordable housing, local traffic, and public schools. Between 30 and 40 percent of respondents considered local government treatment of these matters to be somewhat satisfactory or not at all satisfactory.

Ironically, it appears that much of the citizen apathy can be attributed to the buoyant mood of the state and optimism about the economy. A solid majority (72%) believe that the next 12 months will bring good times financially in the state. In addition, 61% of those polled believe that the state is going in the right direction. These responses signal a general level of satisfaction that may subdue involvement in local and state politics.

California 2000, a consortium sponsored by the William and Flora Hewlett and James Irvine Foundations to promote policy research and public education on fiscal, governance and land use issues in California, has made its own contribution to understanding public attitudes. In May 1999, eight focus groups (2 in each city) were conducted in Sacramento, San Jose, San Diego, and Los Angeles. A focus group is a gathering of citizens believed to be representative of generally held attitudes, who are asked to discuss as a group their feelings about some of the issues raised by public opinion polls. This allows pollsters to probe more deeply the attitudes behind the yes-or-no survey responses. While voter apathy and cynicism about government were affirmed in the focus groups, the group discussions also suggest that participants want responsive government with representatives who are honest, accountable and accessible. Group members indicated an interest in community participation and believed that if citizens get involved, problems can be solved. However, most of the groups' participants felt that their elected officials fail to represent the views of the public.

## Enhancing Public Involvement in Local Government

Many local governments do not accept the status quo on public involvement. Several methods have been employed by various local agencies to encourage public participation. Some of the strategies utilized include educational programs, creation of neighborhood or community councils, traditional communication tools, and the use of the Internet.

### Educational Programs

The League of Women Voters (LWV) is one of the state's and the nation's foremost advocates for educating the public on government policies and the need for citizen involvement. This organization encourages the informed participation of citizens in government through impartial analysis of public policy measures, including ballot initiatives. The League of Women Voters Education Fund was established in 1957 and its Vision 2000 program is focused on citizen empowerment. As part of this program, the LWV is planning a Center for Community Dialogue which will offer training worldwide in citizen skills like advocacy, consensus building, and conflict management to encourage citizen participation in govern-

ment. In testimony before the Commission, representatives of the LWV explained the organization of its local chapters and highlighted a Bay Area effort to increase involvement in LAFCO proceedings.

Another example of educating the public on government is the "Our Cities, Our Future" program conducted by the Georgia Municipal Association. This program is a new initiative created in August, 1999, to educate Georgians on the role and functions of cities. The public education program encourages cities to adopt an ethics ordinance, provide outreach to schools, and conduct a city government week in the spring of 2000 to educate citizens about the services that cities provide.

In California, the League of California Cities, California State Association of Counties, and the California School Boards Association created a program entitled the CCS (Cities, Counties, Schools) Partnership. It was created in 1997 to "promote the development of public policies which build and preserve communities by encouraging successful local collaborative efforts between cities, counties, schools, community-based nonprofit organizations and business and civic leaders."

One of the programs that the CCS Partnership is emphasizing is to encourage city, county and school leaders to participate in K-12 programs to increase education on local government. In order to achieve this goal, the Partnership is partnered with the Citizenship and Law Education Center (CLRE), and Capitol Focus.

## Neighborhood or Community Councils

Neighborhood councils are generally formed by a local government or a group of citizens to facilitate citizen input or feedback on issues of concern. The idea of forming neighborhood councils has been embraced throughout the United States, and many have existed for over 15 years. As of 1996, citizen boards and neighborhood councils were identified in approximately 60 different cities nationwide. Some citizen boards are able to influence policy on a broad spectrum; others are created specifically for one issue. Some are ongoing bodies that routinely review planning proposals, while others are assembled around a particular major community development project, then are disbanded.

In California, neighborhood councils have been formed in a number of cities, including the following:

- **Anaheim.** The Neighborhood Services Division was created in 1993 to allow residents to organize into neighborhood advisory councils in order to identify and discuss an area's problems. Currently, there are 17 councils in the city of 300,000 residents.
- **Oakland.** Neighborhood Crime Prevention Councils are organized and report to the Oakland Police Department on concerns regarding crime in their areas.
- **Simi Valley.** Since its incorporation in 1969, the city has relied heavily on its four neighborhood councils for feedback and recommendations on important issues. The councils are strictly advisory in nature and have no formal power.
- **Los Angeles.** In June 1999, the voters in the City of Los Angeles adopted a new city charter, replacing the 74-year old charter adopted in 1925. The new charter called for the creation of a Department of Neighborhood Empowerment, which will produce a detailed plan for the creation of



Fig. 8-3

Community planning workshop for conversion of Naval Training Center, San Diego

Courtesy, City of San Diego

neighborhood councils within one year. Guided by public input, the Department must determine how many councils will be created and draw their boundaries.

Neighborhood councils throughout the United States have generally been considered successful. The ability of each neighborhood council or advisory board to increase citizen participation often depends on the local government's ability to convince citizens that their opinions matter. If a local government is responsive and listens to its citizens, the councils feel empowered and citizen participation should increase.

*The ability of each neighborhood council or advisory board to increase citizen participation often depends on the local government's ability to convince citizens that their opinions matter.*

## Traditional Communication Tools

While radio, television, cable television and the Internet provide news coverage of governmental events, the latest of these technologies have offered new opportunities for local and regional governments to dialogue with their constituencies.

Radio broadcasting reached the height of its influence and prestige during World War II, carrying war news directly into the homes of millions of listeners. Recognizing the power of this communications tool, President Franklin Delano Roosevelt often used radio to directly address the American people with his so-called fireside chats.

Radio's success spurred technology companies to develop a new form of broadcasting, called television. Immediately following World War II companies stood ready to initiate network television broadcasting in the United States. Network broadcasting takes place when local stations covering different regions agree to simultaneously transmit the same signal.

By the early 1960s more than 600 television stations were on the air, broadcasting on a daily basis to about 90 percent of homes in the United States. Broadcasting dramatically changed life in the United States, as the networks brought the performances of talented artists to large numbers of people otherwise isolated from venues such as the concert hall and the theater. It also brought national political races right to their doorstep. The nationally televised debate between presidential candidates Senator John F. Kennedy and Vice President Richard Nixon was the first such event and marked the beginning of a new era in political communications.

While national broadcasting companies would cover national campaigns and local stations might cover local races, there was still no way for local or regional governments to proactively communicate with their constituencies via this medium. But cable television (television signals transmitted by cable to paying subscribers) changed all that in the 1980s. While the federal government regulates other forms of broadcasting almost exclusively, cable television involves the negotiation of franchise agreements between cable operators and the entity, most often local governments, owning the rights to utility placement. For the first time, local governments could and did require channels of their own.

Today, a wide variety of local government meetings can be broadcast live or tape delayed to virtually every home in California. In between these meeting broadcasts, communities use these governmental access channels to advertise meeting dates, available programs and services. Operators of cable franchises also offer programming aimed at keeping viewers on top of current political events and the public has opportunities to air their comments via public access stations. Yet, this method of dialogue is constrained by the singular direction of its communication. A brief experiment with two-way cable in Ohio was never widely replicated. But the late-1990s have changed all of that.

## The Internet

One of the most exciting innovations ever for involving citizens in public affairs is the Internet, an interactive medium of communications. The World Wide Web is becoming a rapidly expanding tool for governments, not only to increase public participation but to create easier access to services and increase public awareness of government. The recent PPIC poll found that 63% of all California adults have a personal computer in their homes and 60% access the Internet to send or

receive electronic mail ("e-mail"). Currently, 43% get news and information on the Internet (51% of those who have no political party affiliation) and 30% use it to purchase goods or services. All indications are that these numbers are increasing.

Many states are using this tool to make government more accessible. According to the Progress and Freedom Foundation, which conducts an annual survey of state government on the Internet, Washington is the highest ranked state, having the most internet tools. This ranking is based on eight categories: digital democracy, higher education, elementary and secondary education, business regulation, taxation, social services, law enforcement and the courts, and other initiatives. While California ranked 16th overall, it did receive high marks for its work in bringing digital technologies to higher education (ranked 3rd). The Progress and Freedom Foundation was founded in 1993 to study the digital revolution and its implications for public policy.

In California, the State and most cities and counties have websites. Special districts appear to be somewhat less likely to be on-line. Some local governments have used the Internet to solicit citizen opinions on proposals, provide general governmental information, make it easier to obtain permits, and notify residents about upcoming meetings and events. Following are a few examples of the use of the Internet:

- The City of Citrus Heights' website allows citizens to identify by name their local police officer, apply for business licenses, find their neighborhood associations, and access planning and zoning information. This website received an award from the American Planning Association for its outstanding planning information.
- The City of Santa Monica has used the Internet to allow residents to comment on budget proposals. In 1998, Santa Monica solicited budget comments and offered separate web pages with forms to allow citizens to enter budget alternatives. The city received more than 100 responses. In addition, through the website residents can watch and listen to city council meetings live via the Internet.

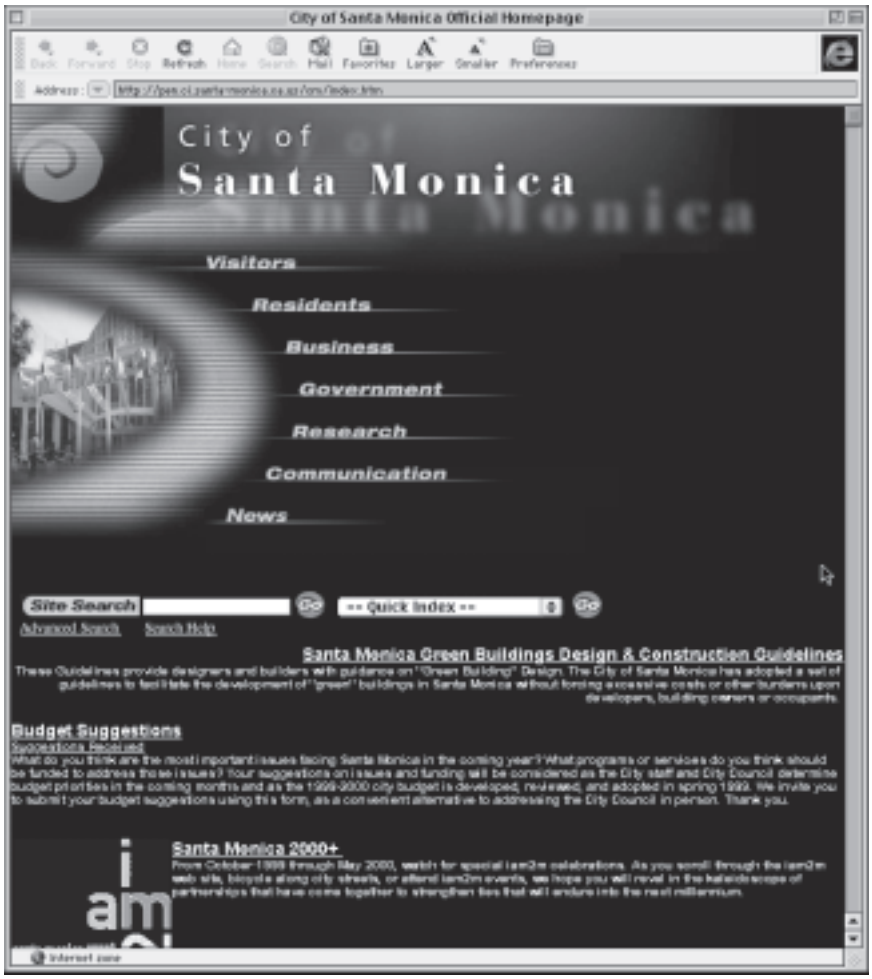



Fig. 8-4

The City of Santa Monica encouraged residents to make budget suggestions over the Internet and received over 100 responses

Courtesy, City of Santa Monica

- In Sunnyvale, the city government website includes a guide with links to all services provided by city government, contact names for more information, descriptions of services, and addresses of departments. The website also allows citizens to directly contact a department regarding a question or comment. Businesses and citizens may apply for and receive permits on-line. Sunnyvale has indicated that the use of the internet has increased public participation and attendance at council meetings.

State and local government in California have not even scratched the surface of potential uses for Internet technology. As citizens become more accustomed to using the Internet for purchases and routine information searches, they will demand more from government websites. It will become ever more important for government agencies, including LAFCOs, to establish and rigorously maintain up-to-date and accurate websites.

*While a single, one-stop location for all government services may be impractical in a physical sense, it is entirely possible in cyberspace*

Moreover, websites for all levels of government should be linked and easily searchable. Ideally, a business interested in opening a facility in a particular city should have, at one site, all necessary information and applications from the city, the county, special districts, the state, regional environmental agencies, and the federal government. A citizen seeking government assistance should be able to enter a search query and receive all relevant information from all applicable agencies. While a single, one-stop location for all government services may be impractical in a physical sense, it is entirely possible in cyberspace.

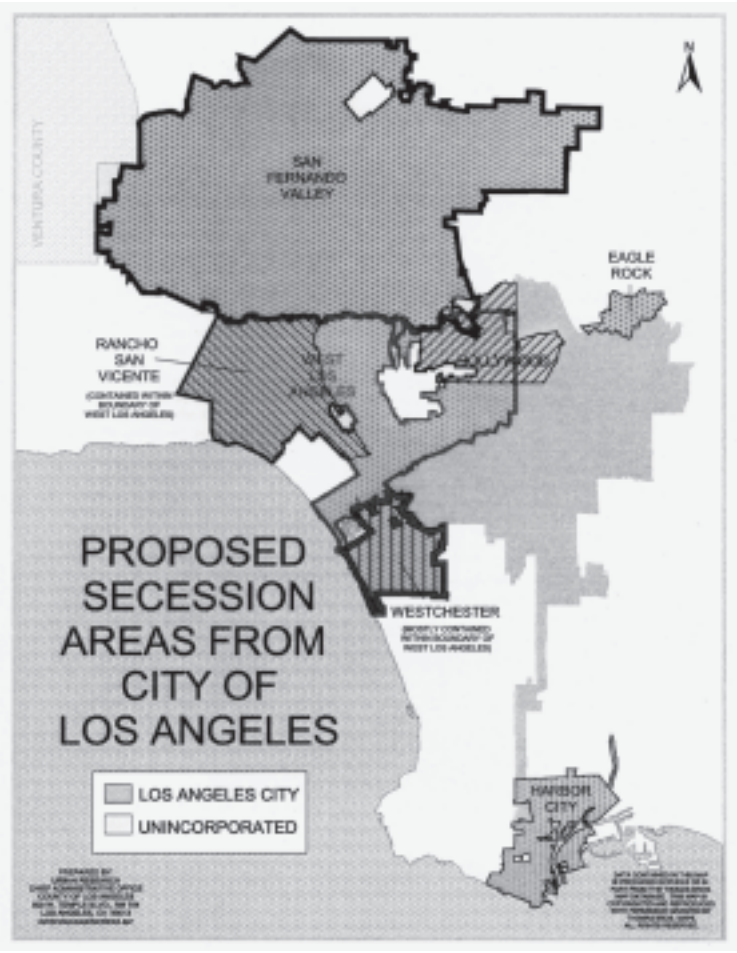
## Public Awareness of LAFCO

The LAFCO experience with regard to public participation has been mixed. Most citizens have never heard of LAFCO and are indifferent to its absence in their lives. Typically, LAFCO hearings are held at county offices during normal business hours and are sparsely attended. From testimony presented to the Commission by several LAFCOs, it is clear that the extent of public participation often depends on the nature of the proposal and possible citizen concern over its effects. In 1999, four LAFCOs reported very different reactions from the public on matters brought before them.

Fig. 8-5

**Los Angeles Secession Areas**

SOURCE: County of Los Angeles, Urban Research, Chief Administrative Office




### *Los Angeles*

The Los Angeles LAFCO has begun proceedings on one of the most complex and controversial applications ever placed before any LAFCO – the proposed secession of the San Fernando Valley and the Harbor areas from the City of Los Angeles. Both of these secession proposals have generated fierce opinions, and occasionally near violence, both from supporters and opponents. An unprecedented number of petition signatures were obtained in support of studying secession in both communities (state law requires signatures from 25% of registered voters to advance a secession proposal, or "special reorganization" to LAFCO). In the San Fernando Valley, 135,000 valid signatures, and over 200,000 total signatures were obtained and in the Harbor communities of Wilmington and San Pedro, 13,470 signatures were obtained. A petition movement in Eagle Rock failed to get the requisite number of signatures and an effort is currently underway in Hollywood.

At the first LAFCO public hearing on the San Fernando Valley secession proposal in July 1999, however, only a handful of people from the public were in attendance, and *The Los Angeles Times* reported that most of these were consultants or leaders of the secession movement. As a result, LAFCO is considering holding public hearings throughout the city including the San Fernando Valley and Harbor areas, and holding the meetings at night, when it is expected more residents will be able to attend. In addition, the LAFCO is also discussing whether it needs to launch a public relations campaign to increase citizen participation. In October, 1999 the Los Angeles LAFCO initiated a web page with information on upcoming meetings, agendas,

and information on the secession movements in the area.

### *Orange County*

The Orange County LAFCO has held a number of hearings to review proposals for incorporation from the communities of Rancho Santa Margarita and Cota De Caza. The Rancho Santa Margarita incorporation proposal was approved in the November 1999 election. During one of the first meetings on the incorporation, the proponents sent notices of the meeting to more than 8,000 residents. Over 200 residents attended the hearing, which was held to receive citizen input on the proposal. Throughout the incorporation process, meetings which discussed the proposal drew an average of about 200 citizens.

### *Santa Cruz County*

An issue before the Santa Cruz LAFCO illustrates how controversial and divisive LAFCO decisions can be. The City of Watsonville presented LAFCO with one of its most difficult proposals ever when it applied to annex land along Riverside Drive and Highway 101, which has been determined by LAFCO to be prime farmland. In 1997, the LAFCO approved a proposal for an updated sphere of influence to include 94 acres under certain conditions, and held up approval of the actual annexation until those conditions were met. Those conditions included a report by Watsonville on the amount of land available for development within the city, and an agreement between the City, the County and the Coastal Commission on the environmental review policies. The City completed those requirements and in 1999 it officially re-submitted the annexation proposal, scaling it back to the 94 acres suggested by LAFCO, for the development of an industrial park.

Opinions regarding the proposal run very strong. The City regards the proposed annexation as critical to its long-range plans for civic improvement. As Elias Alonzo, a Watsonville resident, testified to the Commission, "we are in desperate need of more housing, more jobs, and better employment opportunities…. It is crucial to our quality of life that LAFCO and other agencies re-evaluate their policies in the area of annexation. For LAFCO to cast the issue in terms of destroyed wetlands and paved-over prime agricultural land does a great disservice to Watsonville and the Latino population."

When the proposal was scheduled for hearing by the LAFCO, the Mayor of Watsonville urged the public to attend. Two hearings were held on the proposal, scheduled at night for the convenience of the public. Over 40 speakers and 200 residents were in attendance. The LAFCO rejected the proposal on a 4-3 vote; but the hearing demonstrated nevertheless that active citizen participation can be garnered when feelings are strong and the public is accommodated.

### *Kern County*

The Commission received testimony from residents of two communities in Kern County regarding the annexation of their neighborhoods by the City of Bakersfield. The residents testified that they did not receive proper notification of the annexation proposal and when calls were placed to the City regarding the matter, there were no materials available to explain the annexation process. The citizens responded by forming the Citizens Advisory Committee on Annexation in August 1998 ("Advisory Committee") and filing a lawsuit against the City. The Advisory



Fig. 8-6

The first public meeting of Los Angeles LAFCO on the San Fernando Valley secession petition drew few participants

Photo: Boris Yaro, *The Los Angeles Times*

Committee was formed to identify issues and formulate recommendations to improve the annexation process.

The lawsuit was eventually settled out-of-court in exchange for a referendum on the annexation, to be held in March 2000. The city has since changed its procedures for annexation. As Mayor Bob Price stated after the settlement, "Could we have done things better? Sure we could have and we've changed some things in the process since then." It should be noted that the judge presiding over the lawsuit stated that the annexation procedures followed by the City were carried out legally. The problem, therefore, appears to have been more with the law than with the City.

*The Commission strongly supports the ability of citizens to obtain accurate information and access to government decisions.*

The Advisory Committee presented a comprehensive response and recommendations for statutory changes to the annexation process to the Commission. The testimony provided by the Advisory Committee indicated that the public at times found it difficult to receive complete information form the City. The Commission strongly supports the ability of citizens to obtain accurate information and access to government decisions, and believes that LAFCOs and local governments should make extraordinary efforts to ensure such access.

## Public Notice and Hearing

As noted in the Kern County example, receipt of public notice is one of the most important and fundamental expectations of a citizen. Even if they do not agree with the outcome of a government process, people at least should know what is going on. The Commission believes, therefore, that adequate public notice of all proposals before LAFCO must be guaranteed.

Existing law includes several requirements regarding public notice and hearing under the Brown Act, CEQA, and Cortese-Knox. LAFCOs are required to comply with the Brown Act with regard to open meetings, and the Cortese-Knox Act provides for additional clarification of the procedures that LAFCOs must follow. However, after a review of the statutes it was clear that there are numerous provisions regarding notice and public hearing which do not seem consistent or easily comprehensible.

The Cortese-Knox Act includes an entire section on notice requirements. The Act requires mailed notice for LAFCO hearings on proposals. Some specific actions have different noticing requirements, but most actions are covered by GC §56835, which provides that LAFCO shall give mailed notice of any hearing to all of the following persons or entities**:**

- Each affected local agency
- Chief Petitioners, if any
- Each person who has filed a written request for special notice
- If the proposal is for any annexation or detachment, to each city within three miles of the exterior boundaries of the territory proposed to be annexed or detached
- If the proposal is to incorporate a new city or for the formation of a district, to the affected county
- If the proposal includes the formation or annexation of a territory to a fire protection district and the territory has been classified as a state responsibility, to the Director of Forestry and Fire Protection
- If the proposal would result in the annexation to a city of land subject to the Williamson Act, to the Director of Conservation

Generally speaking, notice of a hearing must also be published in a newspaper of general circulation.

The testimony by the Kern County Citizens' Advisory Committee raises a concern over the adequacy of notification to property owners. The Commission is greatly concerned that those affected by a LAFCO action – be it an annexation or an incorporation – be notified of the existence of such an action. For most county or city land-use actions, notice is required to all property owners within 300 feet of the exterior boundary. The Commission believes that notice to property owners and registered voters is crucial in order to ensure that all affected parties are aware of a proposal to change boundaries. While recognizing the importance of providing

adequate notice, the Commission recognizes that notification can be very burdensome for large proposals. Consequently, it proposes that limitations be placed on the number of notices that must be mailed, consistent with other laws.

The Cortese-Knox Act specifies that notice of a hearing be sent at least 15 days in advance of the hearing. This may not allow sufficient time for an interested party to prepare a response. The Commission believes that this notice period should be extended, but recognizes that balance is needed to avoid delaying actions.

**RECOMMENDATION 8-1**
**The Commission recommends that public notice requirements within the Cortese-Knox Act be strengthened.**

***Following is draft language to implement this proposal:***

**56835.** To the extent that the commission maintains an Internet web site, 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 section 56155 to 56157, inclusive, by mailing notice of the hearing or transmitting via electronic mail if available to the recipient, to all of the following entities:
(a) 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 chief petitioners, if any.
(c) Each person that has filed a written request for 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 latest equalized assessment roll, 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 must 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 Government Code Section 65954.6(b)(1).

**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 web site provided by the commission, to the extent that the commission maintains such a web site.

**56154.** If the published notice is a notice of a hearing, publication of the notice shall be commenced at least ~~15~~ 20 days prior to the date specified in the notice of the hearing.

**56156.** If the mailed notice is notice of a hearing, the notice shall be mailed at least ~~15~~ 20 days prior to the date specified in the notice for hearing.

## LAFCO Websites

*Taxpayers expect their government to be accountable.*

As noted previously, the Internet is a tool used increasingly by local governments to enhance citizen participation and provide information and access to decision making. While most cities and counties in California have websites, most California LAFCOs do not. Only 19 LAFCOs have websites, as enumerated in Figure 8-7. While some of these LAFCO websites offer details of LAFCO activities, current hearings, and applications, most offer only limited general information.

The Commission believes that information regarding LAFCOs should be readily available to the public and that posting this information on a website would help to facilitate increased public awareness. Although some commissioners were concerned that the rural or low activity LAFCOs could not afford to maintain their own websites, the Commission believes that options are available to all LAFCOs and that providing critical information to the public is imperative. One option available to these LAFCOs is to utilize CALAFCO's services and technical assistance in order to accomplish this goal.

**RECOMMENDATION 8-2**
**The Commission recommends that all local agency formation commissions establish and maintain an Internet website not later than January 1, 2002.**

## Performance Measures and Reforms

Public opinion surveys and focus groups have overwhelmingly concluded that taxpayers expect their government to be accountable. Absent accountability, citizen participation will remain elusive. An important component of accountability is maintaining measurable performance standards. Many local governments have used some form of performance measures, benchmarks, or management reforms to provide citizens with evidence of increased productivity and reliability.

## Benchmarking

Benchmarks allow governments to establish targets for performance improvement and track the progress through performance statistics. One of the first examples of government benchmarking was implemented by the State of Oregon. In 1989, the State appointed the Oregon Progress Board to help define a strategic vision for the state and to monitor progress toward achieving the statewide goals. The board established benchmarks or targets for affordable housing, air quality, and teen pregnancy. Many local governments in Oregon have also set benchmarks, following the state's lead.

While Oregon's program received praise nationwide, including from President Clinton, in 1995 the Oregon legislature threatened to terminate it before relenting to the Governor. Critics believed that many constituencies demanded impractical goals, the benchmarks were too numerous and confusing, and they fail to measure customer satisfaction. The revised program has been pared from 250 to 100 benchmarks.

## Reinventing Government

In 1992, David Osborne and Ted Gaebler published a book entitled, "*Reinventing Government: How the Entrepreneurial Spirit Is Transforming the Public Sector.*" The authors believe that government employees need increased flexibility to allow innovative programs to flourish. These will, in turn, increase government accountability. This book brought to the forefront many innovative tools for measuring government performance.

While the book focused on local government examples, there have been attempts to transfer these reforms to the federal government. In 1993, President Clinton initiated the National Performance Review (NPR), with Vice President Al Gore as its leader. NPR's mission is to reinvent government to "work better, cost less and get results Americans care about." NPR was later re-named the National Partnership for Reinventing Government and

Fig. 8- 7

## California LAFCO Websites

December 1999

| *LAFCO* | *Internet Address* | *Information Available* |
|---|---|---|
| **El Dorado** | www.co.el-dorado.ca.us/lafco | • Agendas dated back to November, 1997 • History and purpose of LAFCO • Inventory of local agencies • Meeting schedule |
| **Imperial** | www.imperialcounty.net/lafco | • Agenda and minutes dated back to December 1997 • Instructions for applications • LAFCO background • Meeting schedule • Projects and news |
| **Inyo** | www.sdsc.edu/Inyo/lafco.html | • Composition • LAFCO actions • Members |
| **Los Angeles** | lalafco.co.la.ca.us/lafco_home | • Agenda and Minutes dated back to April 1999 • Commissioners and staff • Current topics • LAFCO background • Meeting schedule • Publications and forms |
| **Marin** | www.marin.org/bos/mcbds/lafco.cfm | Agency description and contact information |
| **Monterey** | library.monterey.edu/ mcflcip/agencies/311.html | Agency description and contact information |
| **Napa** | www.co.napa.ca.us/depart ments/lafco.htm | Agency description and contact information |
| **Orange** | www.oclafco.ca.gov | • Agenda dating back to September 1998 • Commissioners • History and Purpose • Minutes dating back to February 1999 • Special reports and publications • Staff assignments • Staff reports dating back to November 1998 |
| **Riverside** | www.co.riverside.ca.us/lafco | • Agendas and minutes dating back to April 1997 • LAFCO members • History • Public involvement • Staff reports dating back to July 1997 |
| **Sacramento** | www.co.sacramento.ca.us/ slafco/index.html | • Commission members • LAFCO staffing • Powers and duties |
| **San Bernardino** | www.co.san-bernardino.ca.us/ lafco/default.htm | • Agenda, minutes and staff reports dated back to July 1999 • Background and history • Commissioner and staff profiles • LAFCO applications, procedures and feesss • LAFCO mapping of spheres |
| **San Diego** | www.co.san-diego.ca.us/ sdlafco | • About LAFCO • Fire Protections Service Funding • Publications • Meeting schedule • Monthly agendas (current) • On line forms • Processing, procedures and fees • Public hearing notices (current) |
| **San Joaquin** | www.co.san-joaquin.ca.us/ lafco/index.htm | About LAFCO |
| **San Luis Obispo** | www.slonet.org/~lafco | • Agendas and minutes back to January 1997 • Application requirements • Fee and meeting schedule • Membership and staff • Sphere of influence policy and criteria • Standards for evaluation of proposals |
| **Santa Barbara** | www.elga.com/lafco | Site currently down |
| **Siskiyou** | 209.232.195.206/planning/lafco.htm | • Agency and contact information • Membership |
| **Solano** | www.co.solano.ca.us/em/ boards/lafco.htm | • Agency budget • Agenda (current) • History of agency • Meeting schedule • Minutes back to January 1999 • Membership |
| **Sonoma** | www.sonoma-county.org/perl/ frame.cgi?path=/main/admin/ lafco | Agency and contact information |
| **Stanislaus** | www.co.stanislaus.ca.us/ planning/lafco.htm | • Agenda from latest meeting • LAFCO forms |

Source: California Association of Local Agency Formation Commission (CALAFCO) Website, Individual websites as of 12/23/99.

*Local governments could increase public confidence and participation by implementing some form of performance measurement system.*

has produced several reports on performance management in America.

A comparable program has been initiated in California by Governor Gray Davis' administration. The "Innovation in Government" program seeks to redirect state government to a greater customer service orientation, thereby indirectly enhancing public participation in government. Initially, this program does not have a local component.

The movement to reinvent government incorporates several different strategies, including competitive government, results-oriented government, customer-driven government, and market-driven government. Because each local government is unique, performance measurements should be tailored to fit the special local needs. Several examples illustrate unique approaches.

- **Redondo Beach, California**, initiated benchmarks for managers and supervisors in 1990. Results are reviewed on a quarterly basis by the city manager. It also created the Suggestion Award Plan and Board which solicits ideas for the possible reduction, elimination, or avoidance of expenditures of public money.
- **Riverside County, California**, developed a strategic vision for the county which includes measuring tools for accountability of its public officials. The plan outlines the county's goals, dollars spent, and strategies employed.
- **San Diego, California**, created the Competition Program in 1994 to ensure that city services are competitive and that taxpayer resources are used effectively and efficiently. The program has an advisory panel made up of business and community leaders who help identify services that will be considered for competition, then to review goals and provide guidance to the competition team. The program compares city programs and services to external service providers, and based on those results, a decision is made on whether the service should remain with the city or be contracted out.
- **Sunnyvale, California**, has a long-standing performance review budgeting system, built upon 300 performance objectives and are broken down into 1,500 tasks. Managers can receive bonuses for meeting performance goals or pay penalties if they do not reach the objectives.
- **Coral Springs, Florida**, has developed performance measurements that indicate the city's "stock price." The index, which is periodically updated, includes 10 performance measurements that are critical to city customers.
- **Phoenix, Arizona**, has a master set of performance measures for the city. Each department is allowed to determine which are most useful for its particular needs, so long as the final set includes both customer and employee related items.

State legislators have affirmed support for greater local government accountability. In 1999, Assemblyman Robert Hertzberg introduced a measure (AB 185) which would create an advisory board to develop performance measures for local government programs. This legislation was introduced in response to a 1998 Legislative Analyst report on county performance, which noted that there is little information available regarding the results or outcomes of county programs. The bill did not pass the Assembly in 1999 because of concerns over costs.

Performance measures provide additional assurances that government is responding to the needs of the people through focusing on goals and auditing its performance. Testimony received by the Commission indicated that many local governments could increase public confidence and participation by implementing some form of performance measurement system.

## Government Responsiveness and Transparency

The Commission received testimony clearly indicating that citizens often have problems identifying the appropriate local government to assist them. This uncertainty is directly correlated with the increasing concern over accountability in government. While many local governments have adopted

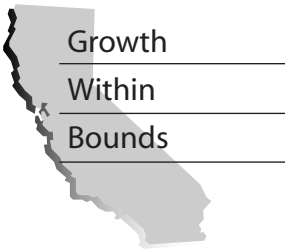
performance measures in an attempt to become more accountable, there is still confusion on the part of the public. In California, this concern can sometimes be traced to the existence of overlapping local government jurisdictions or responsibilities.

Many local governments have tried to address these shortcomings in accountability by holding public hearings in the evenings and in neighborhood locations, creating one-stop centers for permits, televising public hearings, and improving access through the Internet. This has not stopped government from becoming more complex and duplicative in our growing society. In his *Sacramento Bee* column, Dan Walters wrote, "Given the crisis in accountability that infects California government at all levels, we desperately need to simplify and streamline lines of authority so we know whom to hold responsible for what happens or what doesn't happen…. we continue to move in the direction of more overlapping complication."

If state and local government fail to address fundamental problems of accountability and lack of responsiveness, Californians will continue to be suspicious of government, will insist upon submitting ever more issues to popular vote, and will remain apathetic towards public affairs in general. If, on the other hand, government can be reformed sufficiently to restore the people's faith in their leaders' ability to solve the problems that are most important to them, California will continue to thrive in the 21st Century just as it did in the 20th.

CHAPTER NINE

# Implementing the Commission's Vision




The release of the report of the Commission on Local Governance for the 21st Century marks the first attempt in over 35 years to comprehensively overhaul the laws that regulate the reorganization of local government in California. The Commission implores the Legislature to enact the necessary statutory revisions, as described in detail in this report. Enacting these changes will not complete the job, however. As the Commission has noted, more fundamental changes are needed both in state statute and in the California Constitution to revitalize local governance in California and redefine the relationship between the State and its local partners.

Implementing these reforms will require the assistance and support of those most directly affected by and responsible for their success — the Governor, the Legislature, individual local governments and the associations that represent them, and public interest organizations involved in governance issues. For this reason, the Commission calls upon the California Association of Local Agency Formation Commissions (CALAFCO), the California State Association of Counties (CSAC), the League of California Cities ("League"), the California Special Districts Association (CSDA), the Association of California Water Agencies (ACWA), and other representative organizations to unite in an effort to enact all of the necessary changes to make California government more responsive to the needs of the people.

Although the Commission would like to see all actions necessary to implement its recommendations taken immediately, the members recognize that, realistically, some changes must be phased-in. Consequently, the specific implementing actions, described in the sections which follow, have been divided into those which most definitely should be taken in the current session of the State Legislature, especially those involving revisions to the Local Government Reorganization Act, and those that may have to follow at a later time. This does not imply a lower priority. In fact, some of the subsequent steps may be judged more important by many members of the Commission. However, many actions will require additional time for negotiation, public education, and constituency building.

## Immediate Actions

The Commission believes that immediate steps must be taken to implement the recommendations in this report, especially those involving revisions to the Local Government Reorganization Act. Delay will only risk loss of momentum.

The Commission has met and will continue to meet with representatives of the associations enumerated previously, key legislators, and representatives of Governor Davis' Administration. In addition, individual Commission members will brief various other constituencies and be available to explain publicly the report's recommendations. Summaries of the recommendations will be available to all interested parties.

The most pressing immediate step will be to assist legislators who may be interested in sponsoring bills to implement the Commission's actions. Ideally, the Commission would like all of these recommended changes, or at least all of the changes to the Local Government Reorganization Act, to be placed in a single bill. The Commission's recommendations are the result of compromises by the members and the affected entities. Spreading them over numerous individual bills risks allowing the mutually dependent compromises to be sabotaged as

*This report marks the first attempt in over 35 years to comprehensively overhaul the laws that regulate the reorganization of local government in California.*

each item must pass or fail on its own. The Commission views its recommended reforms as a package that must stay together to succeed.

Two options are available for gaining passage of a comprehensive bill to implement the key local government reorganization reforms. These options are described in the following sections, which provide timelines that the Legislature must follow according to current Assembly and Senate rules. However, it should be noted that the legislative deadlines indicated are tentative and are subject to change. Even if all of the major recommendations of the Commission are placed in a single bill, it may nevertheless be necessary to seek additional bills to enact portions of the Commission recommendations that deal with other subjects or that would require hearings before other policy committees (such as the education committees). Those bills would follow timelines similar to those described below.

### *Option 1 – Use Existing Two-year Bill*

The Commission may be able to locate an existing bill in a germane subject area that has previously passed its first policy committee in 1999. This type of bill, known as a "two-year bill," must be moved through its "house of origin" quickly, so most of the substantive changes must be made in the second house. If it passes the second house, it must then return to its house of origin for policy committee hearings. In each house, the bill must pass a policy committee (the local government committee in each house) and a fiscal committee (the appropriations committee in each house). The schedule for adoption of a two-year bill is as follows, with all dates referring to the last day that the indicated action may occur in 2000:

January 14 – Last day for policy committee of the house of origin to hear and report bills introduced in 1999, prior to referral to fiscal committees.
January 21 – Last day for any committee (including a fiscal committee) to hear and report to the floor bills introduced in their house in 1999.
January 31 – Last day for each house to pass bills introduced in 1999 in their house.
July 7 – Last day for policy committees to meet and report bills.
August 18 – Last day for fiscal committees to meet and report bills to floor.
August 31 – Last day for each house to pass bills.
September 30 – Last day for Governor to sign or veto bills passed by the Legislature before September 1 and in his possession on or after September 1st.

Based upon the above schedule, a two-year bill carried on behalf of the Commission would have to pass its house of origin by January 31, would have to complete all committee hearings and pass the second house in sufficient time to be heard by the policy committee of the house of origin by July 7, and would have to pass both houses in the same form by August 31.

### *Option 2 – Introduce A New Bill*

Alternatively, the Commission could request that a member of the Legislature introduce a new bill to include all of the recommendations from the report. A new bill would have more time to proceed through the committee process in the house of origin, but the same final deadlines would apply. However, the first hearing could not be scheduled until the bill had been in print for 31 days.

January 21 – Last day to submit bill requests to the Legislative Counsel.
February 25 – Last day for bills to be introduced.
April 28 – Last day for policy committees to hear and report fiscal bills introduced in their houses to fiscal committees.
May 12 – Last day for policy committees to hear and report non-fiscal bills introduced in their houses to the floor.
May 26 – Last day for fiscal committees to hear and report to the floor any bills introduced in their houses.
June 2 – Last day for bills to be passed out of house of origin.

July 7 – Last day for policy committees to meet and report bills.
August 18 – Last day for fiscal committees to meet and report bills to floor.
August 31 – Last day for each house to pass bills.
September 30 – Last day for Governor to sign or veto bills passed by the Legislature before September 1 and in his possession on or after September 1st.

Under either option, the proposed legislation will probably be referred to the local government committee of each house (Assembly and Senate) for policy review. If the committee passes the bill it will either proceed to the floor or could be referred to another committee depending on the contents of the bill. If there are any provisions which would have an impact on the State budget or impose a State-mandated local program, the bill would be referred to fiscal committees (Assembly or Senate appropriations). The bill carrying the Commission's recommendations will almost certainly be referred to fiscal committees.

Rather than immediately introducing a bill with all of the Commission's recommendations included, a potential author may wish to introduce a "pre-print" bill. In the past, when a major reform has been proposed for certain sections of statute, the author often provides all the proposed amendments in pre-print form as an advance version, so that all interested parties may view the changes in context prior to the first policy committee hearing. For example, when the major revision of the Knox-Nisbet Act was proposed in 1985, a pre-print version of AB 115 (which later became the Cortese-Knox Act) was provided to all interested parties. The pre-print does not commit the author to introduce the bill.

## Subsequent Actions

The Commission has recommended several actions in addition to the reorganization and revision of the Local Government Reorganization Act. These actions include the following:

- Comprehensively revise the State-local fiscal relationship, including provisions to protect local governments regarding State-mandated costs.
- Create State incentives to support and encourage coordination and compatibility of growth planning goals and priorities, which presumably would be articulated by the State.
- Allow a proposed new city to elect up to nine council members by district as part of its initial proposal.
- Improve coordination and communication between school districts and general purpose local governments.
- Revise the hearing processes of county school district reorganization committees.
- Revise the format and explanations included on county property tax bills.
- Establish a blue ribbon commission to undertake a study of California water governance.
- Establish a task group to study and recommend comprehensive revisions to the structures of state and local governance in California.

*The Commission urges the Legislature to consider in the current session the creation of two task groups.*

Necessary action on some of these recommendations may extend beyond the current legislative session. In addition, at least one of the Commission's recommendations should include submittal of a proposed Constitutional amendment to the voters. Measures requiring State legislation would follow a similar timeline to those described previously, but some may not be introduced until the 2001 session of the State Legislature. Nevertheless, the Commission urges the Legislature to consider in the current session the creation of the two task groups, so that their recommendations may be considered in the 2001 or 2002 legislative sessions.

The Commission's endorsement of reforms to local government finance will, in the view of the Commission, require amending the California Constitution. Any actions that require a Constitutional amendment will proceed on a somewhat different schedule than those requiring only legislative action, although many of the initial legislative steps are the same. Legislative action on a constitutional amendment may take longer than

regular legislation because it would probably be referred to the constitutional amendments committees in both houses. If a State-local fiscal reform measure is to be considered in the coming year, as recommended by the Speaker's Commission on State-Local Government Finance, the schedule for adoption would therefore be as follows:

*We can no longer afford for State and local government to view themselves as enemies.*

January 21 – Last day to submit bill requests to the Legislative Counsel.
February 25 – Last day for bills to be introduced
April 28 – Last day for policy committees (including Constitutional Amendments committees) to hear and report to fiscal committees fiscal bills introduced in their houses.
May 12 – Last day for policy committees (including Constitutional Amendments committees) to hear and report non-fiscal bills introduced in their houses to the floor.
May 26 – Last day for fiscal committees to hear and report to the floor bills introduced in their houses.
June 2 – Last day for bills to be passed out of house of origin.
June 29 – Last day for a legislative measure to qualify for the general election (November 7th) ballot.
November 7– General election.

## Conclusion

We can no longer afford for State and local government to view themselves as enemies, as so often seems to be the case today. Both serve the people of California, and neither, acting alone, can propel the State into the next century. State and local government have successfully combined to support California's progress throughout the last century. They have done so because they have recognized that it is not government that has made California great, it is the people, the industries, and the cultural and social institutions. The Golden State will face challenges in the 21st Century such as it has never before encountered. California governance must be equipped to rise to the occasion. State and local elected officials must accept the responsibility and assume the leadership to see that this happens. Enacting the recommendations of the California Commission on Local Governance for the 21st Century will help them in that effort.

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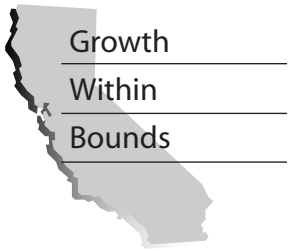
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APPENDIX A

# Commission on Local Governance for the 21st Century
# COMMISSIONER BIOGRAPHIES




### *Commission Chair:*

**Susan Golding** of San Diego, has been mayor of the City of San Diego since 1992. She was named one of the nation's 25 "most dynamic mayors" by Newsweek Magazine, which described her as a progressive mayor who is "resurrecting urban America."

Mayor Golding served as a member and chaired Governor Pete Wilson's Military Base Reuse Task Force from 1993 to 1994. Prior to running for Mayor, Golding served for eight years on the San Diego County Board of Supervisors. She also served as Deputy Secretary of the Business, Transportation and Housing Agency for the State of California under Governor George Deukmejian and as a member of the San Diego City Council. Before entering public service, she was a community newspaper publisher and college instructor.

Mayor Golding earned a bachelor's degree in government and international relations from Carleton College, a master's degree from Columbia University and taught as a Ph.D. fellow at Emory University. She was awarded an honorary doctor of laws degree from the California Western School of Law. Mayor Golding was appointed to the Commission by Governor Pete Wilson.

### *Vice-Chair:*

**Ruben Barrales** of Redwood City, is president of Joint Venture Silicon Valley, a position he has held since 1998. Prior to that, he served as San Mateo County Supervisor since 1992. He was also the Republican nominee for California State Controller in 1998.

Barrales was recognized for his leadership in forming a unique coalition for local jurisdiction that brought about an 80% reduction in violent crime in East Palo Alto, which in 1992 had been named the Murder Capitol of the United States. He has also served as a leader in developing the Garfield Charter School in the predominantly Latino neighborhood of East Redwood City. Barrales has served as the County's representative on the Local Agency Formation Commission and the Bay Conservation and Development Commission. He is a member of the board of directors of the Redwood City Chamber of Commerce, and in 1996 was named "One of the 100 Most Influential Hispanics in the United States."

He earned a joint bachelor's degree in political science and administrative studies from the University of California, Riverside in 1984. Barrales was appointed to the Commission by Governor Pete Wilson.

### *Commission Members:*

**Jacqueline "Jacki" Bacharach** of Rancho Palos Verdes, has owned and operated her own consulting firm of Jacki Bacharach and Associates since 1993. She has also served as Mayor and council member for the City of Rancho Palos Verdes and on the Los Angeles County Transportation Commission. Mrs. Bacharach is currently the Coordinator for the South Bay Cities Council of Governments and the Administrator for the Southern California Intercity Rail Group. She is the founding chair of the Southern California Rideshare program and serves as a member of the Senate Advisory Commission on Cost Control in State Government.

Previously, Bacharach was Commissioner for the National Commission on Intermodal Transportation, Chair of the Southern California Regional Rail Authority, a member of the Alameda Corridor Transportation Authority, a member of the Cal Trans Advisory Committee on California High-Speed Rail, chair of the League of California Cities Transportation and Public Works Committee, President of the South Bay Cities Association, and President of the League of Women Voters for the Palos Verdes Peninsula.

Bacharach earned a bachelor's degree in political science from the University of California, Los Angeles in 1966. Bacharach was appointed to the Commission by the Senate Rules Committee.

**Marian Bergeson** of Newport Beach, is a member of the State Board of Education, having been appointed by Governor Pete Wilson in 1998 and confirmed by the Senate in 1999. She served as Secretary of Child Development and Education for Governor Pete Wilson from 1996-1999.

Previously, she served on the Orange County Board of Supervisors from 1994 to 1996, and was a state Senator from 1984 to 1994 where she chaired the Senate Local Government Committee. She also served as a state Assemblywoman from 1978 to 1984 and on the Orange County Transportation Authority as well as the Orange County Fire Authority. Bergeson began her career in public service as an elementary school teacher in Santa Monica in the 1950s. She was elected to the Newport Mesa Unified School Board in 1965 and was elected president of the California School Boards Association in 1975.

Bergeson earned a bachelor's degree in education from Brigham Young University in 1949 and was awarded an honorary doctor of laws degree from Pepperdine University in 1993. Bergeson was appointed to the Commission by Governor Pete Wilson.

**Herbert "Bert" Boeckmann, II** of Northridge, is the owner and president of Galpin Motors, Inc., an organization with which he has been affiliated since 1953. He is currently a member of the Los Angeles Police Commission, and previously served on Mayor Richard Riordan's Select Blue Ribbon Committee on Budget and Finance, the Los Angeles County Local Agency Formation Commission, and the Municipal Improvement Corporation of Los Angeles.

Boeckmann was also recognized by the Horatio Alger Association as one of the 10 most outstanding individuals in the nation in personifying the principles and values of hard work, honesty, and selflessness. He attended the University of Southern California. He was honored with an honorary juris doctorate from Pepperdine University in 1987. Boeckmann was appointed to the Commission by Governor Pete Wilson. He resigned from the Commission in August 1999 due to other personal commitments.

**Patricia "Trish" Clarke** of Anderson, has been a Shasta County Supervisor since 1991, currently serving her third term. She served as Chair of the Board in 1998 and 1991. She is the past chair and current board member of the Executive Board of the California Association of Local Area Formation Commissions (CALAFCo) and is the current chair of Shasta County LAFCo.

From 1985 to 1990, she was a planning commissioner, city council member, and served as mayor of the City of Anderson for one year. She also served as the chair of the Anderson Fire Protection District. Clarke is a member of many civic and non-profit organizations, including California Women in Timber, Shasta County Cattlewomen, Soroptimist International, and the Anderson Women's Improvement Club.

Clarke is also a current member and past president of the Anderson Chamber of Commerce and serves on the Shasta Alliance for Resources & Environment (SHARE) Steering Committee. Clarke was appointed to the Commission by Governor Pete Wilson.

**Cody Cluff** of Covina, is president of the Entertainment Industry Development Corporation, a self-sustaining, public-private partnership between the City and County of Los Angeles, four contract cities, and the entertainment industry.

Cluff served as Governor Pete Wilson's appointee on the South Coast Air Quality Management District Board. He also serves as Mayor Richard Riordan's liaison to the entertainment industry and director of business retention for the Economic Development Corporation of Los Angeles County. Cluff currently serves on the boards of the San Gabriel Valley Commerce and Cities Consortium, Hollywood Chamber of Commerce, Southern California Council on Environment and Development, Los Angeles Sports and Entertainment Commission, Boy Scouts of America and University of Southern California's Entertainment Technology Center.

Cluff earned a bachelor's degree in business administration from the California State University, Los Angeles in 1984. He has been a certified public accountant since 1986. Cluff was appointed to the Commission by Governor Pete Wilson.

**Michael G. Colantuono** of Los Angeles, is a partner in Richards, Watson & Gershon, a municipal law firm with offices in San Francisco, Los Angeles, and Orange County which serves 31 cities, more than 20 redevelopment agencies and many other public agencies throughout California.

Colantuono is a City Attorney for the Cities of Barstow, Monrovia and La Habra Heights and serves as General Counsel to the Big Bear City Community Services District, an independent special district serving the unincorporated areas of the East Big Bear Valley in the San Bernardino Mountains. He is among the state's experts on municipal finance and has played a leading role in the local government response to Propositions 62 and 218.

Colantuono graduated magna cum laude from Harvard College in 1983 with a degree in government and received his law degree from the Boalt Hall School of Law of the University of California in 1988. Colantuono was appointed to the Commission by the Assembly Rules Committee.

**Robert Francis Hunt** of Los Angeles, is the General Counsel with the Service Employees International Union (SEIU), Local 347. He served as a business representative and organizer for Local 347 from 1978-1992.

Previously, he was an organizer for the Citizen's Action League from 1976-1978. Hunt has been a member of the California State Bar Association since 1991, and is a member of both the Los Angeles County Bar Association and the AFL-CIO Lawyers Coordinating Committee.

Hunt earned his bachelor's degree in political science from Rutgers University in 1974, attended graduate school at Duke University from 1974 to 1975, and earned a Juris Doctorate from Loyola Law School in 1991. Hunt was appointed to the Commission by the Senate Rules Committee.

**Nicholas C. Petris** of Oakland, is a retired legislator and a retired attorney. He was a self-employed attorney from 1950 to 1993. He served in the State Assembly from 1959 to 1966 and the State Senate 1967-1996. Petris was a member of the Alameda County and California State Bar Associations from 1950 to 1998. He is also a member of the Hellenic American Professional Association.

Petris earned a bachelor's degree from the University of California, Berkeley in 1943 and an LLB from Stanford University in 1949. Petris was appointed to the Commission by the Senate Rules Committee.

**C. Timothy Raney** of Citrus Heights, currently serves as Mayor for the City of Citrus Heights, incorporated in 1997. He is also the owner of Raney Planning & Management (RP&M), a consulting firm he founded in 1999.

As a councilmember, Raney has been actively involved in the formation of the new city government and in the revenue neutrality negotiations with the County of Sacramento. Previously, he served as a planner for the City of Sacramento and has worked for a local development company. Raney is a member of the Citrus Heights Chamber of Commerce and the American Institute of Certified Planners.

Raney earned a bachelor's degree in agricultural and managerial economics from the University of California, Davis in 1988. Raney was appointed to the Commission by Governor Pete Wilson.

**Carolyn Ratto** of Turlock, has been a Turlock City councilwoman since 1990 and Mayor Pro Tem since 1996. She serves as Immediate Past President of the League of California Cities. During her tenure with the League of California Cities, she has served on and chaired various committees dealing with legislation, revenue and taxation, and strategic planning.

Additionally, she serves on the National League of Cities Advisory Council and chairs the California City, County, and School Board Partnership. She recently received an appointment from Delaine Eastin to the Carl D. Perkins Vocational and Technical Education State Plan Field Review Committee. She is a former elementary school teacher and currently serves as an office manager for her husband's dental practice.

Ratto earned a bachelor's degree in english from Holy Names College in Oakland in 1972. Ratto was appointed to the Commission by Governor Pete Wilson.

**William D. Ross** of Palo Alto, has been President of the Law Offices of William D. Ross since 1996. He formerly shared the role of President and attorney at Ross & Scott, from 1984-1995. Before that, he worked as an attorney at the Law Offices of Rogers & Wells. Ross also chaired the Legislative Drafting Sub Committee for the Commission.

He was a Deputy for the Office of the County Counsel in Los Angeles from 1976-1981. Ross was a member of the City of Pasadena Planning Commission from 1981-1989, serving as Chairman from 1986-1988. He has served on advisory committees to the Senate Local Government Committee on revisions to the Subdivision Map Act (1986) and the Fire Protection District Law 1987. He has been a member of several local government and land use sections of the Los Angeles County and American Bar Association, while consistently representing local government (cities, counties, and special districts) and real estate development entitlements on matters of governmental organization and land use.

Ross earned a bachelor's degree in history from Stanford University in 1970 and a Juris Doctorate from the University of Santa Clara in 1974. Ross was appointed to the Commission by the Assembly Rules Committee.

**John J. Schatz** of Laguna Niguel, has been General Manager/General Counsel of the Santa Margarita Water District since 1994. He was General Manager for the Jurupa Community Services District between 1984 and 1994. Schatz has been a member of the State Bar since 1989.

He has served on the Local Agency Formation Commission of Orange County-Special District Advisory Committee since 1996. He is a member of the Board of Directors for both the San Juan Basin Authority and the South East Regional Reclamation Authority. He has been a member of the Association of California Water Agencies since 1985.

Schatz earned a bachelor's degree in business administration from the University of Redlands and a Juris Doctorate from Western State University College of Law in 1987. Schatz was appointed to the Commission by the Assembly Rules Committee.

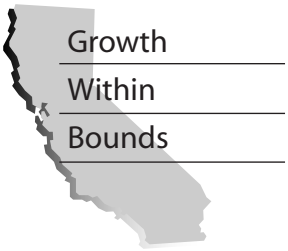
**Larry Zarian** of Glendale, served as a Glendale city councilman from 1983 to 1999. Since 1984, Zarian has hosted a radio talk show in Los Angeles. He also serves as a member and former chairman of the Metropolitan Transportation Authority since 1995.

Prior to that, Zarian served as Mayor of Glendale for four one-year terms. He has served as Governor Pete Wilson's appointee to the California Water Commission since 1997, and served on the Los Angeles Regional Water Quality Control Board from 1987 to 1997. He was appointed by President Ronald Reagan to and served as vice-chairman of the National Highway Safety Commission. Zarian has also served as president of the Public Service Commission, and is a former member and vice president of the California Junior Chamber of Commerce. Has been appointed to several boards and commissions by Governor's Reagan, Deukmejian, and Wilson. Zarian also serves on the Governing Board of the Glendale Adventist Medical Center.

Zarian is a former chairman of the Glendale Housing Authority, Glendale Development Agency, and Los Angeles Economic Development Authority. He is also a former member of the Glendale Coordinating Council, the Boy Scouts of America, the Glendale Chamber of Commerce and the Glendale Kiwanis. Zarian was appointed to the Commission by Governor Pete Wilson.

APPENDIX B

# Public Hearings of the Commission on Local Governance for the 21st Century




*(Presenters listed in order of appearance at each meeting)*

**SACRAMENTO**
August 12, 1998

The Honorable Robert Hertzberg
*Member*
*California State Assembly*

Mike Gotch
*Executive Director*
*California Association of LAFCOs*

Don Benninghoven
*Executive Director*
*League of California Cities*

DeAnn Baker
*Legislative Representative*
*California State Association of Counties*

The Honorable Pete Wilson
*Governor*
*State of California*

**SAN DIEGO**
October 21, 1998

Dr. Lillian Childs
*Chair*
*San Diego LAFCO*

Michael Ott
*Executive Officer*
*San Diego LAFCO*

Harry Mathis
*Councilmember*
*San Diego City Council and LAFCO member*

Michael Magee
*Senior Vice President for Public Policy*
*Greater San Diego Chamber of Commerce*

Kenneth Sulzer
*Executive Director*
*San Diego Association of Governments*

Wayne Dernetz
*City Attorney*
*City of Vista*

Martin Moser
*President*
*La Jolla Town Council*

Dan Wilkins
*Senior Director*
*Port of San Diego*

Harry Ehrlich
*President*
*California Special Districts Association*

Robert Reeb
*Legislative Director*
*Association of California Water Agencies*

Maureen Stapleton
*General Manager*
*San Diego County Water Authority*

Gordon Tinker
*General Manager*
*Fallbrook Public Utility District*

The Honorable Bud Lewis
*Mayor*
*City of Carlsbad*

**SAN JOSE**
December 2, 1998

The Honorable Margie Fernandes
*Vice-Mayor*
*City of San Jose*

Fred Silva
*Visiting Policy Analyst*
*Public Policy Institute of California*

Dr. Paul G. Lewis
*Policy Analyst*
*Public Policy Institute of California*

The Honorable Blanca Alvarado
*Supervisor*
*Santa Clara County*

Autumn Arias
*Executive Officer*
*Santa Clara County LAFCO*

Kent Edens
*Deputy Director of Planning*
*City of San Jose*

Martha Davis
*Director*
*Californians and the Land*

Dr. Stephen Levy, PhD.
*Director*
*Center for the Continuing Study of the California Economy*

Rusty Selix
*Executive Director*
*California Association of Councils of Governments*

Sharon Huntsman
*Policy Analyst*
*Joint Venture Silicon Valley*

Guy Kay
*Chair*
*Napa County LAFCO*

Charles Wilson
*Executive Officer*
*Napa County LAFCO*

Lowell Hurst
*Member*
*Santa Cruz County LAFCO*

**REDDING**
January 20, 1999

The Honorable Irwin Fust
*Vice-Chair*
*Shasta County Board of Supervisors*

The Honorable Robert Anderson
*Mayor*
*City of Redding*

Peter Detwiler
*Consultant*
*Senate Local Government Committee*

Dr. Alvin D. Sokolow, PhD.
*Public Policy Specialist*
*U.C. Davis Cooperative Extension*

Dr. Jeffrey I. Chapman, PhD.
*USC Public Affairs Institute*

James Connor
*Executive Director*
*California Governance Consensus Project*

Doug Latimer
*County Administrative Officer*
*County of Shasta*

Michael Warren
*City Manager*
*City of Redding*

Patricia Leary
*Legislative Representative*
*California State Association of Counties*

Baxter Culver
*Legislative Representative*
*County of Sacramento*

Dan Carrigg
*Legislative Representative*
*League of California Cities*

Dave Roberts
*Rancho Cordova Incorporation Committee*

Walter Kieser
*Principal*
*Economic and Planning Systems*

Casey Sparks Kaneko
*Executive Director, Urban Counties Caucus*
*California State Association of Counties*

Jim Stretch
*Regional Council of Rural Counties*

January 21, 1999

Ed Murphy
*Inventory Systems Analyst*
*Sierra Pacific Industries*

John Benoit
*Executive Officer*
*Glenn County LAFCO*

Julie Howard
*Executive Officer*
*Shasta County LAFCO*

The Honorable Irwin Fust
*County Member*
*Shasta County LAFCO*

The Honorable Denny Bungarz
*Supervisor*
*County of Glenn*

Erik Vink
*California Field Director*
*American Farmland Trust*

Larry Forero
*Farm Advisor*
*County of Shasta*

The Honorable Kerry Merwin
*Mayor Pro Tem*
*City of Alturas*

Duane Fry
*Fire Warden*
*Shasta County*

Donald Eliason
*Executive Director*
*Mosquito and Vector Control Association of California*

William Hazeleur
*District Manager*
*Shasta Mosquito & Vector Control District*

Dr. Stephen Morgan, PhD.
*President*
*San Ramon Valley Fire Protection District*

Robert Heald
*Chief*
*San Ramon Valley Fire Protection District*

Randy Graham
*Chief*
*San Ramon Valley Fire Protection District*

## VAN NUYS
March 5, 1999

The Honorable Cathie Wright
*Member*
*California State Senate*

The Honorable Robert Hertzberg
*Member*
*California State Assembly*

David Abel
*Project Director*
*Los Angeles Metropolitan Forum*

Lee Harrington
*President and CEO*
*Los Angeles Economic Development Corporation*

John Perez
*Executive Director*
*United Food & Commercial Workers Union*

David Stein
*Manager, Performance Assessment*
*Southern California Association of Governments*

Alexander Pope
*Executive Director*
*California Citizen's Budget Commission*

Judy Rambeau
*Communication Coordinator*
*City of Santa Monica*

Mike Dennis
*Finance Director*
*City of Santa Monica*

David Jansen
*Chief Administrative Officer*
*County of Los Angeles*

The Honorable Peter Herzog
*Mayor*
*City of Lake Forest*

Jeff Stava
*Counsel*
*California Special Districts' Association*

The Honorable Richard Riordan
*Mayor*
*City of Los Angeles*

Jackie DuPont-Walker
*Commissioner*
*Elected Charter Reform Commission*

George Kieffer
*Chair*
*Appointed Charter Reform Commission*

Henri Pellisier
*Public Member*
*Los Angeles County LAFCO*

Larry Calemine
*Executive Officer*
*Los Angeles County LAFCO*

Jeff Brain
*President*
*Valley VOTE*

John Isen
*Chairman, Legal Committee*
*Valley VOTE*

Robert Scott
*Co-Chair*
*Valley Industry and Commerce Association*

Irene Tovar
*President*
*Latin American Civic Association*

Xavier Flores
*President*
*San Fernando Valley Mexican American Political Association*

## MONTEREY
March 25-26, 1999

The Honorable Dan Albert
*Mayor*
*City of Monterey*

The Honorable Edith Johnsen
*Member*
*Monterey County LAFCO and Chair, Monterey County Board of Supervisors*

Roger Anderson
*Public Member*
*Santa Cruz County LAFCO*

Rob Mendiola
*Executive Officer*
*San Benito County LAFCO*

The Honorable Anna Caballero
*Mayor*
*City of Salinas*

Gary Patton
*Executive Director*
*LandWatch Monterey County*

Jerry Busch
*President*
*Wetlands Watch*

Jim Conklin
*Executive Director*
*Santa Cruz Business Council*

Amy Courtney
*United Farm Workers*

## OAKLAND
April 30, 1999

The Honorable Audie Elizabeth Bock
*Member*
*California State Assembly*

Annamaria Perrella
*Executive Officer*
*Contra Costa County LAFCO*

The Honorable Millie Greenberg
*Vice Mayor*
*Town of Danville*

Anne Henderson
*Legislative Director*
*League of Women Voters*

Eva Bansner
*League of Women Voters*

Marianne O'Malley
*Principal Fiscal & Policy Analyst*
*Office of the Legislative Analyst*

David Jones
*Legislative Representative*
*League of California Cities*

Patricia Leary
*Legislative Representative*
*California State Association of Counties*

Sunne Wright McPeak
*President and CEO*
*Bay Area Council*

Paul Ogden
*City Manager*
*City of Auburn*

Anthony Lettieri
*President*
*American Planning Association*

David Booher
*Consultant*
*California Council for Environmental and Economic Balance*

Sandra Spellicsy
*General Counsel*
*Planning and Conservation League*

Tim Coyle
*Governmental Affairs*
*California Building Industry Association*

Steve Sanders
*Executive Director*
*California Futures Network*

Vicki Moore
*Policy Director*
*Greenbelt Alliance*

## LOS ANGELES
May 10, 1999

Andrew Mardesich
*Chief Petitioner*
*San Pedro-Wilmington Special Reorganization Study Coalition*

Kelly M. Martin
*Chief of Staff*
*Office of Mayor Richard Riordan*

William Violante
*Deputy Mayor*
*City of Los Angeles*

The Honorable Zev Yaroslavsky
*Member*
*Los Angeles County Board of Supervisors*

Jeff Brain
*President*
*Valley VOTE*

Rob Glushon
*Counsel*
*Valley VOTE*

## ONTARIO
June 4, 1999

The Honorable John T. Knox
*Retired Legislator*

Murray O. Kane
*Counsel*
*Kane, Ballmer and Berkman*

The Honorable Gwenn Norton-Perry
*Councilmember*
*City of Chino Hills*

Pedro Reyes
*Principal Program Budget Analyst*
*Department of Finance*

The Honorable Diane Williams
*Chair*
*San Bernardino County LAFCO and Mayor pro Tem, City of Rancho Cucamonga*

The Honorable John Tavaglione
*Vice-Chair*
*Riverside County LAFCO and Member, Board of Supervisors*

George Spiliotis
*Executive Officer*
*Riverside County LAFCO*

James L. Cox
*City Manager*
*City of Victorville*

Carol Williams
*Executive Officer*
*Main San Gabriel Basin Watermaster*

William F. Kruse
*Attorney-at-Law*

## SANTA BARBARA
July 9, 1999

William Fulton
*Journalist and City Planner*

Thomas Berg
*Director*
*Ventura County Resource Management Agency*

The Honorable Kathy Long
*Member*
*Ventura County Board of Supervisors*

Tom Umenhofer
*Chairman*
*Santa Barbara County LAFCO*

Bill Engels
*Chairman*
*San Luis Obispo County LAFCO*

Paul Hood
*Executive Officer*
*San Luis Obispo County LAFCO*

Harry Erlich
*President*
*California Special Districts Association*

Carey Rogers
*President*
*Santa Barbara County Special Districts Association*

Charles Hamilton
*Local Government Committee Member*
*Association of California Water Agencies*

William Silverthorn
*Petition Director and Board Member*
*HarborVote, Inc.*

Ron Wootton
*Vice-Chair*
*California Association of Local Agency Formation Commissions*

Ted James
*Planning Director*
*Kern County*

DeAnn Baker
*Legislative Representative*
*California State Association of Counties*

Dan Carrigg
*Legislative Representative*
*League of California Cities*

## FRESNO
July 23, 1999

Holly A. King
*Agricultural Programs Manager*
*The Great Valley Center*

Jeff Tweedie
*Executive Officer*
*Fresno County LAFCO*

Bob Braitman
*Management Consultant*
*Bob Braitman and Associates*

John R. Gamper
*Legislative Advocate*
*California Farm Bureau Federation*

Steve Oliva
*Legal Counsel*
*Department of Conservation*

Michael Dillon
*Executive Director*
*California Association of Sanitation Agencies*

Thomas Wehri
*Executive Director*
*California Association of Resource Conservation Agencies*

## SANTA ANA
September 17, 1999

Mark Baldassare
*Senior Fellow*
*Public Policy Institute of California*

Steve Kroes
*Vice President*
*California Taxpayers Association*

Carol Hoffman
*Vice President, Entitlement and Community Relations*
*The Irvine Company*

The Honorable Randal Bressette
*Councilmember*
*City of Laguna Hills*

Dana Smith
*Executive Officer*
*Orange County LAFCO*

## SACRAMENTO
October 27, 1999

Dr. Robert J. Waste, Ph.D.
*Director*
*Graduate Program in Public Policy and Administration, California State University, Sacramento*

S.R. Jones
*Executive Officer*
*California Association of Local Agency Formation Commissions*

Catherine Smith
*Executive Director*
*California Special Districts Association*

Dan Carrigg
*Legislative Advocate*
*League of California Cities*

Patricia Leary
*Legislative Advocate*
*California State Association of Counties*

The Honorable Barbara Patrick
*Supervisor*
*Kern County Board of Supervisors*

The Honorable Kathleen Connell
*State Controller*
*State of California*

## SAN DIEGO
November 18-19, 1999

Robert Reeb
*Legislative Director*
*Association of California Water Agencies*

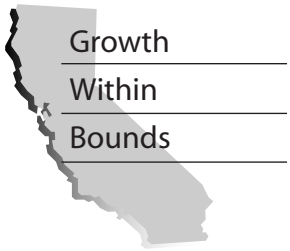
Nancy Lyons
*Deputy Executive Director*
*Little Hoover Commission*

## LOS ANGELES
December 2-3, 1999

David Abel
*Chairman*
*Speaker's Commission on State-Local Fiscal Reform*

APPENDIX C

# Detailed Recommendations and Draft Statutory Changes




## Chapter 3

**RECOMMENDATION 3-1**

**The Commission recommends that school districts and LAFCOs be required to mutually notify one another of pending annexations, new formations, or other boundary changes, and that each be afforded the opportunity to comment. Notification shall mean transmittal of notice to the members and executive officers of each affected jurisdiction.**

***Draft Language:***

*Government Code (Cortese-Knox Act) New Section 56150.5:*
Before initiating proceedings to consider any proposed reorganization which may affect school attendance for a district, whether it does so on its own motion or in response to a request, the commission shall provide written notice of the proposed action to the chair and each member of the countywide school committee, and each school superintendent whose district would be affected by the proposal. The commission shall also provide at least a 45-day period in which to receive comments from the countywide school committee or a school superintendent, before the commission acts to approve or disapprove the proposed reorganization.

*Education Code (section not currently identified):*
Before initiating any reorganization plan which may affect school attendance for a district, the countywide school committee shall provide written notice of the proposed action to the local agency formation commission for the affected area and shall provide at least a 45-day comment period in which to receive comments from the commission, before the committee acts to approve or to disapprove the proposed plan.

**RECOMMENDATION 3-2**

**The Commission recommends that cities, counties, and LAFCOs be permitted to propose changes in school district boundaries to the county superintendent and/or county committee on school district reorganization, in a manner similar to the existing petition process in the Education Code, and that similar authority be accorded to school districts with regard to local government boundaries.**

***Draft Language:***

**56059.** "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.

**56653.** (a) Whenever a local agency or a school district submits a resolution of application for a change of organization or reorganization pursuant to this part…

**RECOMMENDATION 3-3**

**The Commission recommends that county committees on school district reorganization be required to consider, to the extent feasible (as defined in new GC §56038.5), making school district boundary changes respect city and special district boundaries.**

***Draft Language:***

Propose changes to the Education Code both for local consideration (county committee or school superintendent) of proposed school district boundary changes (Education Code Section 35750 et seq.) and for State Board of Education consideration of proposed school district boundary changes (Education Code Section 4200 et seq.). The State Board of Education may consider handling changes approved by a county committee or school superintendent, as applicable, and boundary change disapprovals which are appealed to the Board.

**RECOMMENDATION 3-4**

**The Commission recommends that procedures similar to those for LAFCO proceedings (i.e. notice, public hearing, opportunity for public comment, and written statement of determinations as in GC §56851 and §56852) be required for local county committee review of a proposed school district reorganization under the Education Code.**

***Draft Language:***

Statutory language is not currently available. Drafting of specific provisions will comprise a follow-up action of the Commission.

**RECOMMENDATION 3-5**

**The Commission recommends that all existing general legislative intent provisions (promoting orderly development, discouraging urban sprawl, preservation of open space and prime agricultural lands, efficient extension of government services) be consolidated in GC §56001 and additional legislative intent provisions relating**

**specifically to LAFCO be incorporated into §56301 and a new, corresponding section on LAFCO determinations.**

***Draft Language:***

**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 the efficient extension of government services. 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 in the most compact form.

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 governmental agency ~~rather than several limited purpose agencies~~, is ~~in many cases better able to assess and be~~ accountable for a wide range of community service needs and financial resources and, therefore, ~~is~~ 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.

**56301**. Among the purposes of a commission are ~~the discouragement of~~ discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services, and ~~the encouragement of~~ 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.

**56842.7** (NEW SECTION)
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.

**RECOMMENDATION 3-6**
**The Commission recommends that, when considering any boundary change, LAFCO be required to consider the ability of the new or expanding entity to deliver the services which are the subject of the application and the adequacy of available revenues for funding such services.**

***Draft Language:***

**56841.** Factors to be considered:
(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 such services following the proposed boundary change.

**RECOMMENDATION 3-7**
**The Commission recommends that LAFCOs be required to adopt and maintain written policies, procedures, and guidelines.**

***Draft Language:***

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:
(e) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, ~~based upon~~ consistent with written policies, procedures, and guidelines adopted by the commission. If, not later than July 1, 2001, a commission has not adopted written policies and procedures, any actions taken by that commission may be voidable.

**RECOMMENDATION 3-8**
**The Commission recommends that the LAFCO intent language of §56300 include a provision that LAFCO policies and procedures be in writing.**

*Draft Language:*

**56300**. It is the intent of the Legislature that each commission *shall* establish *written* policies *and procedures* and exercise its powers pursuant to this part in a manner *consistent with those policies and proce-*

*dures and* that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns. *If, not later than July 1, 2001, a commission has not adopted written policies and procedures, any actions taken by that commission may be voidable.*

**RECOMMENDATION 3-9**

**The Commission recommends that the written guidelines, which must be adopted by every LAFCO, should include specific criteria for all proposals before LAFCO, including examples of the forms required in order to protest LAFCO proceedings and hearings.**

*Draft Language:*

Add a new paragraph to Section 56300.
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.

**RECOMMENDATION 3-10**

**The Commission recommends that a comprehensive reorganization and re-drafting of the Cortese-Knox Act be enacted. As part of the re-drafting, all obsolete provisions in the Cortese-Knox Act should be identified and repealed.**

*Draft Concept:*

An initial outline of such a reorganization is included as Appendix D of this report. The outline and specific language will be further developed with the cooperation of the California Association of Local Agency Formation Commissions, the California State Association of Counties, the League of California Cities, the California Special Districts Association, the Association of California Water Agencies, and other interested organizations and individuals.

**RECOMMENDATION 3-11**

**The Commission recommends that LAFCO be assigned the responsibilities of the conducting authority and be authorized to make the findings that would require the appropriate local agency to call an election, if warranted.**

*Draft Language:*

In addition to language cited below, numerous other sections must be amended and the language must be revised as necessary to account for the conduct of elections by entities other than LAFCO. The concept approved is for LAFCO to assume all current responsibilities of the conducting authority, thereby eliminating, in many cases, an entire series of actions and procedures. Some of the major changes in responsibilities are described below, with section numbers indicated.

To implement this recommendation, Part 4 (Conducting Authority Proceedings) will require complete revision. Some specific provisions that must be revised are the following:

**57002.** Within 35 days of adoption of a commission resolution making a decision, the ~~conducting authority~~ commission will provide notice and hold a public hearing within the affected jurisdiction(s), unless a hearing is waived by resolution of the commission.

**57052.** The ~~conducting authority~~ commission shall receive and determine value of written protests and proceed according to law.

**57075-57081.** The ~~conducting authority~~ commission shall, in accordance with law, order a change of organization or a reorganization, order a change subject to an election, terminate proceedings pursuant to a majority protest, or terminate proceedings at the request of the affected jurisdiction (if authorized by law).

**57082.** A ~~conducting authority~~ commission resolution ordering a change of organization or a reorganization shall be prepared as prescribed, with input from the affected jurisdiction.

**NEW SECTION.** If warranted, a commission may make a determination that an election is required, and if it does so, it shall refer the matter to the governing body for the affected jurisdiction, which in turn shall refer the matter to the appropriate local election official, who shall call and conduct an election, as prescribed.

**57100-57104.** REVISE LANGUAGE TO REFLECT THE COMMISSION RATHER THAN THE CONDUCTING AUTHORITY.

**57175-57179.** The ~~conducting authority~~ commission shall adopt a resolution, as appropriate, regarding the results of the election.

**57200.** This provision (resolution sent to executive officer for review and verification of conformity with LAFCO approval) would be unnecessary, as LAFCO would be the "conducting authority."

**57201-57204.** The certificate of completion and statement of boundary change would be issued, as specified in current law.

**RECOMMENDATION 3-12**

**The Commission recommends that the LAFCO approval expiration date refer to completion of the entire annexation process instead of just the conducting authority proceeding and, where a final map is required as an annexation condition, the approval life be the same as that of the tentative tract map.**

***Draft Language:***

**57001.** If ~~the conducting authority~~ all parties to a change of organization or reorganization ~~does~~ do not complete a proceeding 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. Such extension may be for any period deemed rea-

sonable to the commission for completion of necessary prerequisite actions by any party. The inability of ~~the conducting authority~~ any party to complete a proceeding because of the order or decree of a court of competent jurisdiction temporarily enjoining or restraining the proceedings 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.

**RECOMMENDATION 3-13**

**The Commission recommends that the two current exceptions allowing unilateral termination of proceedings by cities (for detachments) and special districts (for annexations) be deleted, but that great weight be given to any objections by an affected city or district.**

*Draft Language:*

**57079.** ~~(a) Notwithstanding Sections 57075 and 57078, if the proposed change of organization is a city detachment, the conducting authority, not more than 30 days after the conclusion of the hearing, may by resolution terminate the detachment proceedings.~~

~~(b) Notwithstanding Sections 57075, 57077, and 57078, if a proposed reorganization includes the detachment of territory from any city, the conducting authority, not more than 30 days after conclusion of the hearing, shall terminate the proceeding if a resolution or written protest against the reorganization is filed prior to the conclusion of the hearing by any city from which any portion of the territory of the city would be detached or removed pursuant to the reorganization.~~

~~(c) This section shall not apply to a special reorganization.~~

**57079.5.** (a) ~~Notwithstanding Sections 57075 and 57076, i~~If the proposed change of organization is a city detachment or district annexation, factors to be considered by the ~~conducting authority~~ 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 56841.

(4) Any resolution objecting to the action which may be filed by an affected agency.

~~(4)~~ (5) Any other matters which the ~~conducting authority~~ commission deems material.

(b) The commission must give great weight to any resolution objecting to the action which is filed by a city or a district. The commission's consideration shall be based only on financial or related concerns expressed in the protest. Except for findings regarding the value of written protests, the ~~conducting authority~~ commission is not required to make any express findings concerning any of the factors considered by the ~~conducting authority~~ commission.

~~(b) The conducting authority for a district annexation, not more than 30 days after the conclusion of the hearing, shall adopt a resolution and take one of the following actions:~~

~~(1) Disapprove the proposed annexation.~~

~~(2) Terminate the proceedings as provided in Section 57075 or 57076.~~

~~(3) Order the annexation as provided in Section 57075 or 57076.~~

~~(4) Order the proposed annexation subject to an election.~~

**RECOMMENDATION 3-14**

**The Commission recommends that a LAFCO be permitted to establish criteria for filing a request for reconsideration.**

*Draft Language:*

**56857.** (a) When a commission has adopted a resolution making determinations, any ~~Any~~ person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the ~~any~~ resolution ~~adopted by the commission making determinations~~. The request shall state the specific modification to the resolution being requested and shall state what new or different facts which could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration.

(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 ~~or prior to the adoption of a resolution by the conducting authority pursuant to Chapter 4 (commencing with Section 57075), whichever is earlier~~. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

**RECOMMENDATION 3-15**

**The Commission recommends adding a new definition of "feasible," consistent with the definition used in the** *CEQA Guidelines***. This word is used in several places in Cortese-Knox, but is currently not defined. The Commission's intent is that this recommended language be construed consistent with existing CEQA case law.**

*Draft Language:*

**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.

**RECOMMENDATION 3-16**

**The Commission recommends that prejudicial abuse of discretion, as referenced in §56107, be amended to provide clarification, in light of recent court rulings on this subject, that in any action or proceeding to attack, review, set aside, void, or annul a determination by a public agency on grounds of noncompliance with the Cortese-Knox Act, the inquiry shall extend only to whether there was a prejudicial abuse of discretion.**

*Draft Language:*

**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 public agency on grounds of noncompliance with this division, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the court finds that the agency has not proceeded in a manner required by law or if the ~~any~~ determination or decision ~~of a commission or a legislative body was~~ is not supported by substantial evidence in light of the whole record.

**RECOMMENDATION 3-17**
**The Commission recommends that a technical change be made to §56334 to give local flexibility to the effective date of member appointments. The provision should allow that the length of the term of office would not be extended more than once for any individual member.**

*Draft Language:*

**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; provided, however, that 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.

**RECOMMENDATION 3-18**
**The Commission recommends that a uniform LAFCO member selection procedure be adopted, to apply in all counties except the four counties having special statutory arrangements (Los Angeles, San Diego, Sacramento, and Santa Clara), which should remain unchanged. The procedure should be as follows: 2 selected by the county, 2 selected by the cities (except in counties having no cities), 2 selected by special districts (if requested), and 1 public member selected by the others. The selection of the public member should be subject to the affirmative vote of at least one of the representatives selected by each of the three appointing authorities.**

*Draft Language:*

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 ~~five~~ members selected as follows:

(f) 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.
(g) 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.
(h) 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.
(i) 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.

~~**56330**. If there is only one city in the county, the commission shall consist of five members, selected as follows:~~
~~(a) Two representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall ap-~~

~~point a third 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 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, who is a city officer, appointed by the legislative body of the city. The legislative body of the city shall also designate one alternate member who shall serve and vote in the absence or disqualification of the regular appointed city representative. If the office of the regular city member becomes vacant, the alternate city 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) Two representing the general public appointed by the other three members of the commission.~~

**RECOMMENDATION 3-19**

**The Commission recommends that a provision be added to the Cortese-Knox Act emphasizing that the role of LAFCO commissioners is to act in the best interest of the public as a whole and not solely in the interests of their respective appointing authority.**

*Draft Language:*

**56325.1.** While serving on the commission, all members shall exercise their independent judgment on behalf of the interests of the residents and property owners of the entire county 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.

**RECOMMENDATION 3-20**

**The Commission recommends that LAFCO select its own executive officer and counsel. It may nevertheless opt to use staff provided by the county or another public or private entity. The Commission further recommends that conflict of interest provisions be specified for LAFCO staff.**

*Draft Language:*

Section 56380 of the Government Code is repealed.

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 ~~local~~ public agency or private party for personnel and facilities.

**56384**. (a) The commission ~~may~~ 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 ~~may~~ shall appoint legal counsel to advise it. If the legal counsel for the commission 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 such 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 the provisions of Government Code section 1090 et seq.

**RECOMMENDATION 3-21**

**The Commission recommends revisions to the definition of "Executive Officer" in conformance with subsequent recommendations on LAFCO staff independence.**

*Draft Language:*

**56038**. "Executive officer" means the executive officer appointed by a commission~~, or if none has been appointed, then the county official acting as the executive officer for the commission in accordance with Section 56384.~~

**RECOMMENDATION 3-22**

**The Commission recommends that proponents of reorganization actions be required to report campaign contributions in the same manner that local initiative proponents are required to report.**

*Draft Language:*

**56700.1. [NEW]** Expenditures for political purposes related to an organization or reorganization proposal which has been submitted to a commission, and contributions in support of or in opposition to such 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.

**RECOMMENDATION 3-23**

**The Commission recommends that disclosure requirements be adopted regarding efforts to lobby LAFCO or influence a LAFCO decision or decisions, consistent with requirements for State appointed boards.**

*Draft Language:*

Add a new paragraph to Section 56300:
The written policies and procedures adopted by the commission shall include lobbying disclosure and reporting requirements which are consistent with the provisions of the Political Reform Act of 1974; provided, however, that nothing herein shall preclude the commission from adopting such additional requirements for disclosure and reporting of lobbying as it finds are appropriate for the jurisdiction.

**RECOMMENDATION 3-24**

**The Commission recommends that LAFCO costs be apportioned among all the entities selecting members to the commission.**

*Draft Language:*

Section 56381 of the Government Code is amended, to read:
**56381**. On or before the 10th day of ~~June~~ May, the commission shall prepare and transmit to the board of supervisors, to the city selection committee established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1of Division 1, to the independent special district selection committee established pursuant to Section 56332, and to all affected local agencies, and to the members and executive officers of each board represented on the selection committees an estimate of the amount of money needed for the purposes prescribed by Section 56380 during the following fiscal year. The board of supervisors, the city selection committee, and the independent special district selection committee 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~~ received by the commission from the county, cities, and special districts 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, the cities, and the special districts deem~~s~~ necessary.
The county auditor shall audit and allow or reject all claims for expenditures for ~~county~~ commission 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.

Section 56381.5 is added to the Government Code, to read:
**56381.5.** (a) The commission shall adopt annually, following a noticed public hearing, a proposed budget by May 1 and a final budget by June 15. The commission shall transmit its proposed and final budgets to the board of supervisors, to the city selection committee established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1of Division 1, and to the independent special district selection committee established pursuant to Section 56332. If the independent special district selection committee conducts its business by mail pursuant to subdivision (d) of Section 56332, the commission shall notify by mail each independent special district in the county that the proposed or final budget, as the case may be, is available. The commission shall mail a copy of the proposed or final budget to any city or special district making a request by mail for a copy.
(b) After a public hearing, 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 special district representation on the commission, the county, cities, and 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 operational budget, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city operational budgets within a county, or by an alternative method approved by a majority of cities representing the majority of the combined cities' populations. The special districts' share shall be apportioned in a similar manner according to each district's operational budget, 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 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 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) Instead of determining apportionment pursuant to paragraph (1) or (2), 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 special districts representing a majority of the total population of 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 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 auditor may collect an equivalent amount from any tax, benefit ~~,~~ assessment, or fee revenue owed to the city or district, provided that the revenue stream is not pledged to debt repayment. The auditor shall provide written notice to the county, city, or district to explain any collection action, including the source of revenue taken. 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.

## Chapter 4

**RECOMMENDATION 4-1**

**The Commission recommends that uniform requirements be established for petitions to initiate a change in organization or reorganization. Currently, the percentages of voter or landowner signatures required for types of proposed actions varies. It is recommended that the percentage of signatures required for incorporations, detachments, and disincorporations, be uniformly established at 25%, that the percentage required for dissolutions be uniformly established at 10%, and that the percentage required for annexations, consolidations, and mergers be uniformly established at 5%. When a proposal includes one or more changes of organization, the higher petition threshold should apply. Broadly speaking, the higher percentage would be for actions that increase governmental fragmentation while the lower percentage would be for actions that reduce fragmentation.**

*Draft Concept:*

Figure C-1 is a listing of affected section numbers and proposed changes of percentages required for voter/landowner initiated actions.

**RECOMMENDATION 4-2**

**The Commission recommends that proponents of a change in organization (e.g., incorporation or annexation) be required to file a notice with LAFCO of their intention to circulate a petition. Under current law, the first required notice to LAFCO is the actual filing of all petition signatures, which initiates LAFCO's certification of signatures and commencement of procedures. A provision similar to this proposal already exists for large cities in Los Angeles County (§56700.5).**

*Draft Language:*

**56700.3.** [NEW] (a) Before circulating any petition for change of organization, the proponent shall file with the executive officer a notice of intention which 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 such notice, the executive officer shall notify any affected jurisdictions.

**RECOMMENDATION 4-3**

**The Commission recommends that the cost of verifying petition signatures for a citizen-initiated incorporation, special reorganization, or other change of organization be considered a governmental cost in the same manner as a local initiative petition covered under the provisions of the Elections Code.**

*Draft Language:*

Amend Government Code Section 56706 and add a new subsection (d) to Section 56383:

**56706**. (a) Within 30 days after the date of receiving a petition, the executive officer shall~~, if any processing fee established pursuant to Section 56383 has been paid,~~ cause the petition to be examined by the county elections official, in accordance with sections 9113-9115 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 chief petitioners, 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 chief petitioners, if any.

**56383 (d).** The signatures on a petition submitted to the commission shall be verified by the election officials for the jurisdiction in which the petition seeks action 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 jurisdiction.

The relevant provision of the Elections Code is as follows:

**9113**. The petition shall be filed by the proponents, or by any person

or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time. Any sections of the petition not so filed shall be void for all purposes. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction. When the petition is filed, the county elections official shall determine the total number of signatures affixed to the petition. If, from this examination, the county elections official determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the county elections official shall examine the petition in accordance with Section 9114or 9115. If, from this examination, the county elections official determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, no further action shall be taken.

Fig. C-1
**Recommended Voter/Land Owner Petition Requirements to Initiate Organization or Reorganization Proposals**

| | | Current Requirement | | | |
|---|---|---|---|---|---|
| ***Gov Code Sec No*** | ***Description of Petition*** | ***Registered Voters*** | ***Number of Owners*** | ***A. V. of Land*** | ***Proposed Change*** |
| **56750** | Incorporation of a city | 25% | 25% | 25% | No change |
| **56751** | Disincorporation of a city | 25% | | | No change |
| **56752** | Consolidation of two or more cities | 20% | | | 5% |
| **56753** | Annexation to a city | 5% | 5% | 5% | No change |
| **56753 (b)** | Annexation to a city of more than 100,000 in Los Angeles County | 8% | 8% | 8% | 5% |
| **56754** | Detachment from a city | 20% | 20% | ss | 25% |
| **56755 (a)** | Annexation to registered voter district | 5% | 5% | 5% | No change |
| **56755 (a)** | Detachment from registered voter district | 5% | 5% | 5% | 25% |
| **56755 (b)** | Annexation to a landowner-voter district | | 5% | 5% | No change |
| **56755 (b)** | Detachment from a landowner-voter district | | 5% | 5% | 25% |
| **56757 (a)** | Consolidation of registered voter districts | 5% | | | No change |
| **56757 (b)** | Consolidation of landowner-voter districts | | 5% | 5% | No change |
| **56758 (a)** | Dissolution of a resident voter district | 5% | 5% | 5% | 10% |
| **56758 (b)** | Dissolution of a landowner-voter district | | 5% | 5% | 10% |
| **56760 (a)** | Merger of a district which overlaps a city or establishment of the district as a subsidiary district | 10% | | | 5% |
| **56760 (b)** | Merger of subsidiary landowner-voter district | | 10% | 10% | 5% |

**RECOMMENDATION 4-4**

**The Commission recommends eliminating the term "Chief Petitioner" and redefining the term "Proponent" to include responsibilities of the chief petitioner. This will eliminate confusion, as the terms are used interchangeably, and will align petitioning procedures in the Act with those included in the Elections Code for other types of petitions. Changes are also proposed separately in provisions governing Petitions and Elections.**

*Draft Language:*

**56022**. ~~"Chief petitioners" means any persons designated in a petition for the purpose of receiving any notice authorized or required to be given to those persons.~~

**56068**. "Proponent" means the person or persons who file a notice of intention to circulate a petition with the executive officer ~~any person intending to circulate, or cause the circulation of, any petition~~.

**RECOMMENDATION 4-5**

**The Commission recommends that the Cortese-Knox Act be amended to require use of the most recent assessment information available for purposes of mailing notices to property owners.**

*Draft Language:*

Sections 56048, 56157, 56708, and 56710 should be amended with substantially the same language as indicated for Section 56048(a)(1):

(1) Any person shown as the owner of land on the ~~last equalized assessment roll~~ most recent assessment roll being prepared by the county at the time the conducting authority 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.

**RECOMMENDATION 4-6**

**The Commission recommends that the time for gathering protests to an annexation be extended from 15 days to 30 days.**

*Draft Language:*

Amend the Cortese-Knox Act as follows:

**56154**. If the published notice is a notice of a hearing, publication of the notice shall be commenced at least ~~15~~ 30 days prior to the date specified in the notice for the hearing.

**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 ~~15~~ 30 days prior to the date specified in the notice for hearing and shall continue to the time of the hearing.

**RECOMMENDATION 4-7**

**The Commission recommends that, where annexation is proposed of two or more "bundled" non-contiguous inhabited segments, a protest from one must be considered separately if the segment has a population of more than 500. This provision would not apply to island annexations authorized under AB 1555.**

*Draft Language:*

Add a new section 57078.5, as follows:

**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 conducting authority 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.

**57078.5.** If a proposed annexation consists of two or more segments and any one segment has a population of more than 500 inhabitants, any protest filed pursuant to section 57078 must be accounted separately for that segment, unless the annexation is proposed pursuant to subsection (d) of section56375.

**RECOMMENDATION 4-8**

**The Commission recommends that LAFCOs be given ongoing authority to authorize annexation of non-contiguous territory to a city where the territory is a state correctional facility. The Legislature routinely authorizes such annexations, with LAFCO approval. Generic language would obviate the need to pass special legislation and allow LAFCOs to establish processes to determine how and when such annexations should occur.**

*Draft Language:*

*The following proposed new language would replace existing code Sections 56111.1, 56111.6 – 56111.14, which would be repealed:*

**56111.2.** (a) Notwithstanding 56110, 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 that 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.

Language left unchanged: The following code section is the only one of the exceptions allowed which does not apply to a state correctional facility, and would therefore, be left in place:

**56111.5.** (a) Notwithstanding Section 56110, 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 Part 3 (commencing with § 56650). 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.

**RECOMMENDATION 4-9**
**The Commission recommends that a LAFCO be authorized to address densities and in-fill when processing annexation requests of a city, as a specified factor to be considered in a LAFCO action.**

*Draft Language:*

Amend the Cortese-Knox Act, as indicated:

**56841**. 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; extent of in-fill needs and opportunities; 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.

**56652**. Each application shall be in the form as the commission may prescribe and shall contain all of the following information:
(a) A petition or resolution of application initiating the proposal.
(b) A statement of the nature of each proposal.
(c) A map and description, acceptable to the executive officer, of the boundaries of the subject territory for each proposed change of organization or reorganization.
(d) Any data and information as may be required by any regulation of the commission.
(e) Steps taken to increase density within existing territory.
(~~e~~f) Any additional data and information, as may be required by the executive officer, pertaining to any of the matters or factors which may be considered by the commission.
(~~f~~g) The names of the officers or persons, not to exceed three in number, who are to be furnished with copies of the report by the executive officer and who are to be given mailed notice of the hearing.

**RECOMMENDATION 4-10**
**The Commission recommends that pre-zoning be required for territory proposed to be annexed to a city. The implementing plan and ordinances must remain in effect for five years following the annexation unless the legislative body makes a finding that a change is necessary to protect private property rights or public health or safety.**

*Draft Language:*

**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 .....
. . . 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. ~~This paragraph does not prohibit a~~ A commission ~~from requiring~~ shall require, as a condition to annexation, that a city pre-zone the territory to be annexed. However, the commission shall not specify how, or in what manner, the territory shall be pre-zoned. The decision of the commission shall be based upon the general plan and prezoning of the city.

PROPOSED NEW SECTION 56375(e1) to follow subsection (e) and precede (f):

**56375(e1).** 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 pre-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 pre-zoning designations for a period of five years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that such change is necessary to protect private property rights or to protect the health or safety of the public.

A compatible change will be required to State planning & zoning law.

**RECOMMENDATION 4-11**

**The Commission recommends that the Office of Planning and Research, in consultation with the State Controller, prepare guidelines for the preparation of a comprehensive fiscal analysis, to ensure consistent methods and criteria.**

*Draft Language:*

Add a new section to the Government Code, as follows:

56845.2. By March 1, 2001, the Governor's Office of Planning and Research, in consultation with the State 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 July 1, 2001, 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.

**RECOMMENDATION 4-12**

**The Commission recommends that if the fiscal data submitted to LAFCO for the comprehensive fiscal analysis is more than one year old or is otherwise disputed, the executive officer may request supplemental data or, in the case of the incorporation of a new city, initiate a dispute resolution process.**

*Draft Language:*

The Commission believes that the accuracy of the data used for the comprehensive fiscal analysis is critical, but, recognizing that this is a matter of continuing negotiation between the League of Cities and CSAC, does not propose specific dispute resolution language. Any resolution agreeable to both parties will likely be agreeable to the Commission. Two proposals, which are not mutually exclusive, have been put forth to resolve two types of CFA disputes. Either is acceptable to the Commission if both the League of Cities and CSAC are in agreement:

(1) Commission recommendation, pertaining to normal CFA data:

56833.1. 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 56833. 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 the data requested by the executive officer in the notice to affected agencies are unavailable, the executive officer may request supplemental data ~~the analysis shall document the source and methodology of the data used~~. The analysis shall review and document each of the following: . . .

(2) Fiscal data dispute resolution language, such as that included in AB 1495 (proposed new GC §56845.1), pertaining to fiscal mitigation for revenue neutrality determinations for a new city incorporation

**RECOMMENDATION 4-13**

**The Commission recommends that a statutory CEQA exemption be provided for a new incorporation. This recognizes that an act of incorporation constitutes only a political reorganization. Nevertheless, when the newly incorporated city adopts a general plan and zoning ordinances, these acts would not be exempt from CEQA.**

*Draft Language:*

Add a new subsection to Public Resources Code Section 21080(b), which states: "this division does not apply to any of the following activities," as follows:

(16) Any decision by a local agency formation commission to approve the incorporation of a new city whether such incorporation occurs in a previously unincorporated area or as part of a special reorganization.

**RECOMMENDATION 4-14**

**The Commission recommends that if proponents of a new incorporation or special reorganization have successfully gathered the requisite number of petition signatures and are unable to fund the cost of required LAFCO studies, they may apply to LAFCO for a fee waiver. LAFCO may reject the waiver request, approve the request and fund the study itself, or it may ask State funds to cover the cost of the studies. State funds, if provided, shall be in the form of a loan, to be repaid by the new city if the incorporation attempt is successful. If the incorporation is not successful, the loan must be forgiven.**

*Draft Language:*

**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) Checking the sufficiency of any petition filed with the executive officer.~~

(~~2~~) (1) Filing and processing applications filed with the commission.

(~~3~~) (2) Proceedings undertaken by the commission and any reorganization committee.

(~~4~~) (3) Amending a sphere of influence.

(~~5~~) (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 the fee if it finds that payment would be detrimental to the public interest.

(e) For proceedings which 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, request from the State Controller a loan of an amount sufficient to cover such expenses. 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. Such repayment shall be made within two years of the effective date of incorporation.

**RECOMMENDATION 4-15**

**The Commission recommends that procedures be clearly specified for special reorganizations, generally establishing the incorporation procedure as applicable.**

*Draft Language:*

**56656.** Section 56656 is hereby repealed [creation of the Special Commission on Los Angeles Boundaries].

Section 56657 is hereby added, to read as follows:

**56657.** 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 56375.1, 56833.1, 56842, and 56845. Notwithstanding any other provision of this division, an election, if required, shall be conducted in accordance with sections 57103.1 and 57132.5.

**RECOMMENDATION 4-16**

**The Commission recommends that the Government Code be clarified to permit a proposed new city pursuant to a special reorganization to become a general law city with 5, 7, or 9 council members, elected by district.**

*Draft Language:*

**34880.** (a) If the petition or proposal 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 such election, including section 34871, the members of the legislative body shall be elected in the manner provided in the petition. (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.

## Chapter 5

**RECOMMENDATION 5-1**

**The Commission recommends that the §56001 be amended to declare that single purpose agencies have a legitimate role in local governance, while recognizing that multi-purpose agencies may be a better mechanism for establishing service priorities and that services should be provided by the local agencies which can best accommodate and provide necessary services.**

*Draft Language:*

**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 the efficient extension of government services. 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 in the most compact form.

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 governmental agency ~~rather than several limited purpose agencies~~, is ~~in many cases better able to assess and be~~ accountable for a wide range of community service needs and financial resources and, therefore, ~~is~~ may be the best mechanism for establishing community service priorities, especially in urban ar-

eas. 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.

**56301**. Among the purposes of a commission are ~~the discouragement of~~ discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services, and ~~the encouragement of~~ 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.

**56842.7** (NEW SECTION)
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.

**RECOMMENDATION 5-2**
**The Commission recommends that the Cortese-Knox Act be reinforced as the sole authority for special district reorganization and that LAFCO rather than the county board of supervisors be designated as the conducting authority for proceedings for the formation of a special district, in accordance with the relevant principal act.**

*Draft Language:*

**56100.** Except as otherwise provided in Section 56036, 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. ~~On and after January 1, 1986, all~~ 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 a 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 which apply, consistent with the requirements of this section.

**RECOMMENDATION 5-3**
**The Commission recommends that, if no master property tax exchange agreement is in place, the county board of supervisors must consult with all affected independent special districts prior to conducting negotiations on their behalf regarding property tax exchange. Such consultation shall include, at a minimum, provision of written notification and an opportunity to comment.**

*Draft Language:*

The following change could be made in Revenue & Taxation Code §99(b)(5):

99. (b)(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. Such 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.

**RECOMMENDATION 5-4**
**The Commission recommends that special district representation on LAFCO under §56332 and §56450 not be contingent upon the districts giving up their right to exercise latent powers. Those LAFCOs which already regulate their special districts' latent powers as a condition of membership should be required to repeal the relevant regulations, upon request of the Independent Special District Selection Committee. In addition, the Commission recommends moving the language in §56450 regarding review by LAFCO of the activation of a new power by an existing district to spheres of influence (§56425).**

*Draft Language:*

**56332.** ~~(a) 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.~~
~~(2) Adopts regulations affecting the functions and services of special districts.~~
~~In addition to the commission members selected pursuant to Sections 56325, 56329, and 56330, two commission members shall be selected by an independent special district selection committee to represent special districts in the county, pursuant to section 56332.5.~~
(a)~~(b)~~ 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) ~~(c)~~ 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:

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

(d) ~~(e)~~ 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.

(e) ~~(f)~~ 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. 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. 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.

(f) ~~(g)~~ 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.

(g) ~~(h)~~ 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.

**56332.5.** The commission shall initiate proceedings for representation of special districts upon the commission. Those proceedings may be initiated either by the commission or by independent special districts within the county. If an independent special district adopts a resolution proposing representation of 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 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 in order to select special district representation on the commission pursuant to Section 56332.

**56450**. 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, and for representation of special districts upon the commission. Those proceedings may be initiated either by the commission or by independent special districts within the county. ~~If those regulations are adopted and affect the functions or services provided or authorized to be provided by law by special districts within the county, then, so long as those regulations remain in effect, special districts shall be represented by members appointed to the commission.~~ 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 such representation, such regulations shall be repealed upon the request of a majority of independent special districts within the county.

**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. 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 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 commission determines that they are relevant to the agency.

(b) Upon determination of a sphere of influence, the commission shall

adopt that sphere, and shall ~~periodically~~ review and update the adopted sphere not less than every five years.
(c) 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.
(d) Before approving any special district sphere of influence 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 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 commission.

**RECOMMENDATION 5-5**
**The Commission recommends that special districts be given the automatic option to select 2 LAFCO members, if requested by the special districts selection committee or a majority of the independent special districts in the county. There should be no requirement that they waive rights to exercise latent powers.**

*Draft Language:*

*See Recommendations 3-18 and 5-4 for statutory changes.*

**RECOMMENDATION 5-6**
**The Commission recommends that, where LAFCO approves a consolidation or dissolution of an agency and the action is not supported by the district or districts involved, that LAFCO may impose conditions which provide that the outgoing board may not take the following actions:**
**(1) Approve increases in compensation or benefits for the Board of Directors or officers.**
**(2) Appropriate or obligate any funds beyond the current year's revenues without making a finding of an emergency.**

*Draft Language:*

**56843.**
**(4) [NEW]** 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 Government Code 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; and
(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.

**RECOMMENDATION 5-7**
**The Commission recommends that LAFCOs be authorized to enter into agreements with the LAFCOs of adjoining counties for the purpose of determining procedures for consideration of matters concerning multi-county districts.**

*Draft Language:*

PROPOSED NEW SECTION 56375(s):
56375(s) 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.

**RECOMMENDATION 5-8**
**The Commission recommends that notice be provided to all affected jurisdictions of multi-county proposals for changes of organization or reorganization under §56123.**

*Draft Language:*

**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 ~~officers~~ 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 must 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 ~~officers~~ commission of the principal county and shall furnish the ~~officers~~ commission of the principal county with any certificates, records, or certified copies of records as may be necessary to enable the ~~officers~~ commission of the principal county to comply with this division.

**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 ~~officers~~ 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 the commission of another affected county.
(b) The commission of the principal county designates the commission of 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 ~~officers~~ commission of the affected county and shall furnish the ~~officers~~ commission of the affected county with any certificates, records, or certified copies of records as may be necessary to enable the ~~officers~~ commission of the affected county to comply with this division.

**RECOMMENDATION 5-9**

**The Commission recommends that the State appoint a special blue ribbon commission to undertake a study of water governance in California. The purpose of such a commission is not to duplicate the work of existing agencies, but to examine the local governance structure for water delivery and to make specific recommendations for any necessary reform.**

*Draft Concept:*

This commission, to be established by special legislation, would conduct a broad study of water governance. Some issues for possible consideration include:

(i) Roles of various non-retail water authorities;
(ii) Opportunities to coordinate the activities of water and wastewater agencies to enhance the supply and use of recycled water;
(iii) The need to find some way to cope with the problems created by undercapitalized mutual water companies which are exempt from LAFCO authority;
(iv) The proliferation of small providers without the capital or governance structure to cope with contemporary water quality regulations or even to maintain adequate fire flows; and
(v) The need to rebuild the post-World War II infrastructure that dominates the water world of Southern California and the difficulty of raising necessary capital in the likely absence of state assistance.

The commission should be comprised of technical and policy experts in the field of water systems, but should also include ordinary citizens and public policy leaders in other fields who are affected by water governance but are not part of any water bureaucracy.

**RECOMMENDATION 5-10**

**The Commission recommends that water supply considerations be integrated into LAFCO decision-making regarding boundary changes (annexations and spheres of influence).**

*Draft Language:*

Amend GS §56841 as follows:

**56841**. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

....

(j) Availability of water supplies adequate for projected needs including, but not limited to, the information specified in section 65352.5.

## Chapter 6

**RECOMMENDATION 6-1**

**The Commission recommends that the definition in §56064 of "prime agricultural land" be amended to add clarity and permit the designation of lands of local economic significance.**

*Draft Language:*

**56064.** "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, which has not been developed for a use other than an agricultural use and which meets any of the following qualifications: (a) Land which, if irrigated, qualifies for rating as class I or class II in the ~~Soil Conservation~~ Natural Resource Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible. (b) Land which qualifies for rating 80 through 100 Storie Index Rating. (c) Land which supports livestock used for the production of food and fiber and which 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 which have a nonbearing period of less than five years and which will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than ~~two~~ four hundred dollars ~~($200)~~ ($400) per acre, as adjusted annually by a factor which is equal to the ratio obtained by dividing the consumer price index for January of the immediately preceding year by the consumer price index for January 1, 2000. (e) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than ~~two~~ four hundred dollars ~~($200)~~ ($400) per acre, as adjusted annually by a factor which is equal to the ratio obtained by dividing the consumer price index for January of the immediately preceding year by the consumer price index for January 1, 2000, for three of the previous five calendar years. (f) ~~Land which is used to maintain livestock for commercial purposes~~ Land which has been designated by the commission as agricultural land of local economic significance based upon the record and after a public hearing.

**RECOMMENDATION 6-2**

**The Commission recommends that an additional policy and priority be included in §56377, providing that LAFCOs shall not approve a project that might lead to development of prime agricultural lands or open-space lands if there are other feasible alternatives to the proposal.**

*Draft Language:*

**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.
(c) Actions which would enable the change in use of existing prime agricultural lands or open space lands shall not be approved where feasible alternative locations for the development exist elsewhere within the existing jurisdiction or the sphere of influence of the existing jurisdiction on lands which are not prime agricultural lands and which are not open space lands that are dedicated or otherwise restricted to open space use.

**RECOMMENDATION 6-3**
**The Commission recommends that a new definition be added to the Cortese-Knox Act for the term "urban limit line."**

*Draft Language:*

**56079.5.** "Urban Limit Line" or "Urban Growth Boundary" means any designated, delineated area that has been approved by the voters or the governing board of any local agency as a limit for existing and future urban facilities, utilities, and services.

**RECOMMENDATION 6-4**
**The Commission recommends adding additional factors to be considered by LAFCO in §56841 to include the existence of an established urban limit line, alternative locations which could accommodate a proposal, and regional growth goals and policies already established by elected officials.**

*Draft Language:*

**56841**. 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 . . .
. . . .
(i) The comments of any affected local agency.
(j) Any urban limit line, urban growth boundary, or similar measure containing the spread of development that has been adopted by the voters or a local government legislative body.
(k) The existence of alternative locations within the already developed portions of the jurisdiction which could accommodate the projected development needs.
(l) Regional growth goals and policies established by a collaboration of elected officials formally representing their local jurisdictions in an official capacity on a regional or sub-regional basis.

**RECOMMENDATION 6-5**
**The Commission recommends that LAFCO be required to update spheres of influence at least every five years. Procedures for updating spheres should be the same as those for adopting spheres, with regard to public notice and hearing requirements.**

*Draft Language:*

**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. 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 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 commission determines that they are relevant to the agency.
(b) Upon determination of a sphere of influence, the commission shall adopt that sphere, and shall ~~periodically~~ review and update the adopted sphere not less than once every 5 years.
(c) 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.
(d) For any sphere of influence which 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 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 commission.

**RECOMMENDATION 6-6**
**The Commission recommends that any extension of services for a public agency proposal (including service to a new school site) out-**

**side a city or special district be subject to LAFCO review under GC §56133, in the same manner as an extension of services under contract to a private party would be subject to LAFCO review.**

*Draft Language:*

**56133**. 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. 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. ~~This section does not apply to contracts or agreements solely involving two or more public agencies.~~ 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 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 shall 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, which 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.

**RECOMMENDATION 6-7**

**The Commission recommends that LAFCOs be required to periodically initiate service reviews of services provided within the county. A service review is defined as an independent county-wide or sub-regional, as appropriate to the service, review by LAFCO of public services offered by various local governments. The review should be done in conjunction with any update of spheres of influence. A service review should not replace designations and updates of spheres of influence, but should be conducted in the establishment or amendment of any spheres. It is the intent of the Commission that this function be considered a state mandate because of the benefits for achieving a logical extension of local services to meet California's future growth and development.**

*Draft Language:*

Section 56430 is added, to read as follows:

**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 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:

(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.

(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 January 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.

**RECOMMENDATION 6-8**

**The Commission recommends that LAFCO approval be required for extension of major "backbone" (i.e., water, sewer, wastewater, or roads) infrastructure to previously undeveloped or underdeveloped areas, either in an incorporated or an unincorporated area. LAFCO should review and approve a finding of general plan consistency for such a proposal in a city. In an unincorporated area, it should approve a special district sphere of influence amendment or a newly-defined "community growth plan" if the area is an unincorporated community. Specific criteria should be established to define an area requiring such approval.**

*Draft Language:*

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

. . . .

(t) To require establishment of a community growth plan, in the case of an unincorporated area, or to review the consistency of a proposal with a city's general plan when a proposed action would require the extension of critical services, as specified in Section 56430.

Add to the Government Code, Section 56430:

(a) Any city or county or district decision which (1) approves or authorizes or commits to an extension of any of the following basic public works infrastructure: water supply, sewer, wastewater, or roads, where such infrastructure would serve a project meeting the criteria in subsection (b), or (2) approves development which will require such an extension of basic public works infrastructure, or (3) approves or authorizes action by another person or entity for such an extension of

infrastructure, shall not be effective unless reviewed and approved, following a public hearing, by the commission, as follows:
i. For a county unincorporated area, based upon establishment of a "community growth plan" defining the anticipated growth and service needs for the affected area, evaluated pursuant to the provisions of section 56425.
ii. For a special district, a new or amended sphere of influence, evaluated pursuant to the provisions of section 56425.
iii. For a city, concurrence in a finding by the legislative body of consistency of the proposed project with the general plan.
(b) To be subject to review and approval by the commission pursuant to paragraph (a) of this section, a proposal must have the potential for causing significant effects on the orderly extension of governmental services by meeting any one of the following criteria:
(1) A proposed residential development of more than 500 dwelling units.
(2) A proposed shopping center or business establishment employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space.
(3) A proposed commercial office building or buildings employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space.
(4) A proposed hotel/motel development of more than 500 rooms.
(5) A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor space.
(6) A proposed institutional use for public or private purposes which would satisfy the equivalent of any of the above numerical criteria.
(7) A proposed mixed use development for public or private purposes which would satisfy the equivalent of any of the above numerical criteria.
(c) The provisions of subsection (a) shall also apply to any series of decisions within any one-year period which in the aggregate will be equivalent to the criteria in subsection (b).

Add to the Government Code, Section 56028.5:
56028.5. "Community growth plan" means a plan for the probable physical boundaries and extent and intensity of growth for an unincorporated community area, as determined by the commission pursuant to a proposal by the county to extend or expand infrastructure to such area.

## Chapter 7

**RECOMMENDATION 7-1**
**The Commission recommends that the Legislature establish a task force to identify needed or recommended structural changes in California state and local governance to improve government accountability, representativeness, efficiency, and effectiveness in delivering public services and responding to broad-scale public needs, and to recommend statutory and constitutional changes, as appropriate.**

**RECOMMENDATION 7-2**
**The Commission recommends that the State 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. State infrastructure financing programs should create incentives that further State growth planning goals and priorities, and all State policies, regulations, and programs should be implemented in a manner consistent with these goals. LAFCO policies should be revised, as necessary, to support growth planning goals**

**RECOMMENDATION 7-3**
**The Commission recommends that the point-of-sale allocation of the sales tax be revised to mitigate its effect as an incentive for "fiscalization of land use" and that the allocation of property taxes be increased to more completely fund property-related services. Any changes to existing tax allocations should be phased-in over a limited period of time and all units of local government should be held harmless by the initial reallocation plan.**

**RECOMMENDATION 7-4**
**The Commission recommends that fiscal reform negotiations between the State and representatives of local governments begin immediately and that provision for a comprehensive State-local fiscal realignment be amended into the California Constitution, guaranteeing an adequate and permanent local revenue source to provide local services.**

**RECOMMENDATION 7-5**
**The Commission recommends that county tax collectors be required to itemize in each property tax bill the agency which receives funds, including the county-wide 1 percent allocation, and the responsible taxing authority for imposition of the tax.**

**RECOMMENDATION 7-6**
**The Commission recommends that any proposal for modification of State and local government financing must include a legally adequate commitment by the State to continually and adequately fund its obligation to local government for State mandated costs. In furtherance of this recommendation, the Commission finds as follows:**
**(a) Meaningful State and local government financing modifications to ensure adequate financing availability for local government can only be assured if the State acknowledges and legally confirms its constitutional obligation to reimburse local government for the full costs associated with State mandates that have been imposed on local government.**
**(b) For over 20 years, the State has consistently avoided any on-going, periodic and legally binding commitment to provide funds for reimbursement for State mandated costs imposed on local government. Any reallocation of revenue sources for local government to ensure the stability of local government financing**

**as well as the extent of its availability must include a legally binding commitment by the State to reimburse local government for State mandated costs.**

## Chapter 8

**RECOMMENDATION 8-1**
**The Commission recommends that public notice requirements within the Cortese-Knox Act be strengthened.**

*Draft Language:*

**56835.** To the extent that the commission maintains an Internet web site, 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 section 56155 to 56157, inclusive, by mailing notice of the hearing or transmitting via electronic mail if available to the recipient, to all of the following entities:
(a) 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 chief petitioners, if any.
(c) Each person that has filed a written request for 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 latest equalized assessment roll, 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 must 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 Government Code Section 65954.6(b)(1).

**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 web site provided by the commission, to the extent that the commission maintains such a web site.

**56154.** If the published notice is a notice of a hearing, publication of the notice shall be commenced at least ~~15~~ 20 days prior to the date specified in the notice of the hearing.

**56156.** If the mailed notice is notice of a hearing, the notice shall be mailed at least ~~15~~ 20 days prior to the date specified in the notice for hearing.

**RECOMMENDATION 8-2**
**The Commission recommends that all local agency formation commissions establish and maintain an Internet website not later than January 1, 2002.**

*Draft Language:*

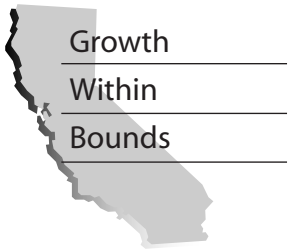
Add a new paragraph to Section 56300 (to be added at end):

On or before January 1, 2002, the commission shall establish and maintain, or otherwise provide access to an internet website for the purpose of posting notices and other commission information for the public.

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

APPENDIX D

# Outline of Proposed Restructuring of Local Government Reorganization Act




Following is the proposed re-ordering and re-combination of sections of the Local Government Reorganization (Cortese-Knox) Act. In addition, the Commission recommends numerous substantive and procedural reforms, described in this report, and urges simplification and clarification of existing statutory language.

**PART 1 - GENERAL**

Chapter 1 - Legislative Findings and Declarations
- 56000-56001

Chapter 2 - Definitions
- 56010-56081

Chapter 3 - Introductory and General Provisions
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- 56116-56128 (misc. district provisions)
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**PART 2 - LOCAL AGENCY FORMATION COMMISSIONS**

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- 56300 (Legislative Intent)
- 56301 - (purpose)
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Chapter 2 - Formation and organization
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- 56425-56428

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- 56828 (application to commission)
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- Signature requirements
  - 56700, 56703-56711

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- Disincorporation
  - 56751
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  - 56752
- Special reorganization
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- Annexation
  - 56108 (tidelands)
  - 56110-56111.14 (non-contiguous annexations)
  - 56109, 56112-56115 (island annexations)
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  - 56800.3, 56828.5, 56835(g), 56842.7 - Williamson Act
  - 56801-56802, 56826
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  - 56850 (miscellaneous)
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- Content and procedures
  - 56833.1 (contents)
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  - 56475-56498
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  - 56756
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  - 56757, 56760
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  - 56758-56759
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Chapter 6 - Commission approval
- Determination
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- 57007 - Eliminate? (district formation per principal act)
- 57002-57003, 57008, 57025-57026 (protest hearing notice)
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- 57125-57150 (conduct of election)
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*(no changes)*

Chapter 1 - General

Chapter 2 - Effect of annexation

Chapter 3 - Effect of detachment

Chapter 4 - Effect of incorporation

Chapter 5 - Effect of disincorporation

Chapter 6 - Effect of dissolution

Chapter 7 - Effect of consolidation of cities

Chapter 8 - Effect of consolidation of districts

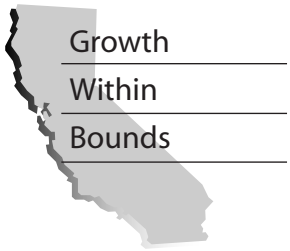
Chapter 9 - Mergers and the establishment of subsidiary districts

Chapter 10 - Effect of reorganization

* Numerous changes will be required to various sections to reflect a transfer of conducting authority responsibilities to LAFCO.

APPENDIX E

# Summaries of Local Agency Reorganization Bills Introduced Between 1963 and 1999




The following information is a complete listing of all legislation regarding local government reorganization since 1963. This includes all bills introduced, whether they were signed, vetoed, or failed passage.

NOTE: While names of some committees have changed over the years, for consistency purposes the names of the current committee names are used throughout. For example, in 1967-68 the Assembly Municipal and County Government Committee was in existence but it eventually changed its name to the Assembly Local Government Committee. That is the name that is used in this appendix.

## 1963-64

**AB 1662** (Knox) – Local Government
Created a local agency formation commission in each county of the State (except for San Francisco). Each LAFCO is required to review and approve or disapprove proposals for the incorporation of new cities and the creations of special districts.
***Final Action:*** Signed, Ch. 1808, Statutes of 1963.

## 1965-66

**AB 592** (Knox) – District Reorganization Act of 1965.
This bill provided a uniform procedure for jurisdictional changes in special districts. This bill provided that special districts were under the jurisdiction of LAFCO for reorganization and change of organization proposals.
***Final Action:*** Signed, Ch. 2043, Statutes of 1965.

**AB 1642** (Knox) – Local Agencies
Clean-up bill for AB 1662 which created LAFCOs.
***Final Action:*** Signed, Ch. 587, Statutes of 1965.

**AB 2127** (Lanterman) – Local Agency Formation Commissions
This bill would have added a provision to allow for an appeal to the Board of Supervisors on a LAFCO determination if protest is filed within 10 days after the date of determination. This bill would have required a 4/5 vote of the Board of Supervisors in order to sustain the objections.
***Final Action:*** Died in Assembly Local Government, 1965.

**AB 2284** (Knox) – Local Agency Formation Commissions
This bill was considered clean-up legislation to the original legislation (AB 1662). The provisions included the following: a statement of general goals and purpose of LAFCOs, authorized appointment of alternate members, authorized per diem for commissioners, defined various terms, provided for a one-year term for completion of proceedings, and required the executive officer to review each application and file a report on the application.
***Final Action:*** Signed, Ch. 2045, Statutes of 1965.

**AB 2321** (Knox) – Local Agencies
Clarified that the District Reorganization Act of 1965 applied only to special districts and not to change in boundaries of cities. This bill also named the LAFCO legislation the Knox-Nisbet Act.
***Final Action:*** Signed, Ch. 2044, Statutes of 1965.

**AB 2322** (Knox) – Local Agency Formation Commissions
This bill would have expanded a LAFCO powers to allow it to review proposals for the annexation of territory to all local agencies.
***Final Action:*** Died in Senate Local Government Committee, 1965.

**AB 2401** (Zenovich) - Annexations
This bill would have provided a new procedure so that a "core" city could annex extensive areas surrounding it which were urbanized but unincorporated.
***Final Action:*** Died in Senate Rules, 1965.

**AB 3264** (Zenovich) – Local Agency Formation Commissions
This bill would have added 2 special district members to all LAFCOs.
***Final Action:*** Died in Senate Local Government, 1965.

**SB 46** (Marler) – Fire Protection Districts
This bill would have provided that a fire protection district must obtain the approval of LAFCO prior to establishing and operating fire protection facilities.
***Final Action:*** Died on inactive file, 1966.

## 1967-68

**AB 126** (MacDonald and Townsend) – Local Agency Formation Commissions
This bill would have directed each LAFCO to formulate agreement between cities and counties regarding the use of uniform zoning designations within each county by 1970.
***Final Action:*** Died in Assembly Local Government, 1967.

**AB 226** (MacDonald) – Public Utilities
This bill would have given LAFCO the power to approve or disapprove proposals by an public utility for creation or extension of services within a county prior to certification by the PUC.
***Final Action:*** Died in Assembly Local Government, 1967.

**AB 1362** (Z'berg et al) – Tahoe Regional Agency

This bill established the Tahoe Regional Planning Compact as a bi-state agreement of Nevada and California.

***Final Action:*** Signed, Ch. 1859, Statutes of 1967.

**AB 1491** (MacDonald) – District Reorganization Act

This bill required the clerk for the legislative body of a city or district to file a copy of the boundary description included in the certificate of completion of organization or reorganization with the county surveyor.

***Final Action:*** Signed, Ch. 634, 1967.

**AB 1620** (Knox) – Local Agency Formation Commissions

This bill required that LAFCO must approve of the establishment of a county service area prior to its creation by a county board of supervisors.

***Final Action:*** Signed, Ch. 920, Statutes of 1967.

**AB 1647** (Z'berg) – Tahoe Regional Planning Agency

This bill would have provided that within the region the Tahoe Regional Planning Agency would exercise the powers of a LAFCO.

***Final Action:*** Died in Assembly, 1968.

**AB 1850** (Fenton) – Walnut Irrigation District

This bill authorized the Walnut Irrigation District to enter into an agreement with the City of Pico Rivera to transfer all of its property to the City. The City would be required to assume the water service obligations of the district. Special legislation was necessary in this case because the District Reorganization Act did not authorize the voluntary transfer of district property prior to dissolution.

***Final Action:*** Signed, Ch. 690, Statutes of 1967.

**AB 1913** (Knox) – Local Agency Formation Commissions

This bill provided that the "county officer" members of a LAFCO must be county supervisors. This bill also provided that LAFCOs could contract for health and retirement benefits for its employees.

***Final Action:*** Signed, Ch. 1261, Statutes of 1968.

**AB 2000** (Quimby) – Local Agencies: San Bernardino

This bill provided that San Bernardino County Supervisors could receive expenses for LAFCO service and for service on special district boards.

***Final Action:*** Signed, Ch. 1161, Statutes of 1968.

**AB 2100** (Cullen) – Local Agency Formation Commissions

This bill would have provided that when LAFCO is considering a proposal for incorporation, and a LAFCO member is an officer of a city contiguous to the territory, that the member is disqualified from participating on that proposal.

***Final Action:*** Died in Assembly Local Government, 1967.

**AB 2205** (Chappie) – Protest

This bill would have provided a technical change in the protest law changing the number 50 to the word fifty.

***Final Action:*** Died in Assembly Local Government, 1967.

**SB 126** (Cologne) – Desert Water Agency

This bill made changes to the Desert Water Agency law to conform agency elections to the Uniform District Election Law. It also authorized the agency to establish water standby and availability charges after notice and hearings as provided in the District Reorganization Act.

***Final Action:*** Signed, Ch. 152, Statutes of 1967.

**SB 182** (Miller) – District Reorganization Act

This bill would have allowed LAFCO to authorize the board of directors to annex proposed territory with an election upon petition, if the petition is signed by 75% of landowners.

***Final Action:*** Died in Senate Local Government, 1967.

**SB 490** (Carrell) – Air Pollution Districts

This bill created the State Air Resources Board to function as an air pollution control agency and clarified LAFCOs role in relation to the air pollution districts.

***Final Action:*** Signed, Ch. 1545, Statutes of 1967.

**SB 540** (Bradley) – District Reorganization

This bill consolidated the Santa Clara Valley Water Conservation District and the South Santa Clara Water Conservation District into a countywide flood control and water district.

***Final Action:*** Signed, Ch. 205, Statutes of 1967.

**SB 783 (Miller)** – Local Agency Formation Commissions

This bill would have increased the membership of LAFCOs to include two special district representatives.

***Final Action:*** Died in Senate Local Government, 1968.

**SB 824** (Grunsky) – Local Agency Formation Commissions - Representation

This bill would have added 2 special district representative on LAFCOs in counties that had two or more special districts with elected boards.

***Final Action:*** Died in Senate Rules, 1967.

**SB 999** (Cologne) – Local Agency Formation Commissions

This bill provided for the appointment of alternate members to LAFCO for city, county, and public members

***Final Action:*** Signed, Ch. 820, Statutes of 1968.

**SB 1059** (Cologne) – Compensation of County Officers

This bill would have raised salaries of supervisors in San Bernardino County and provide that a member may receive expenses and per diem for service on LAFCO.

***Final Action:*** Died in Assembly Local Government, 1967.

**SB 1474** (Lagomarsino) – Subsidiary Districts

This bill would have allowed the establishment of a subsidiary district when some portion of the district is within the boundaries of a city, and contains 80% or more of the value of the territory within the district. Existing law required that 80% or more mast be of the taxable or assessable property in the proposed district.

***Final Action:*** Died in Senate Local Government, 1967.

## 1969-70

**AB 700** (Wilson and Knox) – New Communities

This bill authorized planning and land assembly by redevelopment agencies of new communities within the federal New Communities Act of 1968.

***Final Action:*** Signed, Ch. 1154, Statutes of 1970.

**AB 709** (Stull, Berryhill) – Local Agency Formation Commissions

This bill would have permitted any city or district to file a complaint in Superior Court challenging a decision by LAFCO.

***Final Action:*** Died in Assembly Local Government, 1970.

**AB 752** (Ketchum) – Elections

This bill provided for the dissemination of ballot pamphlets for all elections on city formation, annexations, and elections on special district formation. This bill also specified that the pamphlets were to include an impartial analysis prepared by LAFCO.

***Final Action:*** Signed, Ch. 736, Statutes of 1970.

**AB 968** (Stull) – Local Agency Formation Commissions

This bill would have provided that the annual LAFCO budget must be subject to approval by the Board of Supervisors.

***Final Action:*** Died in Assembly Local Government, 1970.

**AB 1090** (Quimby) - Local Agency Formation Commissions

This bill would have eliminated the current city selection committee process for electing city representative on LAFCO and would have replaced it with a formal procedure for those representatives. The procedure would have provided that city representatives would only serve 2 years on LAFCO and would be chosen sequentially from each city within the county.

***Final Action:*** Died in Assembly Local Government, 1970.

**AB 1155** (Knox) – Local Agency Formation Commissions

This bill allowed special districts membership on LAFCO if the special district gives up its latent powers. It also made several changes to LAFCO law including that LAFCO may charge filing and processing fees to public agencies.

***Final Action:*** Signed, Ch. 1249, Statutes of 1970.

**AB 1905** (McCarthy) – City Annexations

This bill would have provided that LAFCO must review city annexations proposals for conformity to general plan to determine that the city has better than 90% of the population density specified for such plan. It would also have required consent of a city to zoning change in unincorporated area prezoned by the city.

***Final Action:*** Died in Assembly Local Government, 1970.

**AB 2054** (Knox) – Local Agency Formation Commissions

This bill would have provided that LAFCO could study functions performed and services provided by existing governmental agencies, would allow LAFCO to impose reasonable terms and condition before approving the formation of a new district, and provide that after the formation of a district that it may only provide the services specified by LAFCO.

***Final Action:*** Died on the Senate Floor, 1969.

**AB 2065** (Knox) – Local Agency Formation Commissions

This bill provided several non-controversial changes to LAFCO law. Provisions included requiring each LAFCO to submit its annual budget to the county prior to June 10 of each year, LAFCO may destroy any duplicate records, and eliminated the distinction between signature requirements and hearings regarding mandatory and permissive petitions or resolutions provisions.

***Final Action:*** Signed, Ch. 1301, Statutes of 1969.

**AB 2284** (Stull) – Local Agency Formation Commissions

This bill would have authorized "de novo" review of any decision made by a LAFCO which could be brought in superior court by any interested person or local agency. It would have also allowed any person to request a transcript of LAFCO proceedings.

***Final Action:*** Died in Assembly Local Government, 1969.

**AB 2285** (Campbell) – District Reorganization Act

This bill provided that if a district annexation or detachment proposal was terminated, either by majority protest or election, new proceedings involving similar territory may not be initiated for one year.

***Final Action:*** Signed, Ch. 953, Statutes of 1970.

**AB 2400** (Knox) – Uniform City Annexation Act

This bill would have recodified annexation statutes, to provide for one uniform act.

***Final Action:*** Died in Assembly Local Government, 1970.

**SB 206** (Lagomarsino) – Soil Conservation Districts

This bill changed the name of soil conservation districts to resource conservation districts and made other changes to make it consistent with the federal legislation.

***Final Action:*** Signed, Ch. 403, Statutes of 1970.

**SB 212** (Lagomarsino) – District Reorganization Act

This bill provided that the transfers of land, consolidations, partitions and dissolutions of soil conservation districts be placed under the District Reorganization Act.

***Final Action:*** Signed, Ch. 109, Statutes of 1970.

**SB 476** (Coombs) – Local Agency Formation Commissions

This bill would have increased the membership on LAFCO to seven to include special districts. Special district representatives would be appointed by the county selection committee. This bill would have also extended LAFCOs jurisdiction to approve or disapprove the consolidation of cities, provide for hearing on an application by an existing district to perform a new function, and require LAFCOs to keep accurate records.

***Final Action:*** Died in Senate Local Government, 1970.

**SB 1178** (McCarthy) - Local Agency Formation Commissions: Representation

This bill would have added 2 special district representative on LAFCOs in counties that had two or more special districts with elected boards.

***Final Action:*** Died in Senate Rules, 1969.

## 1971-72

**AB 237** (Knox) – Local Agency Formation Commissions
This bill allowed LAFCOs to consider other factors, such as population growth, and service needs when making decisions, allowed LAFCOs to require prezoning as long as they do not designate zoning classes, and required LAFCOs to review city consolidations prior to the circulation of petitions.
***Final Action:*** Signed, Ch. 792, Statutes of 1972.

**AB 551** (Quimby) – Districts
This bill would have provided that LAFCOs must require a land developer who proposes to form a special district to reimburse county costs incurred in obtaining voter approval of the district.
***Final Action:*** Died in Assembly Local Government, 1972.

**AB 631** (Porter and Chappie) – Alteration of Boundaries
This bill would have required, instead of authorize, LAFCO to approve transfer of territory owned by a single landowner from one city to another upon finding of specified conditions.
***Final Action:*** Died in Assembly Local Government, 1972.

**AB 632** (Porter) – Alteration of Boundaries
This bill would have extended the deadline from 1974 to 1977 for the transfer of property from one city to an adjoining city without notice, hearing, election, or resolution of consent in specified circumstances.
***Final Action:*** Died in Assembly Local Government, 1972.

**AB 650** (Cory) – Local Agency Formation Commissions
This bill would have prohibited a person who or ever has been a city councilman or county supervisor from serving as the public member on LAFCO.
***Final Action:*** Died in Assembly Local Government, 1972.

**AB 784** (Fong) – Local Agency Formation Commissions: Special Districts
This bill allowed a LAFCO to designate a LAFCO in a county other than the principal county when reviewing multi-county special district boundary changes.
***Final Action:*** Signed, Ch. 263, Statutes of 1971.

**AB 815** (Knox) – District Reorganization
This bill provides that unless the city objects the detachment of territory of a city may be conducted under the District Reorganization Act. It would also provide that unless the board of supervisors objects, the incorporation of a city may also be conducted under the DRA.
***Final Action:*** Signed, Ch. 176, Statutes of 1971.

**AB 922** (Knox) – Annexation
This bill provided that territory in an annexation proposal approved by LAFCO shall be deemed a single area for purposes of determining the method of annexation proceedings under this chapter.
***Final Action:*** Signed, Ch. 487, Statutes of 1971.

**AB 1327** (Chappie) – Resource Conservation Districts
This bill would have permitted a parcel of land in single ownership to be included within a resource conservation district without approval from LAFCO.
***Final Action:*** Died in Senate Rules, 1972.

**AB 1377** (Knox) – District Reorganization Act
This bill deletes obsolete references in the District Reorganization Act.
***Final Action:*** Signed, Ch. 340, Statutes of 1972.

**AB 1624** (Warren)
This bill would have provided for a special membership on the LAFCO in Los Angeles County. The LAFCO would have nine members: three county supervisors, two councilmen, one city officer from Los Angeles, and three public members.
***Final Action:*** Died in Assembly Local Government, 1972.

**AB 1936** (Knox) – Local Agency Formation Commissions
This bill provided that when considering a city annexation or incorporation that would result in the dissolution or detachment of a fire district or county service area, LAFCO may apply specific conditions to the annexation dealing with district tax liability.
***Final Action:*** Signed, Ch. 576, Statutes of 1972.

**AB 2072** (Porter) – Transfer of Territory
This bill provided that a resolution of transfer of territory from one city to a contiguous city is not required in specified circumstances.
***Final Action:*** Signed, Ch. 483, Statutes of 1972.

**AB 2490** (Briggs)- LAFCO – New City Formation
This bill provided that the final decision regarding boundaries of a new city must be made by LAFCO.
***Final Action:*** Signed, Ch. 774, Statutes of 1971.

**AB 2599** (Chappie)
This bill would have required LAFCO to approve any annexation if four conditions existed: the proposed was made by resolution of the agency to which territory was to be annexed, the territory was uninhabited, the territory contained lines belonging to the local agency, and the agency declared that the purpose of the annexation was to preserve the facilities or funds of the local agency.
***Final Action:*** Died in Assembly Local Government, 1972.

**AB 2870** (Knox) – Local Agency Formation Commissions
This bill provided that LAFCO must determine spheres of influence for each local government agency in the county and made mandatory the provision that LAFO make governmental studies and specified what the studies are to include.
***Final Action:*** Signed, Ch. 1241, Statutes of 1971.

**AB 2872** (Knox) – District Reorganization Act
This bill authorized the board of supervisors to conduct and complete proceedings if a district or board of directors fails to do so regarding a change of organization.
***Final Action:*** Signed, Ch. 265, Statutes of 1971.

**SB 39** (Alquist) – Santa Clara County Transit District
This bill provided for the establishment of the Santa Clara County

Transit District if approved by the voters.

***Final Action:*** Signed, Ch. 30, Statutes of 1972.

**SB 310** (Coombs) – Local Agency Formation Commission

This bill would have prohibited LAFCO from drawing the sphere of influence of any agency to include territory within the sphere of another agency which is multipurpose, services an assigned area under the California Water Plan, and has any power in common with the first agency. It would have also prohibited LAFCO from approving an annexation by a special district of territory that is already being served by a district having a common power with the annexing district.

***Final Action:*** Died in Senate Agriculture and Water Resources, 1972.

**SB 339** (Gregorio) – Local Agency Formation Commission: Members

This bill authorized a mayor or chairman of a city council to designate an alternate to serve on a city selection committee for LAFCO.

***Final Action:*** Signed, Ch. 415, Statutes of 1972.

**SB 550** (Marks) – Zoning

This bill would have authorized cities to zone unincorporated territory as part of the city up to three miles from their boundaries, with the approval of LAFCO.

***Final Action:*** Died in Senate Local Government, 1972.

**SB 688** (Marler) – Irrigation Districts

This bill required that a ballot proposition in an election for the approval of sewage disposal must describe the portion of the district in which sewage disposal is to be provided, in those districts required to obtain the approval of LAFCO prior to the provision of this service.

***Final Action:*** Signed, Ch. 415, Statutes of 1972.

**SB 921** (Lagomarsino) – Community Services District: Santa Barbara

This bill created a college community services district in Santa Barbara County.

***Final Action:*** Signed, Ch. 1420, Statutes of 1972.

**SB 1190** (Marks) – Open Meetings

This bill would have provided that subcommittee meetings of any legislative body would be open to the public.

***Final Action:*** Died in Senate Rules, 1972.

## 1973-74

**AB 444** (Thurman) – Fire Protection Districts

This bill required that if a portion of a fire district is proposed to be withdrawn and no agreeable basis for the distribution of the property and assets of the district is reached within six months, LAFCO must determine the basis for the distribution of property and assets between the district and the city.

***Final Action:*** Signed, Ch. 1004, Statutes of 1973.

**AB 882** (Knox) – Local Agency Formation Commissions

This bill would have required special districts to relinquish jurisdiction over their latent powers and would be given one representative on LAFCO if the following conditions were met: 2/3 of the independent special district in a county made a request, and the aggregate assessed value of such special districts were greater than the total assessed value of the county itself.

***Final Action:*** Died in Assembly Local Government, 1974.

**AB 1346** (Knox) – Local Agency Formation

This bill increased from 70 to 90 days the time in which a hearing on a proposed local agency formation must be held after filing the proposal with LAFCO.

***Final Action:*** Signed, Ch. 126, Statutes of 1974.

**AB 1347** (Knox) – City Disincorporations

This bill permitted city disincorporations to be conducted under the District Reorganization Act procedures unless the affected city objects. This bill also allowed the executive officer to have at least 15 days to prepare an analysis and present it to LAFCO for approval.

***Final Action:*** Signed, Ch. 127, Statutes of 1974.

**AB 2259** (Boatwright) – False Testimony

This bill would have provided that all testimony at a local agency meeting on the subject of land use or zoning must be given under oath.

***Final Action:*** Died in Senate Rules, 1974.

**AB 2752** (Craven) – Local Agency Formation Commissions

This bill would have allowed LAFCO to charge a maximum processing fee of $2,500 for any proposal involving a city incorporation.

***Final Action:*** Died in Assembly Local Government, 1974.

**AB 2783** (Chappie) – Highway Lighting Districts

This bill would have allowed counties to advance the fees charged to LAFCO for processing application for the formation of highway lighting districts whenever taxpayers representing 60% or more of the assessed valuation of all taxable property request that fees be advanced.

***Final Action:*** Died in Assembly Local Government, 1974.

**AB 2850** (Dunlap) – Open Space

This bill would have made a technical change to government code relating to zoning.

***Final Action:*** Died in Senate Revenue and Taxation, 1974.

**AB 2859** (Dunlap) – Local Agency Formation Commissions

This bill required LAFCOs to consider the existence and maintenance of open space or agricultural preserves in determining the sphere of influence for each local governmental agency.

***Final Action:*** Signed, Ch. 531, Statutes of 1974.

**AB 2892** (Harvey) – Local Agency Formation Commissions

This bill required public hearing for review of spheres of influence if requested by the local agency. This bill also provided that the local agency requesting the review must pay the costs, not to exceed $500 unless waived by LAFCO.

***Final Action:*** Signed, Ch. 360, Statutes of 1974.

**AB 2977** (Priolo) – Local Agency Formation Commissions

This bill would have allowed LAFCOs to review key facilities within a local jurisdiction's sphere of influence.

***Final Action:*** Died in Assembly Local Government, 1974.

**AB 3062** (Holoman) – Local Agency Formation Commissions

This bill would have changed the composition of LAFCOs in any city which has a population over 1 million to consist of seven members which would include 3 city representatives with a guarantee of 1 from the most populated city, 2 representing the county, and 2 representing the general public.

***Final Action:*** Vetoed, 1974.

**AB 3686** (Knox) – Local Agency Formation Commissions

This bill would have validated past actions of LAFCOs which had not conformed to the requirements of CEQA. This legislation was in response to an appellate court ruling (Bozung v. Ventura County LAFCO).

***Final Action:*** Died in Senate Local Government, 1974.

**AB 4206** (Knox) – Incorporation

This bill required the calculation of registered voters signing a petition for incorporation to be based on the last general State election.

***Final Action:*** Signed, Ch. 866, Statutes of 1974.

**AB 4270** (Knox) – Consolidation of Counties

This bill provided a procedure for the consolidation of two or more contiguous counties.

***Final Action:*** Signed, Ch. 1391, Statutes of 1974.

**AB 4271** (Knox) – Creation of New Counties

This bill changed the requirements and process for the creation of a new county.

Changes included reducing the number of signatures required from 65% to 25%; majority vote approval instead of 2/3; provides for appointment of a Commission by the Governor; and provided a procedure for notice hearing and election on a new county.

***Final Action:*** Signed, Ch. 1392, Statutes of 1974.

**AB 4272** (Knox) – Alteration of County Boundaries

This bill provided for procedures for major county boundary changes.

***Final Action:*** Signed, Ch. 1393, Statutes of 1974.

**AB 4325** (Knox) – Local Agency Formation Commission

This bill would have authorized LAFCO to waive the restrictions prohibiting annexations that would create a strip of unincorporated territory less than 200 feet wide and more than 300 feet long, or a strip of unincorporated territory consisting solely of a highway.

***Final Action:*** Vetoed, 1974.

**SB 259** (Marler) – Local Agency Formation Commissions

This bill permitted a member of LAFCO in a county of not more than two cities to vote on a city annexation proposal when the member is also an officer of the city.

***Final Action:*** Signed, Ch. 211, Statutes of 1973.

**SB 687** (Petris) – Local Agency Formation Commissions

This bill allowed LAFCOs to adopt standards and procedures in evaluating proposals.

***Final Action:*** Signed, Ch. 652, Statutes of 1973.

**SB 1386** (Gregario) – City Annexations

This bill would have prohibited LAFCOs from approving an annexation to surrounding city of certain territory without notice, hearing or election, as well as other changes to city annexation statutes.

***Final Action:*** Died in Senate Local Government, 1974.

**SB 1543** (Nejedly) – Air Pollution

This bill, among other provisions, would have required LAFCOs to take air quality into account when considering proposals.

***Final Action:*** Died in Senate Local Government, 1974.

**SB 1816** (Ayala) – Local Agency Formation Commission

This bill would have provided for appeal of a LAFCO decision if an interested person presented the Board of Supervisors with a petition within 30 days. The Board could hold a hearing to review the decision and a 4/5 vote of the Board would be necessary to overrule LAFCO.

***Final Action:*** Died in Senate Finance, 1974.

**SB 2145** (Zenovich) – Environmental Quality

This bill would have confirmed, validated, and declared legally effective approvals by LAFCOs of projects not in compliance with CEQA, made prior to the Bozung court case (Bozung, vs. Ventura County LAFCO).

***Final Action:*** Died in Assembly Local Government, 1974.

## 1975-76

**AB 208** (Craven) – Local Agency Formation Commission: Members

This bill would have changed the membership of the Los Angeles LAFCO to 2 supervisors, 3 city councilmen, and 2 public members.

***Final Action:*** Died in Assembly Local Government, 1976.

**AB 1022** (Craven) – District Reorganization Act: Elections

This bill requires that an election is to be held in a city included in a reorganization if the value of the territory to be annexed equals one-half or more of the assessed value of the city, or the number of registered voters in the territory is one-half or more of the total number of registered voters in the city.

***Final Action:*** Signed, Ch. 260, Statutes of 1975.

**AB 1563** (Cullen) – Resource Conservation Districts

This bill allowed the California Coastal Zone Conservation Commission to make settlements in connection with judicial action.

***Final Action:*** Signed, Ch. 1424, 1976.

**AB 1564** (Z'berg) – Solid Waste Management Board

This bill would have added a provision stating that the current requirements for members of the Board are not intended to supersede any provision of the Political Reform Act.

***Final Action:*** Died in Assembly Resources and Land Use, 1976.

**AB 1644** (Nestande) – Local Agency Formation Commission: Members

This bill would have placed several restrictions on the appointment of regular and alternate public members on LAFCO including the following: no person that has served as a city officer or county supervisors during the past 10 years may be appointed, and if a public member be-

comes a city officer or county supervisor their term would automatically cease.

***Final Action:*** Died in Assembly Local Government, 1976.

**AB 2214** (Knox) – Local Agency Formation Commissions

This bill is the annual clean-up bill to the Knox-Nisbet Act. Provisions included that LAFCOs may charge the actual and direct costs for a sphere of influence review, and adds school districts, regional agencies and state agencies to the list of agencies which may be requested to furnish information to LAFCO.

***Final Action:*** Signed, Ch. 31, Statutes of 1976.

**AB 2215** (Knox) – District Reorganization Act

This bill made technical and clarifying changes to the District Reorganization Act including allowing LAFCO to consider proposals for reorganization consisting only of annexations or detachments without notice or hearing if 100% of landowners consent.

***Final Action:*** Signed, Ch. 861, Statutes of 1975.

**AB 2717** (MacDonald) – Local Agency Formation Commissions

This bill would have required LAFCOs to disqualify any councilman from participating in the review of an annexation proposal to the city where he serves, and disqualify any county supervisor from participating in a proposal affecting his district.

***Final Action:*** Died in Assembly Local Government, 1976.

**AB 3438** (Knox) – Local Agency Formation Commissions

This bill provided mandatory time limits within which a LAFCO must give notice, hold hearing and take other actions, provided that LAFCO decisions are presumed final for the purpose of judicial review, and required final approval of finding on annexations to be sent to the LAFCO executive officer.

***Final Action:*** Signed, Ch. 893, Statutes of 1976.

**AB 3439** (Knox) – District Reorganization Act

This bill made several clarifying changes to the DRA including the following: allowed the formation of a county service area without an election, expand the definition of reorganization to include two or more actions for the same agency, and allowed LAFCO to designate a city to conduct reorganization proceedings if the proposal involves the annexation or detachment of territory to that city.

***Final Action:*** Signed, Ch. 956, Statutes of 1976.

**SB 98** (Nejedly) – Air pollution

This bill would have required LAFCOs to take air quality into account when considering proposals.

***Final Action:*** Died in Senate Local Government, 1976.

**SB 406** (Marks) – Local Government Reorganization

This bill would have established a statewide commission to develop criteria for reorganization of local government, including countywide reorganization committees.

***Final Action:*** Died in Senate Local Government, 1976.

**SB 1736** (Smith) – Local Agency Formation Commissions

This bill would have reformed the sphere of influence planning process by setting specific state policies for LAFCOs to implement and LAFCOs would be required to complete spheres by July 1979 for agencies providing services which cause urban growth. It would also have established a procedure for citizens, cities, or counties to add more public members to LAFCO, who would be elected rather than appointed.

***Final Action:*** Died on the Senate Floor, 1976.

**SB 1510** (Alquist) – Unincorporated islands

This bill would have allowed the annexation of islands without a vote but did allow protest provisions.

***Final Action:*** Died in Senate Local Government.

## 1977-78

**AB 24** (Cline) – County Formation

This bill appropriated $300,000 to the County Formation Revolving Fund.

***Final Action:*** Signed, Ch. 465, Statutes of 1978.

**AB 320** (Craven) – Local Agency Formation Commissions

This bill provided several clarifying and technical changes to Knox-Nisbet and District Reorganization Act. Changes included that any request for LAFCO to reconsider its decision must be made within 60 days; clarified that LAFCO has the power to approve without notice or hearing of a reorganization of boundaries consisting solely of annexations and detachments for which consent has been given.

***Final Action:*** Signed, Ch. 90, Statutes of 1977.

**AB 603** (Cortese) – Spheres of Influence

This bill would have provided that a sphere of influence must contain an assignment of public service responsibilities, the present and projected service areas, and the timing of the availability of such services and the relationship of such availability to the applicable general plan. This bill would have also provided that urban services should be provided only within areas designated for urban development, urban services shall be provided outside an existing urban area only when land is substantially developed, urban services shall not be provided within areas designated in the general plan for open-space uses, and urban services shall not be extended to lands in agricultural preserves, or prime agricultural land.

***Final Action:*** Died in Senate Local Government, 1978.

**AB 1531** (Knox) – Local Agency Formation

This bill provided several minor changes to LAFCO law. Among the changes is that a change or organization or reorganization is complete following a certificate of completion by the executive officer.

***Final Action:*** Signed, Ch. 76, Statutes of 1978.

**AB 1533** (Knox) - Municipal Organization Act (MORGA)

This bill consolidated procedures governing annexation, detachments, incorporation and consolidation into one act (MORGA). This bill stated the legislative intent of MORGA**,** deleted the ability of a city council to terminate annexation proceedings, started the island annexation program, specified who pays the costs of proceedings, and provided protest procedures for proposals. This bill also shifted the petition requirement to the early stages of the proceedings. A petition would be needed before a proposal could be filed with LAFCO.

***Final Action:*** Signed, Ch. 1253, Statutes of 1977.

**AB 1886** (Wornum) – Local Agency Formation Commissions
This bill would have provided that the board of supervisors by a 4/5 vote may disapprove any budget increase for a LAFCO over the prior budget.
***Final Action:*** Died in Senate Local Government, 1978.

**AB 2090** (Wray) – LAFCO members
This bill required that a notice must be posted when there is a vacancy in the public member position on LAFCO. Prior to this legislation special districts were not specifically notified.
***Final Action:*** Signed, Ch. 643, Statutes of 1978.

**AB 2137** (Knox) - Municipal Organization Act
This bill extended the window period for annexing an unincorporated island without an election until 1981; revised time limits for submitting ballot arguments for incorporation elections; and gave cities veto power over detachment proceedings.
***Final Action:*** Signed, Ch. 339, Statutes of 1978.

**SB 467** (Smith) – Local Agency Formation Commissions
This bill would have provided additional criteria for determining the adequacy of spheres of influence, provided that a sphere may be prepared for an unincorporated area, required a city and county to submit a sphere of influence under a joint agreement, provided that following the adoption of a sphere for a city no development that would revise the extension of public services that promoted growth outside the sphere would be allowed, and would have established a new land use planning designation known as the urban service area.
***Final Action:*** Died in Senate Local Government, 1978.

**SB 700** (Robert) – County Formation
This bill required that in order to qualify a proposal to create a new county for the ballot the proponents must gather 10% of signatures of registered voters in the affected county in addition to 25% in the proposed county (existing law at the time). This bill was applicable to Los Angeles only and was in response to the numerous attempts at the time to split Los Angeles County into several new counties.
***Final Action:*** Signed, Ch. 1175, Statutes of 1977.

**SB 701** (Robert) - County Formation
This bill would have required the Controller to disburse to the County Formation Review Commission the funds necessary to meet the commissions expenses. It would also have allowed an affected county to file a claim with the state for reimbursement of costs incurred for the election.
***Final Action:*** Died in Senate Finance Committee, 1977.

**SB 702** (Robert) – County Formation
This bill would have provided that the following determinations be included in the County Formation Review Commission report: how real and personal property owned by each county is to be distributed, what the budget of the proposed county is to be, what the maximum tax rate for the proposed county is, and the socioeconomic impact of the proposed county on the citizens of all affected areas.
***Final Action:*** Died in Assembly Local Government, 1977.

## 1979-80

**AB 8** (Greene) – Property Tax
This bill restructured the financing of public schools in California.
***Final Action:*** Signed, Ch. 282, 1979

**AB 83** (Brown) – Property Tax
This bill would have implemented a portion of Article XIII A of the State Constitution by provide for the allocation of property tax revenue to local agencies and schools.
***Final Action:*** Died on the Assembly Floor, 1980.

**AB 170** (Chappie) – Local Agency Formation Commissions: Representation
This bill would have required special district representation on LAFCO upon the request of district which represent a majority of either the population or assessed valuation in a county.
***Final Action:*** Died in Assembly Ways and Means, 1980.

**AB 287** (Knox) – Local Agency Formation Commissions
This bill would have allowed LAFCOs to study existing local governmental agencies to ensure that such agencies are organized to provide the most economic and efficient public services.
***Final Action:*** Died in Senate Local Government, 1980.

**AB 947** (Chappie) – County Service Areas
This bill required that county service areas must get LAFCO approval in order to provide services not specified when they were formed.
***Final Action:*** Signed, Ch. 545, Statutes of 1979.

**AB 1073** (Costa) – Local Agency Formation Commissions
This bill would have provided for a joint local agency and LAFCO to develop urban service boundaries identifying the area appropriate for urban expansion for the subsequent five years.
***Final Action:*** Died in Assembly Local Government, 1980.

**AB 1191** (Frazee) – Spheres of Influence
This bill required LAFCO to prepare a statement of findings when determining spheres of influence.
***Final Action:*** Signed, Ch. 892, Statutes of 1979.

**AB 1437** (Knox) – Local Agency Formation Commissions
This bill would have authorized LAFCOs to initiate proceeding for consolidation of special districts, required LAFCO to consult with the California Coastal Commission on proposals affecting the coastal zone, and would have prohibited LAFCO approval of any proposal unless it was consistent with each local agencies sphere of influence.
***Final Action:*** Died on the Assembly Floor, 1980.

**AB 1759** (Priolo) – Local Agency Formation Commission: Grand Jury
This bill authorized grand juries to investigate LAFCOs.
***Final Action:*** Signed, Ch. 306, Statutes of 1979.

**AB 1983** (Felando) – Municipal Organization Act
This bill would have authorized a city to terminate a proposal for annexation after it conducts a hearing on the proposal, would have allowed

an election on a detachment proposal only in the area to be detached, and would have prohibited LAFCO from disapproving a proposal for the detachment of territory from a city where the proposal was initiated by petition of registered voters.

***Final Action:*** Died in Assembly Local Government, 1979.

**AB 2806** (Costa) – Local Agencies: LAFCOs

This bill required that unless LAFCO is the lead agency in the proposed action, the executive officer shall issue the certification of filing within 30 days of receiving the application.

***Final Action:*** Signed, Ch. 1145, Statutes of 1980.

**AB 2833** (Chappie) – Local Agency Formation Commissions

This bill redefined "independent special district" to include any special district having a legislative body whose members are appointed to fixed terms by officers of a county or other local agency.

***Final Action:*** Signed, Ch. 429, Statutes of 1980.

**AB 2998** (Knox) – Local Agencies: Organization and Reorganization

This bill made several technical and clarifying changes to the Municipal Reorganization Act, District Reorganization Act, and the Knox-Nisbet Act.

***Final Action:*** Signed, Ch. 1132, Statutes of 1980.

**AB 3302** (Harris) – Cities: Annexation

This bill would have allowed LAFCOs to continue island annexations without protest indefinitely.

***Final Action:*** Died in Senate Finance, 1980.

**SB 186** (Rodda) – Property Tax

This bill provided technical changes to AB 8 which permanently restructured the system of financing schools.

***Final Action:*** Signed, Ch. 1035, Statutes of 1979.

**SB 673** (Craven) – Local Agency Formation Commissions

This bill would have provided that where a local general plan sets the sphere of influence for the local agency, the sphere boundaries of the LAFCO shall not be inconsistent with the local agencies sphere unless LAFCO finds that the general plan is inconsistent with LAFCO determinations.

***Final Action:*** Died in Senate Local Government, 1980.

**SB 1871** (Rains) – Local Agency Formation Commissions

This bill would have authorized LAFCO to initiate proceedings for the disincorporation of a city or the consolidation of cities.

***Final Action:*** Died in Senate Local Government, 1980.

## 1981-82

**AB 607** (Berman) – Los Angeles County LAFCO

This bill increased the Los Angeles County LAFCO to seven members composed of two county supervisors, one resident of the San Fernando Valley, two representatives from cities in the county, one representative from the City of Los Angeles, and one from the general public.

***Final Action:*** Signed, Ch. 1181, Statutes of 1981.

**AB 854** (Cortese) – Local Agency Formation Commissions

This bill would have allowed a city, on the vote of four members of the city council, to overrule LAFCO approval of a special district formation or annexation within that city's sphere of influence.

***Final Action:*** Died in Assembly Local Government, 1982.

**AB 856** (Thurman) – Highway Lighting Districts: Dissolution

This bill allowed the board of supervisors, after a public hearing, to dissolve a highway lighting district if a county service area has been established to provide services to all territory in the district.

***Final Action:*** Signed, Ch. 207, Statutes of 1981.

**AB 1113** (Costa) – Local Agency Formation Commissions

This bill prohibited LAFCO from disapproving an annexation of contiguous territory which is substantially surrounded by the city if the territory to be annexed is substantially developed, and does not include prime agricultural land.

***Final Action:*** Signed, Ch. 855, Statutes of 1981.

**AB 1158** (Frazee) – Local Governments: Organization and Reorganization

This bill defined the terms landowner and municipal reorganization for purposes of municipal or district reorganization. This bill also made technical changes to the Municipal Organization Act, District Reorganization Act, and the Knox-Nisbet Act.

***Final Action:*** Signed, Ch. 961, Statutes of 1981.

**AB 2003** (Cortese) – Santa Clara LAFCO

This bill required that one seat on the Santa Clara LAFCO must be reserved for the City of San Jose.

***Final Action:*** Signed, Ch. 205, Statutes of 1982.

**AB 2004** (Cortese) – Local Agency Formation Commissions

This bill repealed the provision which required the automatic disqualification of a regular city member when LAFCO is considering a proposal for annexation of territory to the city of which the regular city member is an official.

***Final Action:*** Signed, Ch. 240, Statutes of 1982.

**AB 2052** (Frazee ) – County Service Areas

This bill allowed LAFCO and county supervisors to approve the formation of a county service area without notice or hearing if all the landowners in the affected territory have consented to the formation.

***Final Action:*** Signed, Ch. 310, Statutes of 1981.

**AB 2715** (Frazee) – District Reorganization Act

This bill required LAFCO to approve a consolidation or reorganization proposal if a majority of the legislative bodies of the affected districts adopt similar resolutions regarding the proposal. The proposal would proceed without an election unless 25% protest.

***Final Action:*** Signed, Ch. 1170, Statutes of 1982.

**AB 3003** (Cortese) – Cities: Annexation Procedures

This bill removed the authority of the Santa Clara LAFCO to review a proposal for annexation if the proposed territory was within the urban service area and was initiated by the city within two years after the urban

service area was adopted.

***Final Action:*** Signed, Ch. 1178, Statutes of 1982.

**AB 3101** (Ryan) – Consolidation or Reorganization of Districts

This bill would have lowered the vote requirement applicable to the legislative bodies of local district from unanimous vote to 2/3 to approve the consolidation of districts. It would also have required LAFCO to call for an election confirming the consolidation or reorganization of the districts if a protest petition is signed by at least 10% of registered voters.

***Final Action:*** Died in Assembly Local Government, 1982.

**AB 3432** (Frazee) – Local Agency Formation Commissions

This bill would eliminate the requirement that counties fully fund LAFCOs and instead allow the county board of supervisors to finance a LAFCO a the level requested by LAFCO, or the level provided in the prior fiscal year or any additional amount that the county deems necessary.

***Final Action:*** Signed, Ch. 436, Statutes of 1982.

**AB 3514** (Campbell) – Local Agency Formation Commissions

This bill reduced the time period allowed for filing a request for consideration and allowed a reconsideration request to be withdrawn before LAFCO acts upon it.

***Final Action:*** Signed, Ch. 511, Statutes of 1982.

**AB 3515** (Campbell) – Local Agency Formation Commission

This bill would have allowed an applicant to withdraw an application made to LAFCO requesting revision of LAFCO's resolution approving a proposal.

***Final Action:*** Died in Senate Local Government, 1982.

**AB 3564** (Roos) – Mello-Roos Community Facilities Act

This bill enacted the Mello-Roos Community Facilities Act which provide an alternative method of financing public capital facilities by establishing special districts for that purpose.

***Final Action:*** Signed, Ch. 1451, Statutes of 1982.

**AB 3665** (Lehman) – Local Agency Formation Commissions

This bill would have required LAFCO to implement rather than consider policies and priorities which may lead to the conversion of open-space lands to other open-space uses. It would also have guided development away from all agricultural lands instead of just prime agricultural lands.

***Final Action:*** Died in Assembly Local Government, 1982.

**SB 55** (Johnson) – LAFCO Members

This bill provided that if a regular member that represents special districts is disqualified from participating that an alternate member may be appointed by the independent special district selection committee.

***Final Action:*** Signed, Ch. 52, Statutes of 1981.

**SB 678** (Garcia) – New cities

This bill would have required LAFCO, as part of its review of city incorporations, to place the appropriations limit on the same ballot as the question of the incorporation.

***Final Action:*** Died in Assembly Local Government, 1982.

**SB 1876** (Maddy) – Local Agency Formation Commissions

This bill would have prohibited LAFCO from imposing, on any city annexation proposal, any condition relating to the provision of schools.

***Final Action:*** Died in Assembly Local Government, 1982.

**SB 2089** (Ayala) – Local Agency Formation Commission: Budget

This bill would have placed LAFCO's budget directly under the board of supervisor's control by treating LAFCO as a county budget unit.

***Final Action:*** Died in the Senate, 1982.

## 1983-84

**AB 14** (Campbell) – Annexation

This bill extended the island annexation program enacted in 1977 until 1988 and revised the criteria for determining eligibility for consideration under the program.

***Final Action:*** Signed, Ch. 298, Statutes of 1983.

**AB 498** (Cortese) – Local Agency Formation Commissions: Spheres of Influence

This bill postponed the effect of the court decision (Resource Defense Fund v. Santa Cruz LAFCO 138 Cal. App. 3d 987) which ruled that LAFCOs must adopt a sphere of influence before an annexation is approved until January 1985.

***Final Action:*** Signed, Ch. 27, Statutes of 1983.

**AB 832** (Cortese) – LAFCO: Annexation

This bill prohibited any LAFCO from requiring an annexing city to provide services to an area outside its sphere of influence, unless the condition would mitigate effects which are a direct result of the annexation.

***Final Action:*** Signed, Ch. 1515, Statutes of 1984.

**AB 838** (Cortese) – Property Tax: Redevelopment

This bill would provide that certain redevelopment agencies be allocated and paid a portion of those taxes for the first time during the fiscal year 1984. This bill also included legislative intent language to review and make recommendations on the procedure utilized in determining the exchange of all local revenues in the case of a new city or district formation.

***Final Action:*** Signed, Ch. 1224, Statutes of 1984.

**AB 941** (Bradley) – Local Agency Formation Commissions

This bill would have repealed the requirement that LAFCO adopt spheres of influence for special districts and would require a 20 day instead of a 15 day notification of the public hearing necessary for the adoption of a sphere by LAFCO.

***Final Action:*** Died in Assembly Local Government, 1984.

**AB 1016** (Killea) – San Diego LAFCO

This bill revised the composition of the San Diego LAFCO from seven members to eight to include a city councilperson from the City of San Diego.

***Final Action:*** Signed, Ch. 596, Statutes of 1983.

**AB 1072** (Cortese) – Cities: Annexation Procedures

This bill modified the special city annexation procedures in Santa

Clara County and required that the city must reimburse the county for the county surveyor costs when determining the boundaries of the area proposed to be annexed.

***Final Action:*** Signed, Ch. 382, Statutes of 1983.

**AB 1239** (Seastrand) – Local Agency Formation Commissions

This bill required LAFCOs to consider agricultural lands instead of agricultural preserves when determining a sphere of influence.

***Final Action:*** Signed, Ch. 394, Statutes of 1984.

**AB 1324** (Bradley) – LAFCOs: Spheres of Influence

This bill would have provided that a LAFCOs authority to act on a proposal would not be contingent upon its having adopted spheres of influence for local agencies within its jurisdiction.

***Final Action:*** Died in Assembly Local Government, 1984.

**AB 1532** (Cortese) – Annexations

This bill originally had provisions on the impact on balance between jobs and employed residents for annexations but was changed to deal with the State Lands Commission.

***Final Action:*** Died in Assembly Ways and Means, 1984.

**AB 1848** (Clute) – Local Agency Formation Commissions

This bill required LAFCOs to notify a city or special district whenever another local agency attempts to change the boundaries within a city or special district sphere of influence.

***Final Action:*** Signed, Ch. 80, Statutes of 1984.

**AB 2175** (Bader) – Community Facilities Districts

This bill provided that Community Facilities Districts were not subject to LAFCO review due to the fact that these districts are simply financing devices.

***Final Action:*** Signed, Ch. 606, Statutes of 1983.

**AB 3385** (Farr) – Cities: Special Districts

This bill required a required a two-year waiting period after voters defeated a subsidiary district proposal before a similar proposal could be resubmitted, but would permit LAFCO to waive the limitation if it would be detrimental to the public interest.

***Final Action:*** Signed, Ch. 1097, Statutes of 1984.

**AB 3685** (Sher) – LAFCOs: Open Space Lands

This bill would have required LAFCOs to carry out, rather than to just consider, the specified policies and priorities for the preservation of open-space lands.

***Final Action:*** Died in Assembly Natural Resources, 1984.

**AB 3822** (Filante) – Cities

This bill would have prohibited cities which provide services to a county under contract from charging the county any portion of costs which are general overhead.

***Final Action:*** Died in Senate Rules, 1984.

**AB 3823** (Filante) – Local Agency Formation Commissions

This bill clarifies existing law regarding the counties ability to choose how to fund LAFCOs. This was originally adopted in AB 3432 (Frazee, 1982).

***Final Action:*** Signed, Ch. 829, Statutes of 1984.

**SB 255** (Marks) – LAFCO: Special District Representation

This bill authorized the selection committee of an independent special district selection committee to conduct business by mail instead of at a meeting by the committee.

***Final Action:*** Signed, Ch. 427, Statutes of 1983.

**SB 322** (Craven) – LAFCOs: Spheres of Influence

This bill would have specified that LAFCOs must adopt spheres of influence for each local governmental agency in their jurisdiction by January 1987, but would still allow LAFCOs to act on proposals prior to the adoption of the spheres.

***Final Action:*** Died on inactive, 1984.

**SB 378** (Marks) – Local Agency Formation Commissions

This bill increased the maximum application fee charged by LAFCO from $500 to the estimated reasonable cost of processing the proposal or $1,500 whichever is less, and increased the maximum fee for checking petition signatures from $0.15 to the estimated reasonable cost or $.50 per signature whichever is less. This bill required LAFCO to set the fees at a public hearing after publishing notice in a newspaper.

***Final Action:*** Signed, Ch. 470, Statutes of 1983.

**SB 445** (Ayala) – Conducting authority: fees

This bill authorized counties conducting proceedings for a city incorporation to impose a fee to cover these expenses.

***Final Action:*** Signed, Ch. 251, Statutes of 1983.

**SB 1309** (Johnson) – County Formation

This bill would have allowed the election for the proposed new Tahoe County to be held in November.

***Final Action:*** Signed, Ch. 226, Statutes of 1984.

**SB 1319** (Marks) – LAFCO: Spheres of Influence

This bill extended the deadline or completion of spheres of influence for certain special districts from January 1985 to June 30, 1985.

***Final Action:*** Signed, Ch. 1059, Statutes of 1984.

**SB 2157** (Seymour) – Local Agency Formation Commissions

This bill eliminated LAFCO's responsibility of adoption standards for the evaluation of proposals and made optional the adoption of standards for factors which must be considered when reviewing proposals.

***Final Action:*** Signed, Ch. 1302, Statutes of 1984.

## 1985-1986

**AB 86** (Hauser) Annexation – City of Willits

This bill allowed the City of Willits to annex city-owned property that is not contiguous to the city which consists of 3,100 acres of watershed land and a dam.

***Final Action:*** Signed, Ch. 86, Statutes of 1985.

**AB 115** (Cortese) – Local Agency Formation Commissions

This bill consolidated the Knox-Nisbet Act (1963,65), the District Reorganization Act (1965) and the Municipal Organization Act (1977) into

one statute named the Cortese Local Government Act. The only new policy in this bill is that new cities must have at least 500 registered voters.
***Final Action:*** Signed, Ch. 541, Statutes of 1985.

**AB 164** (Hauser) – Local Agency Formation Commissions
This bill would have required LAFCOs to consider the effect of an annexation proposal on a city's liability exposure, would have required a LAFCO to consider whether the infrastructure of a proposed annexation is adequate or whether steps should be taken to bring the infrastructure up to standards of the city.
***Final Action:*** Vetoed, 1985.

**AB 558** (Cortese) – Cortese-Knox Act
Renamed Cortese Local Government Act the Cortese-Knox Act. Also made other technical changes to planning law.
***Final Action:*** Signed, Ch. 1599, Statutes of 1985.

**AB 672** (Cortese) – Local Agencies
This bill authorized LAFCO to allow a county that maintained an unincorporated area services fund prior to and following Proposition 13 to phase in a property tax revenue exchange over a period not to exceed 12 years.
***Final Action:*** Signed, Ch. 956, Statutes of 1986.

**AB 923** (Costa) – Local Agency Formation Commissions
Reduced the number of local entities to which a LAFCO is required to send reports on applications for boundary changes.
***Final Action:*** Signed, Ch. 480, Statutes of 1985.

**AB 1327** (Johnson) – Annexation
This bill would have deleted the requirement that terminates island annexation proceedings when 50% of the voters file a protest.
***Final Action:*** Died in Assembly Ways and Means, 1986.

**AB 1893** (Peace) – County Water Authority
This bill required that the terms and conditions of an annexation by a county water authority must be transmitted to the executive officer of LAFCO.
***Final Action:*** Signed, Ch. 1408, Statutes of 1985.

**AB 2128** (Lewis) – Local Agency Formation Commissions
This bill prohibited LAFCO from imposing any condition that would regulate land use or density, prohibited LAFCO from imposing a condition that would require a local agency to improve an existing public facility that is owned by another agency, and specified that LAFCO cannot impose any condition regarding the standards or frequency of street maintenance.
***Final Action:*** Signed, Ch. 793, Statutes of 1985.

**AB 2197** (Frazee) – Annexation
This bill would have provided that LAFCO could not impose any condition on an annexation that requires the annexing agency to exercise its discretion in a particular way.
***Final Action:*** Died in Assembly Local Government, 1986.

**AB 2206** (Cortese) – Property Tax
This bill would have required LAFCO to determine the amount of property tax to be exchanged in a annexation if the parties cannot agree within 120 days of the initiation of proceedings.
***Final Action:*** Died in Senate Rules, 1985.

**AB 2612** (Frazee) – Local Agencies: Special Districts
Allows special districts to participate in proposals which affect their own agencies. In 1982, legislation was signed which removed the conflict of interest provisions for city members, but the special district provision remained. This bill gave special districts the same rights as other members on LAFCO.
***Final Action:*** Signed, Ch. 86, Statutes of 1986.

**AB 3075** (Cortese) – Annexation
This bill would have prohibited a city from annexing university lands without the university's consent.
***Final Action:*** Died in Assembly Local Government, 1986.

**AB 3236** (Hannigan) – Local Agency Formation Commissions
This bill would have amended legislative intent language, increased the number of public members on LAFCO by two, allowed LAFCO to initiate proposals to consolidate dissolve or merge districts, required LAFCOs to make written determinations when approving spheres of influence, and would have required LAFCO decisions to be consistent with general plans.
***Final Action:*** Died in Assembly Local Government, 1986.

**AB 3398** (Cortese) – Local Agency Formation Commissions
This bill required LAFCO to approve a city and district's proposal to reorganize into a single agency, if a majority of the members of their legislative bodies approved the reorganization. This bill also made technical, and clarifying changes to the Cortese-Knox Act.
***Final Action:*** Signed, Ch. 688, Statutes of 1986.

**AB 3453** (O'Connell) – Local Government: New cities
This bill would provide that the proponents of an incorporation can require the LAFCO to order the county board of supervisors to conduct a separate election for city officers after the incorporation election. The new city would be required to pay for the second election.
***Final Action:*** Signed, Ch. 809, Statutes of 1986.

**SB 61** (Ellis & Frazee) – Spheres of Influence
This bill allowed LAFCO to continue to act on boundary changes initiated by December 1984 even though their required sphere of influence program was not completed. This bill also revised the definition of prime agriculture land to mean land currently used for the purpose of producing an agricultural commodity, land left fallow under a crop rotation program, or land enrolled in an agricultural subsidy.
***Final Action:*** Signed, Ch. 133, Statutes of 1985.

**SB 178** (Marks) – Local Agency Formation Commissions
This bill would have allowed LAFCOs to recommend consolidations, reorganizations, and dissolution when they submit their annual budgets to the county boards of supervisors.
***Final Action:*** Died in Senate Local Government, 1986.

**SB 517** (Craven) – San Diego LAFCO

This bill would have expanded the membership on San Diego LAFCO from eight to nine members. It would have required the LAFCO to appoint the additional member who would either be another independent special district representative or another public member.

***Final Action:*** Died in Senate Local Government, 1986.

**SB 727** (McCorquodale) – Spheres of Influence

The original version of the bill dealt with an exemption for EIRs on sphere of influence proposals before LAFCO. It was amended and changed to make revision to existing law governing real property home improvement contracts.

***Final Action:*** Signed, Ch. 1404, Statutes of 1986.

**SB 1051** (Montoya)

This bill allowed a city council or board of supervisors to have veto power over an incorporation if more than half of the land is owned by or dedicated to the city or county. If the city or county does not object, the LAFCO could only approve it if it imposes a condition stipulating that the newly incorporated city may not adopt any regulation that would have a negative fiscal impact on any contract related to public land.

***Final Action:*** Signed, Ch. 1580, Statutes of 1985.

**SB 1230** (Craven) – Local Agency Formation Commissions: Powers

This bill would have precluded LAFCO from disapproving a proposal initiated by a resolution of a city or a county.

***Final Action:*** Died in Senate Local Government, 1986.

**SB 1863** (Bergeson) – Incorporation

This bill deleted the $1,500 limitation on fees that a LAFCO is allowed to charge and instead allowed LAFCO to charge fees necessary to cover the estimated reasonable cost of providing the service. This bill also required LAFCO to determine the appropriations limit for all proposed new cities and special districts and to have those included on the ballot.

***Final Action:*** Signed, Ch. 1242, Statutes of 1986.

## 1987-88

**AB 169** (Hannigan) – Local Agency Formation Commissions

This bill would have provided for a special allocation of the property tax for LAFCO before it is disbursed to all other agencies in the county, except for school districts. This bill would have added additional writing determination which must be made for cities or water agencies which include or propose to include prime agricultural land or open space lands within their spheres of influence. This bill would have also prohibited counties from approving land uses requiring the development of related facilities or services within the city's sphere of influence, unless the use is equal to or less intense than, and consistent with, the city's general plan designations.

***Final Action:*** Vetoed, 1988.

**AB 777** (Cortese) – Local Agency Formation Commissions

This provided several changes to Cortese-Knox Act including clarifying that an alternate public member has only one vote, and requiring that a copy of a LAFCO resolution mailed to the conducting authority be certified as a true and correct copy by the executive officer.

***Final Action:*** Signed, Ch. 1327, Statutes of 1987.

**AB 1149** (Hannigan) – Annexation

This bill would have provided for a definition of municipal purposes under the annexation law.

***Final Action:*** Died in Senate Local Government, 1988.

**AB 1350** (Cortese) – Local Agencies

The original version of this bill included provision for requirements on LAFCO resolutions, however, it was amended and change to authorize public agencies that provide necessary services to charge capital facilities fees to other public entities.

***Final Action:*** Signed, Ch. 53, Statutes of 1988.

**AB 2193** (Harvey) – Political Reform Act

This would have excluded LAFCO from the provision in the Political Reform Act which prohibits an officer of any agency from making or in any way attempting to use their position to influence a decision on a proposal before the agency if it has received a contribution of $250 or more from a active participant in the proposal.

***Final Action:*** Died on Assembly Inactive file, 1988.

**AB 2453** (Bane) – Local Agency Formation Commissions

This bill would have provided that a LAFCO may, after giving public notice and holding a hearing, establish a schedule of filing fees for checking the sufficiency of any petition filed with the executive officer.

***Final Action:*** Died in Assembly Local Government, 1988.

**AB 3433** (Johnson) – LAFCO: Membership

This bill would have allowed the board of supervisors to appoint any person to fill a county seat on LAFCO.

***Final Action:*** Died in Assembly Local Government, 1988.

**AB 4367** (Hauser) – Annexation

This bill would have allowed for an annexation to occur without any allowance for future appeal, under certain conditions. One condition was the requirement that an agreement between the city and property owners be reached that 15% of the land to be annexed must be used for affordable housing.

***Final Action:*** Died in Assembly Conference, 1988.

**AB 4615** (Brown, Dennis) – Local Agency Formation Commissions

This bill would have required LAFCO to consider the need for terms and conditions to ensure the planning and development of regional infrastructure when reviewing any proposal.

***Final Action:*** Died in Assembly Local Government, 1988.

**SB 272** (Bergeson) – Local Agency Formation Commissions

This bill authorized LAFCOs to require the continuation or imposition of a voter approved general tax as a condition of approval of any boundary change including incorporation.

***Final Action:*** Signed, Ch. 21, Statutes of 1987.

**SB 813** (Bergeson) – Local Government: Appropriations

This bill required that cities, counties, and special districts must disclose the amount of appropriations limit applicable to them and the total

annual appropriations subject to these limits in their annual budgets.

***Final Action:*** Signed, Ch. 1025, Statutes of 1987.

**SB 1063** (Russell) – Local Agency Formation Commissions

This bill allowed a city that was incorporated during the 1977-78 fiscal year to apply to LAFCO in order to determine the amount of property tax revenue to be apportioned by the city.

***Final Action:*** Signed, Ch. 1210, Statutes of 1987.

**SB 1393** (Kopp) – Local Agency Annexation and Detachment

This bill would have created a special procedure for the detachment of territory from the Broadmoor Police Protection District.

***Final Action:*** Vetoed, 1988.

**SB 1506** (Marks) – Local Agency Formation Commissions

Originally required LAFCOs to give special districts representation on LAFCO if a majority of the independent special districts request it. Final version required LAFCOs to hold a public hearing when a majority of the special districts in a county pass resolutions requesting representation; and if LAFCO denies a request for special district representation it must provide a written statement detailing their reasons to anyone who requests the information.

***Final Action:*** Signed, Ch. 1069, Statutes of 1988.

**SB 1631** (Campbell) – County Service Areas

This bill would have extended the time in which a city may nullify a LAFCO's override of the automatic withdrawal of territory from a county service area from 60 to 90 days.

***Final Action:*** Died in Senate Local Government, 1988.

**SB 1897** (Bergeson) – Spheres of Influence

This bill made changes to the appeals process on LAFCO decisions. It specified that an appeal may be filed either before the conducting authority acts on the proposal or within 30 days of the LAFCO decision whichever is easier, requires LAFCO to consider the proposal at its next meeting and to make a decision within 35 days, and prohibited further requests for the same change from being filed. This bill also authorized any person to require amendment to a sphere of influence.

***Final Action:*** Signed, Ch. 826, Statutes of 1988.

**SB 1994** (Bergeson) – Incorporations

This bill would have required the Legislative Analyst to review the fiscal feasibility of incorporation proposals. LAFCO would reimburse the state for the costs.

***Final Action:*** Died in Assembly Local Government, 1988.

**SB 2050** (Maddy) – Annexation

This bill would have required LAFCO to impose the hiring of certain firefighters as a condition on annexation of local agencies providing fire protection services.

***Final Action:*** Died in Assembly Local Government, 1988.

**SB 2277** (Davis) – Local Agency Formation Commissions

This bill would have required the State to finance LAFCOs costs in counties with population of 350,000 or more; the State Controller would reimburse 100% of a county's net revenue loss for the first full fiscal year following incorporation; allow any State legislator who represents an incorporation area to sit as an ex-officio member on LAFCO; require LAFCO to seat one special district member if 50% of the independent districts request representation without giving up their latent powers; and require LAFCO to hire an independent consultant acceptable to both the LAFCO and incorporation advocates to prepare a feasibility study on a petition for incorporation.

***Final Action:*** Sent to Interim study, 1988.

**SB 2368** (Bergeson) – Fire Protection Districts

This bill required that the California Department of Forestry be given notice of any proposal on formation of a fire protection district from a state responsibility area, made the district responsible for fire suppression and prevention in the area, and authorized the district to acquire water facilities for fire protection.

***Final Action:*** Signed, Ch. 465, 1988.

## 1989-90

**AB 253** (Cortese) – County Service Area

This bill would have revised several provisions of county service area law. Included in the provisions was that majority voter approval is required for any new or increased charge if 25% of landowners protest, and authorize LAFCO to allow a CSA to continue to provide services to area included within a boundary of a city if a resolution is adopted by the affected city.

***Final Action:*** Vetoed, 1989.

**AB 1261** (Brown, Dennis) – Local Agency Formation Commissions

This bill would have deleted the requirement that the county members appointed to LAFCO by the board of supervisors be members of the board and require that the appointed county members be county officers.

***Final Action:*** Died in Assembly Local Government, 1990.

**AB 1535** (Farr) – Incorporation

This bill required LAFCO to consider the impact of a proposed incorporation upon any other change of organization which conflicts with the incorporation proposal; allowed LAFCO to adopt written procedures for Controller's review; and provided that a new incorporated city's appropriations limit be based on fiscal not calendar years. It also removed the requirement for a public hearing to be held prior to approval of a proposal to incorporate when other proposals have been submitted affecting the same territory.

***Final Action:*** Signed, Ch. 957, Statutes of 1990.

**AB 1819** (Woodruff) – Consolidation of Districts

This bill allowed the consolidation of the Bighorn Mountains Water Agency and the Desert View Water District. These could not be consolidated under Cortese-Knox because one was created through special legislation.

***Final Action:*** Signed, Ch. 570, Statutes of 1989.

**AB 2175** (Hauser) – Districts: Dissolution

This bill would have required that all proceedings for dissolution of mosquito abatement districts, vector control districts, county sanitation

districts and public cemetery districts take place under the Cortese-Knox Act.

***Final Action:*** Died in Assembly Local Government, 1990.

**AB 2201** (Hill) – Local Agency Reorganization

This bill gave the City of Diamond Bar an extension to provide necessary document with the State Board of Equalization so that the city would be eligible to receive property tax revenues for the 1989-90 fiscal year. The previous version of this bill would have required LAFCOs to consider urban service areas and the jobs/housing balance when considering proposals.

***Final Action:*** Signed, Ch. 59, Statutes of 1990.

**AB 2358** (Bradley) – Permanent Road Divisions

This bill authorized a county board of supervisors to initiate formation of a permanent road division.

***Final Action:*** Signed, Ch. 70, Statutes of 1990.

**AB 2879** (Cortese) – New Towns

This bill would have provided legislative intent language that there is a need to assist in the creation of new towns subject to existing land use and formation provisions, consistent with local, regional and state plans which are determined by LAFCO to be economically viable.

***Final Action:*** Died in Assembly Local Government, 1990.

**AB 4242** (Brown, Willie) – Regional Government

This bill would have established 7 specified geographic regions encompassing the state including a regional development and infrastructure agency in each region. The agencies would have required to prepare, adopt and maintain a regional general plan to contain elements relating to air quality, water quality, transportation, housing, spheres of influence, and capital facilities.

***Final Action:*** Died in Assembly Local Government, 1990.

**SB 362** (Bergeson) – Annexation

This bill clarified various code sections in the Cortese-Knox Act.

***Final Action:*** Signed, Ch. 323, Statutes of 1989.

**SB 393** (Russell) – Districts: Cities

This bill increased the number of signatures in order to create a subsidiary district from 5% to 10% of registered voters. It would also set a time limit within which a proposal for the establishment of a subsidiary district must be heard.

***Final Action:*** Signed, Ch. 233, Statutes of 1989.

**SB 406** (Bergeson) – Landscape and Lighting Districts: Detachment of Territory

Provides for a procedure to detach territory from a Landscape and Lighting District if that territory has been included in a city.

***Final Action:*** Signed, Ch. 324, Statutes of 1989.

**SB 486** (Bergeson) – Local Agency Formation Commissions

This bill required LAFCOs to perform additional functions with regard to the formation of community services districts.

***Final Action:*** Signed, Ch. 789, Statutes of 1989.

**SB 584** (Bergeson) – Reorganization

This bill allowed LAFCO to refer any proposal that includes consolidation, merger, or formation of a special district to a reorganization committee.

***Final Action:*** Signed, Ch. 710, Statutes of 1989.

**SB 585** (Hill) – Local Agency Formation Commissions

This bill corrected technical errors in statutes governing committees appointed to consider district reorganization.

***Final Action:*** Signed, Ch. 971, Statutes of 1990.

**SB 847** (Greene, Leroy) – Local Agency Formation Commissions

This bill would have made technical changes to the consolidation of 2 or more cites under the Cortese-Knox Act.

***Final Action:*** Died in Senate Local Government, 1990.

**SB 1057** (Davis, 1989) – Local Agencies

This bill made several changes to incorporation procedure including the following:

- Required LAFCO to calculate the number of registered voters based on the latest report of voter registration submitted to the Secretary of State prior to the date the first petition signature is collected
- Required that LAFCO adopt written procedure and if standards are adopted written standards.
- In order to approve an incorporation a LAFCO must find that it is consistent with intent of Cortese-Knox, with spheres of influence, the comprehensive fiscal analysis has been reviewed by LAFCO, the report of the executive officer has been reviewed, and the new city will be financially sound for the first 3 years following incorporation.
- Allowed LAFCOs to appoint legal counsel.
- Incorporation proposals approved by the LAFCO prior to 1990 would be required to be assigned a sphere by 1991. Incorporation proposals approve after 1990 may be assigned a sphere immediately but must be done within one year of approval.
- Provided that when two to more overlapping incorporation requests are received a public herring must be held within 30 days of the latest request.
- Required that a comprehensive fiscal analysis is required on incorporation proposals, and if an interested party asks for review of the data, the State Controller must review the analysis. Both the Controller and the LAFCO could levy fees to recoup the cost of this review.

***Final Action:*** Signed, Ch. 1384, Statutes of 1989.

**SB 1082** (Kopp) – Annexation and Detachment

This bill would have created a special procedure for the detachment of territory from the Broadmoor Police Protection District.

***Final Action:*** Vetoed, 1989.

**SB 1821** (Bergeson) – Local Agencies

This bill made several noncontroversial changes to the Cortese-Knox Act.

***Final Action:*** Signed, Ch. 1558, Statutes of 1990.

**SB 2113** (Doolittle) – Sacramento City-County Consolidation

This bill clarified the effects of consolidation on the cities of Folsom, Isleton and Galt should the proposed consolidation be approved by the voters.

***Final Action:*** Signed, Ch. 490, Statutes of 1990.

## 1991-92

**AB 748** (Isenberg & Greene) – Local Agency Formation Commissions
This bill changed the membership of Sacramento County LAFCO to provide that one member must represent the City of Sacramento.
***Final Action:*** Signed, Ch. 439, Statutes of 1991.

**AB 3060** (Gotch) - LAFCO
This bill originally authorized LAFCO when appointing a public member to appoint two additional public members for four counties; and disqualified city, county and special district members from acting on any proposal that lies in their district, This bill was amended and instead provided a technical amendment that a statement of boundary change must be filed with the State Board of Equalization.
***Final Action:*** Signed by Governor, Ch. 491, Statutes of 1992.

**SB 161** (Thompson) – Land Use
This bill would have prohibited the approval of proposals within agriculture, watershed, and open-space protection areas under specified circumstances and required LAFCOs to review, amend, and revise county spheres of influence which have adopted those areas.
***Final Action:*** Died on Senate Floor, 1992.

**SB 660** (Hill) – Local Government
This bill would have required the alternate member of LAFCO, if the regular county member is vacant, to serve and vote in the place of the regular member until the appointment and qualification of a successor.
***Final Action:*** Died in Senate Local Government, 1992.

**SB 1559** (Maddy) – Local Government
This bill enacted "revenue neutrality" which provided that a LAFCO could not approve a proposal for incorporation unless it finds that the amount of revenues the new city takes from the county after incorporation would be substantially equal to the amount of savings the county would obtain from no longer providing services.
***Final Action:*** Signed, Ch. 697, 1992.

## 1993-94

**AB 366** (Cortese) – Local Agencies: Reorganization
This bill repealed the January 1, 1994 sunset on the Santa Clara County annexation procedures. This provision prohibited LAFCO review of an annexation in Santa Clara County if it is initiated by the city, as long as the city makes certain findings.
***Final Action:*** Signed, Ch. 347, Statutes of 1993.

**AB 491** (Farr) – Local Government Finance
Originally this bill would have allowed LAFCOs to initiate proposals for consolidation of districts, dissolution, merger, or establishment of a subsidiary district. It was amended and would have reduced the amount to be shifted from counties to ERAF in 1993-94.
***Final Action:*** Vetoed, 1993.

**AB 1335** (Gotch) – Local Agency Formation Commissions
This bill allowed LAFCOs to initiate proposals for the consolidation, dissolution, or merger of districts and a reorganization that includes any of those changes. This bill also required cities and districts to obtain LAFCO approval before they can contract or provide new or extended services outside their boundaries.
***Final Action:*** Signed by Governor, Ch. 1307, Statutes of 1993.

**AB 3350** (Gotch) – Local Agency Formation Commissions
This bill made several clarifying changes to the Cortese-Knox Act.
***Final Action:*** Signed, Ch. 654, Statutes of 1994.

**AB 3352** (Gotch) – Local Government
This bill required a LAFCO to notify state regulators of proposed changes to a hospital district's boundaries This bill was the annual Local Government Omnibus Bill which has several other provisions.
***Final Action:*** Signed, Ch. 1152, Statutes of 1994.

**AB 3370** (Boland) – Local Government Organization
This bill would have deleted the provision allowing a city to veto a detachment proposal.
***Final Action:*** Died in Assembly Local Government, 1994.

**SB 98** (Bergeson)
Originally this bill authorized LAFCO to appoint up to two more public members. It was amended to provide guidelines for LAFCOs to determine whether subject territory to be annexed or detached is inhabited or uninhabited.
***Final Action:*** Died on Assembly Floor, 1994.

**SB 272** (Ayala) – Local Agency Formation Commission
This bill provides that a sphere of influence could be amended by voter initiative if a sphere amendment has been disapproved by LAFCO. This bill only applied to the agricultural preserve in the El Prado area of San Bernardino County.
***Final Action:*** Signed, Ch. 438, Statutes of 1993.

**SB 377** (Presley) – Planning
This bill would have created the California Sustainable Development Council to assist the Governor and the Legislature in examining economic development, resource management, and environmental laws to determine how conflicts and inefficiencies could be identified and rectified.
***Final Action:*** Died in Assembly Appropriations, 1994.

**SB 405** (Committee on Local Government) – Local Agencies
This bill is an omnibus vehicle and contains several provisions relating to local government. One provision allows LAFCO to condition approval of a boundary change on the extension of existing charges, fees, and assessments to the affected territory. It also required the annexing agency to notify landowners if they would be subject to any special taxes or benefit assessments.
***Final Action:*** Signed, Ch. 1195, Statutes of 1993.

**SB 838** (Craven) – Local Agency Formation
This bill would have required LAFCO to determine the property tax exchange for an annexation by the City of Laguna Hills, based on the prop-

erty tax exchange for the City's annexation.

***Final Action:*** Died in the Senate Local Government, 1994.

**SB 1250** (Boatwright) – Urban Development

This bill would have required a special district in Contra Costa County that provides water or wastewater treatment services to serve any territory that has been designated for urban growth by a voter approved initiative.

***Final Action:*** Died in the Assembly Local Government, 1993.

**SB 1872** (Mello) – Local Government Reorganization

This bill would have required LAFCO to consider revising the sphere of influence of any city or special district affected by a military base closure when a final reuse plan for the military base is adopted by the local reuse authority.

***Final Action:*** Died in the Assembly Rules, 1994.

## 1995-96

**AB 49XX** (Granlund) – Local Agency Formation Commissions

This bill would have required LAFCOs to report to the county board of supervisors the actual expenditures made and revenues received for the prior fiscal year. It would have also required the county auditor to modify property tax revenue apportionments made to qualified local agencies and apportion a corresponding amount to LAFCOs.

***Final Action:*** Died in Assembly Local Government, 1996.

**AB 1074** (Katz) – Annexations

This bill would have extended the 30-day deadline for LAFCO to adopt a resolution regarding written protests after an annexation hearing is concluded to 45 days.

***Final Action:*** Died in Senate Local Government, 1995.

**AB 1934** (Sweeney) – Local Government

This bill would have made technical changes to Cortese-Knox, and also included legislative intent language to return the entire amount of property tax revenues from ERAF to cities, counties and special districts.

***Final Action:*** Vetoed, 1996.

**AB 1997** (House) – Annexation: City of Chowchilla

This bill allowed the City of Chowchilla, upon approval by LAFCO to annex noncontiguous territory of no more than 1,280 acres which constitutes a state correctional facility.

***Final Action:*** Signed, Ch. 234, Statutes of 1996.

**AB 2024** (Margett) – County Formation

This bill would have provided that the creation of a proposed county could be initiated by petition or majority vote of the legislature.

***Final Action:*** Died in Assembly Local Government, 1996.

**AB 2043** (Boland) – Local Government Organization

This bill would have deleted the provision allowing a city to veto a detachment proposal in Los Angeles only.

***Final Action:*** Died on the Senate Floor, 1996.

**AB 2109** (Pringle) – Special Districts: Orange County

This bill would have required the Orange County LAFCO to consolidate certain special districts (mostly water districts) in Orange County and would have required the LAFCO to submit a report to the legislature on its progress.

***Final Action:*** Died in Senate Appropriations, 1996.

**AB 2346** (Rainey) – Local Government Organization

This bill would have provided that for any matter involving the proposed detachment of Contra Costa County from the East Bay Municipal Utility District, the Contra Costa LAFCO shall have exclusive jurisdiction.

***Final Action:*** Died on the Assembly Floor, 1996.

**AB 2586** (Morrow) – Local Agency Formation Commission: San Diego

This bill would have increased the membership of the San Diego LAFCO to nine members. The ninth member would have represented the cities in that area of the county not previously represented by the other three city representatives.

***Final Action:*** Died in Assembly Local Government, 1996.

**AB 3168** (Martinez) – Los Angeles County

This bill would have directed the Legislative Analyst to conduct a study on the fiscal impact of dividing Los Angeles County into three counties.

***Final Action:*** Died in Assembly Local Government, 1996.

**SB 438** (Kelley) – Local Agency Organization

This bill would have permitted a conducting authority to form a community services district to provide fire protection and library services in certain circumstances.

***Final Action:*** Died in Senate Local Government, 1995.

**SB 674** (Craven) – Local Agencies: Jurisdictional Changes

This bill would have required the Orange County LAFCO to determine the property tax exchange for an annexation by the City of Laguna Hills in Orange County.

***Final Action:*** Died in Assembly Local Government, 1995.

**SB 861** (Craven) – Local Agency Formation Commissions

This bill allowed LAFCOs to store records electronically under certain conditions.

***Final Action:*** Signed, Ch. 562, Statutes of 1995.

**SB 1434** (Kelley) – Local Government Organization

This bill provided that an election must be held within the territory of each district to be formed or dissolved as part of a change of organization or reorganization in San Diego County only.

***Final Action:*** Signed, Ch. 352, Statutes of 1996.

**SB 1691** (Craven) – Local Agency Formation

This bill allowed LAFCO to condition approval of a reorganization or consolidation of special districts into a single district on the increase of the number of board members to seven, nine or eleven.

***Final Action:*** Signed, Ch. 314, Statutes of 1996.

## 1997-98

**AB 62** (McClintock) – Local Government Organization

This bill prohibited a city or city and county from vetoing a city detachment that is part of a special reorganization. It also required that the proposed reorganization be approved by a majority of voters of the city, and by a majority of the voters in the area to be detached. This bill also created the Special Commission on Los Angeles Boundaries.

***Final Action:*** Signed, Ch. 911, Statutes of 1997.

**AB 270** (Torlakson) – Local Agency Formation Commissions

This bill would have required cities and special districts to pay an equal share in funds for the operating expenses of Local Agency Formation Commissions (LAFCO); would require LAFCOs to maximize fees; and would require the addition of special districts to the membership of LAFCOs.

***Final Action:*** Died on the Senate Floor, 1998.

**AB 303** (Runner) – Local Governmental Agencies: Los Angeles County

This bill allowed for the creation of the Los Angeles County Division Commission to study whether Los Angeles County could be divided into two or more counties.

***Final Action:*** Signed, Ch. 164, Statutes of 1997.

**AB 391** (Granlund) – Fire Protection Services

This bill would have required that in San Bernardino County, existing fire protection services would continue at the same level, and by the same provider, pending any formation or reorganization proceedings commenced by petition or resolution aimed at terminating or modifying a fire protection service contract.

***Final Action:*** Died in Senate Appropriations, 1998.

**AB 556** (Pringle) – Local Agency Formation

This bill would have provided LAFCOs with the ability to authorize new or extended services outside of an agency's sphere of influence to resolve an existing public safety or health hazards. It would also have provided that the existing law which allows LAFCO to name a successor agency that is extinguished due to a change of organization or reorganization would also apply to dissolutions.

***Final Action:*** Died in Senate Local Government, 1998.

**AB 693** (Pringle) – Local Government Reorganization

This bill would have provided that the consolidation of two or more special districts may be initiated by petitions circulated in the service areas of the districts.

***Final Action:*** Died in Assembly Local Government, 1997.

**AB 694** (Pringle) – Local Government Organization

This bill would have provided each LAFCO with 0.1% of the county's shift of property taxes to the schools from ERAF. These funds are to be used by the LAFCO to pay for studies necessary for LAFCO-initiated special district consolidations; would have reduced city and county membership to one member each and replaces it with two public members. Public members would be nominated by the county grand jury instead of the members of LAFCO.

***Final Action:*** Died in Assembly Local Government, 1997.

**AB 769** (Baugh) – Orange County Sanitation District

This bill required a sanitation district in Orange County created by consolidation to be referred to as a consolidated sanitation district and provided for the composition and organization of its governing board.

***Final Action:*** Signed, Ch. 51, Statutes of 1997.

**AB 972** (Torlakson) – Local Government

This bill would have provided a $2 million appropriation to the Governor's Office of Planning and Research for distribution to local agencies for LAFCO studies, and required special districts, cities and counties to each pay 1/3 of the costs of LAFCOs. This bill was amended and changed to a bill regarding government records in early 1998.

***Final Action:*** Signed, Ch. 677, Statutes of 1998.

**AB 1414** (Cardenas) – Local Government Reorganization

This bill would have required 2/3 voter approval in the case of a city detachment and simultaneous incorporation. This bill was amended and changed to a bill regarding real estate transactions in July 1997.

***Final Action:*** Died in Senate Judiciary, 1998.

**AB 1476** (Sweeney) – Local Government

This bill would have provided that when a local agency submits an application for change of organization or reorganization to LAFCO the local agency must also submit an approved water supply assessment, and LAFCO must determine whether projected water supplies will be sufficient for the new territory.

***Final Action:*** Died in the Senate Local Government, 1998.

**AB 1484** (Hertzberg) – Local Government Reorganization

This bill created the Commission on Local Governance for the 21st Century. The Commission is required to complete a study of potential revisions to the laws that govern city, county and special district boundary changes (Cortese-Knox Act).

***Final Action:*** Signed, Ch. 943, Statutes of 1997.

**AB 1951** (Hertzberg) – Local Government Organization

This bill provided that a petitioner for a special reorganization would be allowed six months to gather signature for that reorganization, and provided that proponents can gather petitions for an additional 15 days after turning in their petitions to LAFCO instead of waiting for LAFCO to declare that the petitions are insufficient.

***Final Action::*** Signed, Ch. 402, Statutes of 1998.

**AB 2007** (Torlakson) – Local Government

This bill would have created the Local Government Streamlining, Efficiency and Mandate Relief Account to be administered by the Governor's Office of Planning and Research. The bill appropriated $2 million to be distributed among local agencies to fund local government streamlining and efficiency studies (LAFCO studies).

***Final Action:*** Died in Assembly Appropriations, 1998.

**AB 2147** (Thompson, B) – Local Agency Formation

This bill would have provided for criteria to be followed in determining the costs to the proposed city following incorporation; would provide a procedure for a city to contest the exchange of property tax revenues; and would require the Governor's Office of Planning and Research to con-

vene a task force of representatives of cities, counties, and local agency formation commissions to establish statewide guidelines for the incorporation process.

***Final Action:*** Sent to interim hearing which was held in October, 1998.

**AB 2368** (Hertzberg) – Local Government Services

This bill would have allowed the Los Angeles County Board of Supervisors to create a commission on local government services if a majority of the cities in the County adopted resolutions to establish the commission.

***Final Action:*** Died in Senate Local Government, 1998.

**AB 2611** (Kuehl) – Geologic Hazard Abatement Districts

This bill provides that the legislative body governing the area included in a Geologic Hazard Abatement District (GHAD) may, by resolution, order the dissolution of a GHAD, under certain conditions.

***Final Action:*** Signed, Ch. 806, Statutes of 1998.

**AB 2621** (Hertzberg) – Local Government Reorganization

This bill extended the deadline for the Commission on Local Governance for the 21st Century to report to the Legislature and the Governor until December 31, 1999; extended the existence of the Commission until July 2000; and specified that appointees shall serve until the date the Commission is repealed.

***Final Action:*** Signed, Ch. 1038, Statutes of 1998.

**SB 176** (Lockyer) – Local Government Reorganization

This bill would have redefined "special reorganization" as a reorganization that includes the detachment of territory from the City of Los Angeles and the incorporation of that entire detached territory as a city.

***Final Action:*** Died in Senate Appropriations, 1997.

**SB 228** (Kelley) – Local Government Reorganization

This bill changed the voting requirements for Local Agency Formation Commission initiated reorganizations, and added Community Service Districts to the list of special districts authorized to increase board sizes, temporarily or permanently, to accommodate a consolidation or other reorganization.

***Final Action:*** Signed, Ch. 70, Statutes of 1997.

**SB 466** (Rainey) – Property Tax Exchange

This bill lengthened the time for a county and a city to negotiate a property tax sharing agreement before an annexation application is accepted by LAFCO. It added mediation and arbitration procedures to the process.

***Final Action:*** Signed, Ch. 692, Statutes of 1997.

**SB 712** (Haynes) – Local Government Reorganization

This bill provided that in order to dissolve a district and annex all of its territory to another district, an election would be required in each affected district if a protest provision is signed by 25% of the registered voters or landowners in either district.

***Final Action:*** Signed, Ch. 863, Statutes of 1997.

**SB 1288** (Calderon) – Local Government

This bill would have stated findings and declarations regarding the necessity for a pilot project to develop quicker and cheaper procedures for the consolidation of special districts.

***Final Action:*** Died in Senate Local Government, 1997.

**SB 2022 (Knight)** – Little Hoover Commission: Counties

This bill would have required the Little Hoover Commission to conduct a study to determine the capability and efficiency of service delivery by counties. The study must be completed and submitted to the Legislature on or before July 1, 2000.

***Final Action:*** Died in the Assembly Appropriations, 1998.

**SB 2160** (Craven) – Local Government Organization

This bill would have allowed LAFCO, with a 2/3 vote of the membership, to authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence.

***Final Action:*** Died in Senate Local Government, 1998.

## 1999-2000

**AB 84** (Floyd) – Planning and Zoning: Retail Stores

This bill would have prohibited public agencies from approving a retail store project of more than 100,000 square feet if more than 15,000 square feet would have been devoted to the sale of nontaxable merchandise.

***Final Action:*** Vetoed, 1999.

**AB 178** (Torlakson) – Development: Financial Assistance

This bill prohibited cities, counties and redevelopment agencies from offering any financial assistance to an auto dealership or big box retailer that relocated from one city or county to another community in the same market area, unless the receiving community agrees to share some of the sales tax revenues with the other city or county.

***Final Action:*** Signed, Ch. 462, Statutes of 1999.

**AB 188** (Hertzberg) – Local Government Reorganization

This bill would include on the Commission on Local Governance six nonvoting ex-officio members, consisting of the chairs and vice chairs of the Senate and Assembly Local Government Committees and two persons appointed by the Governor.

***Final Action:*** Pending on the Senate Desk, 1999.

**AB 258** (Cox) – Local Agency Formation Commissions

This bill would appropriate $320,000 from the General Fund to the Los Angeles LAFCO to study whether it is feasible for the Harbor Area communities to secede from Los Angeles.

***Final Action:*** Pending in Assembly Appropriations, 1999.

**AB 639** (Thompson) – Incorporation Proposals: Fiscal Analysis

This bill would have required the Controller to review any proposed mitigation payment. It would allow LAFCOs to recover from the interested party the costs of the Controller's review and report only if the Controller indicates that the information, documentation and analysis are accurate.

***Final Action:*** Pending in Assembly Local Government, 1999.

**AB 950** (Wiggins) – Local Agency Formation Commissions: Agricultural Land

Existing law provides that LAFCOs consider certain policies and priorities when considering proposals involving open-space, including that development of land in open-space should be guided away from existing prime agricultural land and towards nonprime agricultural lands. This bill would add open-space lands of statewide significance, and prime commercial rangeland to that definition.

***Final Action:*** Pending in Senate Local Government, 1999.

**AB 977** (Vincent) – Spheres of Influence

This bill would provide that a determination of a city's sphere of influence shall not preclude the provision by the county of essential services such as water and sewer services to an unincorporated area within the city's sphere of influence.

***Final Action:*** Pending in Assembly Inactive, 1999.

**AB 1264** (Pescetti) – City Incorporation: Elk Grove

This bill would require that if the incorporation is approved by the voters, the Elk Grove city council and the county board of supervisors would negotiate the terms and conditions of the revenue neutrality payments, not to exceed a 10-year period.

***Final Action:*** Pending in Assembly Local Government, 1999.

**AB 1266** (Pescetti) – Local Agency Formation: City Incorporation

This bill would provide that the fiscal impacts of the incorporation of Rancho Cordova shall be deemed fully mitigated if the proposal requires the future incorporated city to pay the revenue from its entire property tax base to the County of Sacramento for a period not to exceed 25 years.

***Final Action:*** Pending in Assembly Inactive, 1999.

**AB 1272** (McClintock) – Ballot Measures: LAFCO Proceedings

This bill states that it is the intent of the legislature to review the allocation of costs by a LAFCO in matters involving the qualification of an initiative, referendum or recall measure.

***Final Action:*** Pending in Senate Rules for assignment, 1999.

**AB 1277** (Thomson) – Local Agency Water Supplies

This bill would require that LAFCO, before making determinations relating to land use with respect to any local agency that provides or will provide a domestic water supply, to request a copy of the agency's most recent urban water management plan. LAFCO must then assess whether the projected water demand within the territory proposed to be included in the agency's sphere of influence was included in the plan.

***Final Action:*** Pending in Assembly Local Government, 1999.

**AB 1495** (Cox) – Local Agency Formation

This revenue neutrality bill would delineate the criteria to be followed in determining the costs to the proposed city during the three fiscal years following incorporation; would provide a procedure for a city to contest the exchange of property tax revenues; and would require the Governor's Office of Planning and Research to convene a task force to establish guidelines for LAFCOs in the incorporation process.

***Final Action:*** Pending in Senate Appropriations, 1999.

**AB 1526** (Thompson & Ortiz) – Local Agency Formation

This revenue neutrality bill would provide that once an incorporation application is filed, the county has 120 days to provide the fiscal data to the LAFCO; would require the LAFCO executive officer to specify the most recent fiscal year to be used as a basis for the fiscal analysis; reduces allowed time periods for LAFCO to act during incorporation; and provides that a new city may request that the California Highway Patrol continue to provide services in the area incorporating for five years after incorporation.

***Final Action:*** Pending in Senate Appropriations, 1999.

**AB 1546** (Granlund) – Local Agency Formation Commissions

Under existing law whenever a fire protection district is dissolved or its territory is decreased in size by consolidation, merger, incorporation or annexation and the district decides to hire more firefighters, the fire agency must give first choice for those positions to firefighters at the dissolved agency. This bill applied this requirement to joint powers agencies that provide fire protection.

***Final Action:*** Signed, Ch. 394, Statutes of 1999.

**AB 1553** (Calderon) – Redevelopment

This bill would have authorized a county service area, redevelopment agency, or any other entity located within the Inland Valley Redevelopment Project Area, to establish sewer and water supply facilities and provide those services for a specified area known as the "doughnut hole" in San Bernardino County. This bill would have also authorized residents or landowners residing in unincorporated territory in this area to petition LAFCO for the removal of the land from a city's sphere of influence, and exempted local agencies from the requirement to pay compensation for duplicate water or sewer service to any property within the Redevelopment Area.

***Final Action:*** Vetoed, 1999.

**AB 1555** (Longville) – Local Government

This bill authorizes LAFCO to approve an annexation or reorganization of an unincorporated island within city limits without an election under the following six conditions:

1. It does not exceed 75 acres in area, that area constitutes the entire island, and that island is not part of an unincorporated island that is more than 100 acres.
2. The territory constitutes an entire unincorporated island located within the limits of a city, or a reorganization containing a number of individual unincorporated islands.
3. It is surrounded by either the city to which the annexation is proposed, by the city and a county boundary, or the Pacific Ocean.
4. It is substantially developed or developing.
5. It is not prime agricultural land.
6. It will benefit from the annexation or is receiving benefits from the annexing city.

These provisions would sunset on January 1, 2007. This bill exempts gated communities where services are provided by a community services district and the "doughnut hole" area in San Bernardino County, which is covered by AB 1553. This bill revises a program that was in statute from 1977 to 1988.

***Final Action:*** Signed, Ch. 921, Statutes of 1999.

**AB 1630** (Lowenthal & Villaraigosa) – LAFCO: Los Angeles

This bill appropriated $320,000 from the General Fund to the Los Angeles LAFCO to study whether it is feasible for the Harbor Area communities to secede from Los Angeles.

***Final Action:*** Signed, Ch. 924, Statutes of 1999.

**AB 1661** (Torlakson) – Local Government Relief

This budget trailer bill appropriated $425 million to the California Infrastructure and Economic Development Bank, provided $150 million to local governments: $75 million distributed per capita and $75 million distributed through the AB 8 formula; and would provide a permanent cap on ERAF next year if an unspecified constitutional amendment is enacted

***Final Action:*** Signed, Ch. 84, Statutes of 1999.

**SB 160** (Peace) – 1999-2000 Budget

The budget bill included a $1.8 million appropriation to the Los Angeles Local Agency Formation Commission for the purposes of conducting a secession study for the San Fernando Valley.

***Final Action:*** Signed, Ch. 50, Statutes of 1999.

**SB 275** (Senate Local Government) – Omnibus Bill

This bill included a number of "non-controversial" provisions, several of which concern LAFCOs. This bill would do the following:

- Existing law provides that notices for expanding LAFCO's membership and for official resolution on boundary changes be done by certified mail. This bill would allow the executive officer to use electronic mail for these notices.
- When LAFCO is asked to reconsider its decision, existing law tolls (suspends) the deadline for filing CEQA lawsuits during that time. This bill would expand the tolling provision to apply to any lawsuit filed during this deadline.
- This bill would clarify that the 150 day negotiation period for property tax exchange agreements begins after the auditor has provided the information necessary to study the issue.

***Final Action:*** Signed, Ch. 550, Statutes of 1999.

**SB 509** (Ortiz) – Commissioner of the California Highway Patrol

This bill would, upon the request of any city incorporated on or after January 1, 1993, require the commissioner to enforce all laws regulating the operation of vehicles, on any portion of any highway within that city for a period of 10 years after the city incorporates.

***Final Action:*** Pending in Senate Transportation, 1999.

**SB 560** (Monteith) – Annexation to a City

This bill would require LAFCO to approve the annexation to a city, after notice and hearing, without an election if the territory meets certain requirements.

***Final Action:*** Pending in Senate Local Government, 1999.

**SB 901** (Knight) – LAFCO Sphere of Influence: Lancaster

This bill extended the repeal date of the Lancaster sphere of influence, which includes Edwards Air Force Base, from 2000 to 2002.

***Final Action:*** Signed, Ch. 953, Statutes of 1999.

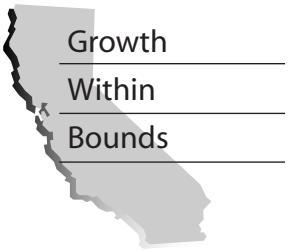
**SB 1142** (Morrow) – Local Agency Reorganization

This bill would provide that if a proposal for change of organization or reorganization would impose a new tax, assessment, or fee, or if a proposal would extend an existing tax, assessment, or fee as an incident of property ownership, the conducting authority must comply with Proposition 218.

***Final Action:*** Pending in Assembly Local Government, 1999.

APPENDIX F

# Local Government in the United States




## State and Local Government in America

Traditionally, the nation's 50 state governments are charged with providing for the very broad, essential needs of their citizens, including education, major infrastructure systems, courts and prisons. Additionally, states are responsible for funding and establishing regulations for major health and welfare programs, regulating commerce within their boundaries, and conducting elections. Direct implementation of many state functions is often delegated to local governments, the creation of which is solely an option of the states.

Throughout the history of the United States and its governmental institutions, local governments have been the creatures of the state governments and are subject to whatever powers and restrictions states place upon them. Until the 20th century, most state governments maintained strict control over the powers and functions of their local governments. Many states enacted statues and added constitutional provisions which restricted the powers of local government. With increased urbanization, however, reform efforts led to the doctrine of "home rule" in many states. Home rule is authority granted to a local agency to draft, adopt, amend, repeal or alter a charter for its own government.

Local governments – counties, cities, and special districts – have always served an important function in the delivery of services to the American public. According to the U.S. Census Bureau, in 1997 there were approximately 87,000 units of local government in the United States, about 3% more than in 1992. Most of this increase is attributed to the growing number of special district governments, which increased by 9.9% during the five year period. However, the number of local governments has declined since 1952 when there were over 100,000 units.

### *County Government*

Counties were first established in Virginia in 1634 and functioned as both administrative arms of the state and as units of local government. Counties were generally seen as rural forms of government, until massive urbanization began to occur and they were forced to provide more urban services.

In general, most counties are responsible for the conduct of elections, tax collection, judicial administration, maintenance of records, health, welfare, social services, and general government services (e.g., police, fire, streets). Counties throughout the nation are assigned similar functions by their states.

While each state has its own scheme of local government, all states include some form of county government except Connecticut and Rhode Island. In Alaska, "borough" governments carry out county functions and in Louisiana, "parishes" are legal subdivisions of the state. These forms of local government are considered to be equivalent to counties. Connecticut once had counties, but abolished them in 1960. The duties of the former counties reverted to the state. In Rhode Island, the smallest state, counties are strictly geographic subdivisions and do not have any governmental responsibilities.

### *Municipal Government*

The first formation of municipal or city types of government began between 1600 and 1775. At that time, a city's primary purpose was to serve as a trading center for goods. Therefore, the government's main function was to regulate and promote commerce. The first recognized municipal incorporation was New York City in 1665. By 1776 there were approximately eighteen chartered cities or boroughs in the colonies. It should be noted that in Colonial times, less than 10 percent of the population lived in urban areas.

The functions and responsibilities of cities in the United States have evolved over time. The major municipal changes which occurred in the late 19th and early 20th centuries were facilitated by the industrial revolution and the massive urbanization which resulted. By the 1920s, urban dwellers had increased to more than 50 percent of the nation's population.

Several different types of municipalities have been formed in the United States. Variations include cities, townships, boroughs, villages, consolidated cities and counties, and some types of special districts. The various forms of municipal government include the following:

- **Cities** are established in every state and are the primary form of government for the delivery of municipal services in urban areas. City functions usually include police, fire, land use, building inspection, parks, and zoning.

- **Townships** are a form of government unique to the Northeast and Midwest and, as of 1997, could be found in twenty states. Townships were initially established to serve rural com-

## Consolidated Cities and Counties

In an effort to improve coordination or efficiency, city and county governments have been combined in several parts of the country. An early experiment was San Francisco in 1856. While most of the early consolidations were initiated by state legislatures, the more recent practice has been through popular vote.

Most city-county consolidations comprise only partial reorganizations. In these instances, some existing services are excluded from the reorganization and continue to be performed by another unit of government. City-county consolidations were most popular between 1960-1970, but recently there has been a resurgence in interest, especially in the South. The latest consolidation occurred in 1997, when Kansas City consolidated with Wayndotte County, Kansas. Some notable examples of successful consolidations follow.

### City and County of San Francisco

The County of San Francisco was one of 27 established in 1850 by the California Legislature. Also in 1850, the City of San Francisco was incorporated. The two governments often cooperated with each other, but during the six years following incorporation, the City of San Francisco was reputed to be spending extravagantly and corruption was rampant.

The idea of consolidating San Francisco was first voiced in 1855, when Senator William Hawks introduced legislation. This legislation was adopted as the Consolidation Act of 1856, which replaced the county and city governing bodies with a single twelve-member board of supervisors, established an independent mayor, and eliminated overlapping bureaucracies. The Act constricted the county's boundaries, ceding territory to San Mateo County, and extended the limits of the City of San Francisco to coincide with the new county boundaries. The city-county charter has since been amended by the voters in 1898, 1932, and 1996.

Unlike many other consolidations in the U.S., the City and County of San Francisco is a complete governmental combination. All municipal and county functions are provided by a single, unified government. San Francisco is the only county in California which has no special districts or LAFCO.

### Indianapolis

Shortly after his election, Mayor Richard Lugar and several civic organizations devised a plan to reorganize the government of Indianapolis. In 1970, the Indiana Legislature passed a bill to implement this plan, expanding the City of Indianapolis to include all of Marion County. The new government was called Unigov (short for Unified Government). Under Unigov, there is a combined City-County Council, made up of 29 members elected by districts. The mayor is the chief executive and is elected citywide.

While most agencies were consolidated under the Unigov plan, school districts remain independent, and police, fire and the county court system continue to operate with little change. In addition, existing cities and authorities were exempted from the consolidation. The consolidation of Indianapolis is often credited with helping to expand the fiscal base of the city, increase development through the use of eminent domain, and finance large-scale capital projects.

### Miami-Dade County

In 1957, voters of Miami and Dade County narrowly adopted the only "two-tiered" form of government in existence in the United States. This system, viewed by many as a federation of governments rather than a consolidation, is called the "Metro" plan. It provides for the retention of the existing municipalities for strictly local activities, with Dade County performing the governmental activities which are metropolitan in nature. Municipalities were also given the option to transfer control of individual local functions to the Metro and several have done so. The revenues to finance services are funded through property taxes.

Today, the County is governed by an Executive Mayor and the 13 member Miami-Dade Board of County Commissioners. In recent years, Miami-Dade County has been criticized for raising taxes and fees and for not spending these fees on needed improvements. In addition, a recent public corruption investigation has implicated one of the county commissioners for bribery regarding a proposed bond deal.

### Unsuccessful Attempts at Consolidation

In spite of the potential for efficiencies and cost savings, this form of government is not necessarily popular with voters. Over the past 30 years, 51 of 68 attempts at city-county consolidation have failed. Since 1990, only 4 out of 17 proposals have been approved. Measures have been defeated in four counties in Georgia, three in Kentucky, and one each in Florida, Washington, North Carolina, Iowa, and Virginia.

In 1990, the Sacramento Ad-Hoc Charter Commission placed a city-county consolidation proposal on the ballot. Previously, in 1974, a consolidation measure was defeated by a 3 to 1 margin. The 1990 measure would have established a two-tiered form of government with a 12-member Council of Supervisors, including the mayor, and would have overseen city-county departments and general growth patterns. On the lower tier, the proposal would have created 20 community councils to provide local views on development proposals. The measure was defeated, with 58% of the voters opposed. While the proponents pledged to bring it back for another vote, no other consolidation proposal has been put forward in Sacramento.

munities by providing a minimum level of municipal services, but in many regions these governments have been strengthened to include a more comprehensive range of urban services.

- **Villages** can be found in 18 states and perform similar functions to cities, but are usually much smaller in size. Most states have minimum population requirements in order to create a village. For example, in Illinois a village ranges from 200 to 2,500 inhabitants. In five of these states (Delaware, Florida, New Mexico, North Carolina and Vermont) there is no significant difference between a village and city, according to the U.S. Census Bureau.

- **Boroughs** exist in only three states: Connecticut, New Jersey, and Pennsylvania. This type of municipal government is generally considered an older form of a city or township and usually exists outside the boundaries of a township. New York City has five boroughs (Bronx, Brooklyn, Manhattan, Queens, and Staten Island) which are consolidated with the City for governmental purposes, but they are not generally considered separate government entities.

- **Consolidated cities and counties** are a special, and relatively rare, combination of city and county functions in a single unit of government. This form of government is described in the text box. Figure F-1 lists all consolidated cities and counties in the U.S.

## *Special Districts*

Special districts as we know them today probably began in California, where irrigation and other unique agricultural needs were met by forming districts dedicated to dealing solely with the specific purpose at hand. In the rest of the nation, urban special districts are generally traced to the Massachusetts Metropolitan District Commission, which was formed to provide and maintain a sewer system in 1889, parks in 1893, and a water system in 1895.

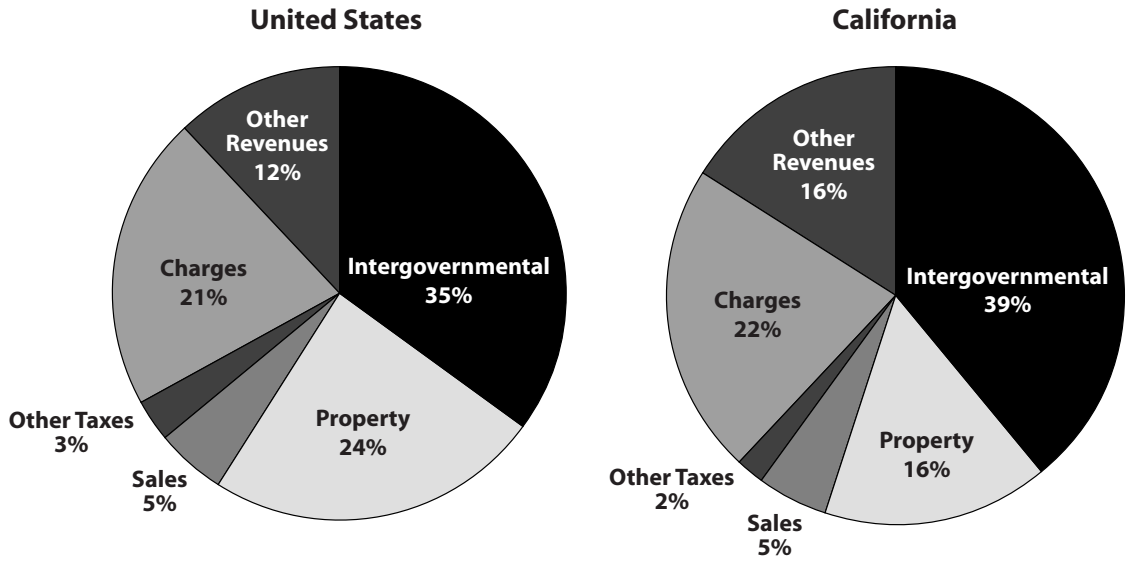
Today, special districts exist in all fifty states and provide a broad array of services. The most common special district functions among all states are fire protection (5,601), housing and community development (3,469), water supply (3,409), drainage and flood control (3,369), and soil and water conservation (2,449). The U.S. Census Bureau has indicated an increase in this form of government from 31,555 in 1992 to 34,683 in 1997. However, because it limits its definition of a special district to independent, special-purpose government units that exist as separate entities with substantial administrative and fiscal independence, the Bureau's overall reported totals may be conservative. The Census Bureau totals do not include many of the "dependent" districts in California and presumably around the country that are governed by city councils and county boards of supervisors.

Figure F-1
**Successful City-County Consolidations in the U.S.**

| *City/County Government* | *Type* | *Date* |
|---|---|---|
| New Orleans-Orleans County, LA | Legislative | 1805 |
| Boston-Suffolk County, MA | Legislative | 1821 |
| Nantucket Town, Nantucket County, MA | Legislative | 1821 |
| Philadelphia-Philadelphia County, PA | Legislative | 1854 |
| New York-New York County, NY | Legislative | 1854 |
| San Francisco-San Francisco County, CA | Legislative | 1856 |
| New York and Brooklyn-Queens and Richmond Counties, NY | Legislative | 1898 |
| Denver-Denver County, CO | Legislative | 1902 |
| Honolulu-Honolulu County, HI | Legislative | 1907 |
| Baton Rouge-East Baton Rouge Parish, LA | Referendum | 1947 |
| Hampton-Elizabeth City County, VA | Referendum | 1952 |
| Newport News-Warwick County, VA | Referendum | 1957 |
| Nashville-Davidson County, TN (previously defeated in 1958) | Referendum | 1962 |
| Virginia Beach-Princess Anne County, VA | Referendum | 1962 |
| South Norfolk-Norfolk County, VA | Referendum | 1962 |
| Jacksonville-Duvall County, FL (Defeated in 1935) | Referendum | 1967 |
| Indianapolis-Marion County, IN | Legislative | 1969 |
| Juneau-Greater Juneau Borough, AK | Referendum | 1969 |
| Carson City-Ormsby County, NV | Referendum | 1969 |
| Columbus-Muscogee County, GA (previously defeated in 1962) | Referendum | 1970 |
| Sitka-Greater Sitka Borough, AK | Referendum | 1971 |
| Lexington-Fayette County, KY | Referendum | 1972 |
| Suffolk-Nansemond County, VA | Referendum | 1972 |
| Savannah-Chatham County, GA | Referendum | 1973 |
| Anchorage-Greater Anchorage County, AK | Referendum | 1975 |
| Anaconda-Deer Lodge County, MT | Referendum | 1976 |
| Butte-Silver Bow County, MT (previously defeated in 1924) | Referendum | 1976 |
| Houma-Terrebonne Parish, LA | Referendum | 1984 |
| Lynchburg City-Moore County, TN | Referendum | 1988 |
| Athens-Clarke County, GA (previously defeated in 1969) | Referendum | 1990 |
| Lafayette-Lafayette Parish, LA | Referendum | 1992 |
| Augusta-Richmond County, GA (previously defeated in 1974 and 1976) | Referendum | 1995 |
| Kansas City-Wyandotte County, KS | Referendum | 1997 |

Sources: National Association of Counties, July 1998; State and Local Government in America, 1975.

Figure F-2
**Local Government Revenues**
1995-96




Source: U.S. Department of Commerce, Census Bureau, Economics and Statistics Administration, *State and Local Government Finance Estimates, 1995-96*

### *Financing Local Government*

In colonial times, local governments were financed through service fees, primarily for licenses, with taxation becoming more prominent in the early 1700s. Today, local governments are financed from a variety of sources including property taxes, sales taxes, fees, and charges. In most states, the majority of local government revenues, excluding transfers from state and federal government, are derived from the property tax. In fact, in 1960, property taxes provided about 87% of all local tax revenues in the United States. The single most significant change in the finance of American local government in the 20th Century has come from the adoption of the sales tax, beginning in the 1940s.

Today, most local governments continue to rely on the property tax, along with fees and user charges, to finance their operations, as indicated in Figure F-2. The most notable contrast between California and the other 49 states is our greater reliance on fees and charges and reduced availability of property tax revenues since Proposition 13.

## Local Government Formation and Boundaries

In 1992, the United States Advisory Commission on Intergovernmental Relations (ACIR) issued a report on the history and process of forming local government boundaries throughout the United States. This was one of the first attempts to comprehensively summarize how each state establishes and revises the boundaries of local government agencies. The ACIR report found that twelve states, including California, have established some form of boundary review commission. This section will briefly summarize the history of boundary review commissions, will describe the functions of these bodies in other states, and will update the ACIR report. Detailed history and functions of California Local Agency Formation Commissions (LAFCOs) will follow.

Prior to World War II, most local governments were created by direct state action or by legislation allowing the citizens of an area to petition to form a public agency. After World War II, the rapid growth in suburban developments, beginning with Levittown in New York, and the subsequent out-migration from the nation's older, industrial cities made possible by the automobile created concerns about unplanned urban development, local fiscal differences, territorial disputes, and the proliferation of small, inefficient local governments. Twelve states established boundary review commissions as a means of addressing those concerns. The remaining 38 states generally follow traditional processes as contained in their states' laws for establishing and changing local government boundaries.

A majority of the 12 states which have boundary review commissions established them during the late 1950s and throughout the 1960s. Minnesota and Alaska were the first to establish commissions in 1959. During the 1960s, the states of Washington, California, Iowa, Nevada, New Mexico and Oregon formed public agency mechanisms for reviewing jurisdictional boundaries. Michigan followed with its boundary review commission in 1972, Utah in 1979, and Virginia in 1980. The newest commission was established

in St. Louis County, Missouri in 1989. Its jurisdiction extends only to the single county. The timing of the establishment of boundary review commissions was generally in response to the growth and accompanying perception of urban sprawl during those years.

The fundamental problems leading to the creation of boundary review commissions in each of the 12 states were similarly identified. However, the legislative intent, the organization, and the actual procedures varied. The goals common to most of the 12 boundary review commissions in the United States are:

- Encouraging orderly development
- Discouraging sprawl
- Promoting comprehensive land use planning
- Enhancing the quality and quantity of public services
- Limiting destructive competition between local governments
- Helping ensure the fiscal viability of local governments

The 12 boundary review commissions differ in regard to their organization. Of the 12 commissions, six (Alaska, Iowa, Michigan, Minnesota, New Mexico and Virginia) have statewide jurisdiction and six (California, Missouri, Nevada, Oregon, Utah and Washington) have jurisdictions limited to one or more county or metropolitan area. Most of the commissions can make decisions on jurisdictional boundary changes at the request, and subject to the review, of the courts and/or a vote of the citizens. The exception is Virginia's Commission on Local Government, which acts only in an advisory capacity to the courts, which actually make the decisions. While most commissions can hear a variety of local government boundary adjustment issues, the Nevada, New Mexico and Utah commissions may only review annexations. Figure F-3 contrasts the boundary review commissions in the United States.

## *Boundary Review Commissions in the U.S.*

There apparently have been few fundamental changes in the 12 states having boundary review commissions since the ACIR study was completed in 1992, and no additional states have since established commissions. In an attempt to update the previous ACIR information, the Commission received information from the six statewide commissions. Obtaining information on the more dispersed county or metropolitan programs proved too difficult.

Staff of the Michigan statewide boundary review commission reported no significant changes in funding (other than inflationary increases), staffing or enabling legislation since 1992. The Minnesota program has been transferred to the State's planning department, where it continues to operate as an independent program. The Iowa program has changed little, but now addresses islands of unincorporated land and unincorporated secondary roads adjacent to city boundaries. Three other states, described below, reported more significant changes.

### Alaska

The boundary review commission in Alaska is similar in its functions to California LAFCOs. It reviews incorporations, annexations, detachments and mergers, along with the reclassification of cities, which is not applicable to California. Cities in Alaska are classified according to a variety of criteria which may include population, level of services, funding and other factors. Cities can be reclassified only by the boundary review commission. Alaska has one statewide board and its staff reports a high level of activity in this rapidly growing state.

The structure of local government in the state is very different from California's. Alaska, as the second last state to be admitted to the Union, was able to examine the best provisions of other states' constitutions in writing its own. It has relatively few local government entities, but each has very broad powers. The State is organized into cities and boroughs, with the borough serving as the unit of regional government, similar to a county in California. Moreover, Alaska also has a prohibition in its constitution against the State Legislature adopting laws affecting the structure of government, leaving the responsibility solely to its constitutionally created boundary review commission.

### New Mexico

The New Mexico boundary review commission, a statewide body, generally meets fewer than five times per year and has recorded 48 annexations in the last twelve years. It only reviews annexations at the request of a city or by petition of residents. In New Mexico, cities and towns may annex territory through an action of their governing boards and most annexations are processed in this manner. The two tests, upheld by the New Mexico State Supreme Court, for evaluating an annexation are:

- Is the annexing area contiguous at one point?
- Can the city provide services within a reasonable time?

The law governing boundary changes favors the applications of cities. The staff of New Mexico's boundary review commission estimates that reviewing annexations on the state level and recording those annexations approved by the local government requires approximately 10% of one staff position, implying that the state review is little more than a ministerial function.

### Virginia

The Virginia boundary review commission is a statewide board that issues advisory reports to the courts, which ultimately decide all boundary disputes. It reviews and analyzes annexations, incorporations, detachments, consolidations and dissolutions. Since annexations in Virginia can be costly and lengthy (cities are only able to annex territory once every ten years) cities are encouraged to plan carefully for expansion and capital improvement needs. Moreover, there has been a moratorium on city initiated annexations since 1990 and the Legislature recently extended it to 2010. In exchange, the state fully funds a local law enforcement

assistance program while the moratorium is in effect. As a result of the moratorium, annexations by independent cities in the commonwealth of Virginia have almost completely stopped, although annexations by towns (similar to small cities in other states) have remained constant at about five per year.

As noted in the ACIR report, "The [Virginia] commission has evolved into a research organization and technical advisor to local governments and to the state on inter-local issues, including revenue sharing, joint powers agreements, and service delivery as well as on boundary adjustments." The Virginia legislature established a fund, administered by the boundary review commission, to provide financial incentives for regional economic development cooperation. The fund is budgeted at $10 million annually and awards to local governments are made on a competitive basis. This has created a trend toward city-county revenue sharing agreements. For example, a city may transfer excess water and sewer capacity to a county in exchange for a share of the local tax revenue.

### *Effectiveness of Boundary Review Commissions*

The ACIR report noted that most of the activity of boundary review commissions is incremental, primarily the review of annexations. Few have the ability to initiate studies for broader "...strategies for governmental boundary reform." This lack of ability to analyze more comprehensive methods of determining local governmental boundaries was criticized in all the states surveyed. The use of mediation and dispute resolution was cited as one of the more useful functions of boundary review commissions. The ACIR reported that "the dispute resolution role of most boundary review commissions appears to be dominated by the need to find solutions to conflicts over tax base and the fiscal implications of boundary changes."

The limited functions assigned to boundary review commissions also collided with the public expectation that these agencies should assist in solving the larger problems arising from rapid growth. The ACIR found "..little connection between the boundary review commissions and state and local growth management agencies." It noted that in Oregon, Washington and California, where growth management was active, studies of spheres of influence and service areas might result in practical solutions to problems.

Overall, the ACIR report found that there is little evidence that any of the boundary review commissions have been effective in fulfilling the broad legislative intent of their enabling statutes. There had been, as of 1992, no thorough evaluation of the effectiveness of any of the boundary review commissions since their inceptions. The ACIR report made the following suggestions for states with boundary review commissions:

- Reassess the assumptions underlying the establishment of the boundary review commissions
- Consider making a distinction between the provision of services and the provider of these services for possible contracting opportunities or privatization.
- Specify responsibilities for boundary review commissions in the resolution of intergovernmental disputes
- Reassess the laws affecting boundary changes to understand the hidden incentives and disincentives contained in the laws affecting local governments

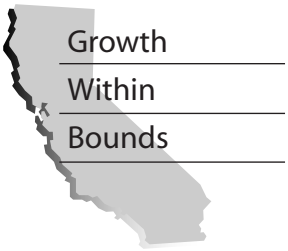
It is clear that the ACIR believed that boundary review commissions should be looking at more than the sharpness of the lines that separate cities. The agency, now itself defunct, believed that these commissions should be participants in broader state and local planning matters.

Figure F-3
**U.S. Boundary Review Commissions**

| *STATE* | *AGENCY TITLE* | *JURISDICTION* | *MEMBERS* | *BUDGET* | *STAFF* |
|---|---|---|---|---|---|
| **Alaska** | Local Boundary Commission | Statewide | 5; appointed by Governor | $275,000 | 2 |
| **California** | **Local Agency Formation Commission** | **Countywide** | **5-9; appointed by local government committees** | **Varies – Total for all 57 county commissions is $7 million.** | **Varies by county** |
| **Iowa** | City Development Board | Statewide | 5; 3 appointed by Governor and 2 local representatives | $50,000 | 1 |
| **Michigan** | State Boundary Commission | Statewide | 5; 3 appointed by governor and 2 by courts | $230,000 | 3 |
| **Minnesota** | Minnesota Municipal Board | Statewide | 5; all appointed by Governor | $250,000 | 4 |
| **Missouri** | St. Louis County boundary Commission | Single county –St. Louis | 10; nominated by city councils and county CEO | Varies annually | Varies; staffed by county |
| **Nevada** | City Annexation Commission | Only in counties with populations between 100,000 and 250,000 | Varies | Varies | Inactive |
| **New Mexico** | New Mexico Boundary Commission | Statewide | 3; appointed by Governor | $0; Only cost is per diem for Commissioners | Staffed by state dept., estimate staff time per year 200 hours |
| **Oregon** | Local Government Boundary Commission | Two metropolitan areas | 7 or 12; appointed by Governor | Varies with Commission | Varies with Commission |
| **Utah** | Boundary review Commission | One in each county | 7 or 5 | Varies | Varies; staffed by county |
| **Virginia** | Commission on Local Government | Statewide | 5; appointed by Governor | $626,000 | 7 full time; 4 part-time |
| **Washington** | Boundary Review Boards | Required in counties with more than 210,000 population; optional in others | 11; in counties over 500,000 in population<br>5: in all other counties | | |

APPENDIX G

# An Analysis of a Survey of Local Agency Formation Commissions




**A Report to the Commission on Local Governance for the 21st Century**

By Joyce Crosthwaite

## I. PURPOSE OF SURVEY

The mission of the Commission on Local Governance is, in part, to review and investigate the current process of jurisdictional boundary changes and to recommend statutory changes to make the process consistent with future needs. The Local Agency Formation Commission (LAFCO) is the primary means of changing jurisdictional boundaries in California and the overall purpose of this survey was to help in the assessment of that agency.

## II. METHODOLOGY

An agency or a system can be evaluated as an organization, as a process and as a collection of individuals. Individual performance was eliminated at the outset of this survey. Some LAFCOs and counties have developed performance measures for employees but performance evaluation of individuals most appropriately remains with the supervising staff. No LAFCOs reported establishing performance measures for their commissioners.

The second possible method of evaluation is through measurement of the agency's process, in this case, through an evaluation of the process of jurisdictional boundary changes. A review of the "Recommendations Suggested by Presenters at Commission Hearings" and the report of the Commission's Legislative Drafting Subcommittee indicates that many of the recommendations are related to the LAFCO process although most involve underlying policy issues. Evaluating the effectiveness of the process would include the collection of data related to the specific tasks involved in the LAFCO process, the length of time needed to complete the tasks, the staff hours required, the cost, the outcomes and the effect of litigation on the processing of projects. Data would have to be collected at selected LAFCOs for each specific jurisdictional boundary change such as annexations, detachments, reorganizations and incorporations.

Few LAFCOs maintain the type of data and records needed to evaluate the effectiveness of the process. The recommendations regarding process made by presenters, while anecdotal, do indicate that this type of data might be useful to establish a more factual basis to guide changes in the process. However, the effort to collect it would be lengthy and require substantial data collection.

The third means of evaluating an agency is as an organization. Since the term of the Commission is limited and the majority of the Commission's efforts were directed toward collection of qualitative data regarding the performance of LAFCOs as organizations, it was decided that the scope of this portion of the Commission's effort would be limited to basic quantifiable data collection.

Data from all 57 LAFCOs was collected through telephone interviews. Each LAFCO was contacted and asked a series of questions regarding the size of the staff, budgets, fee schedules, policies, status (independent/dependent), frequency of meetings, number of projects processed each year, and status of comprehensive sphere updates. Additional information was gathered regarding the area, population, growth, density and number of agencies from other sources. No attempt was made to collect data regarding individual projects. The information collected from the individual LAFCOs is summarized in the following sections, and in Tables G-1 and G-2 at the end of this report.

## III. LAFCOS AT A GLANCE — DESCRIPTIVE INFORMATION

### A. Independence/Dependence

To determine if a LAFCO would be classified as independent or dependent, each LAFCO was asked if the staff were employees of LAFCO or of the county. If staff was classified as employees of the LAFCO, they were listed as independent. Dependent LAFCOs' employees were county employees. It should be noted that even in independent LAFCOs, payroll functions, job classifications and benefits for LAFCO employees are generally provided by the county.

Of the 57 LAFCOs, a clear majority of 40, or 70% of the total, are dependent LAFCOs. In dependent LAFCOs, the staff, usually part of the planning department, allocates a percentage of their time to LAFCO work. Twelve dependent LAFCOs have the equivalent of at least one full time staff position.

Seventeen LAFCOs, or 30%, are independent. Independent LAFCO employees serve at the pleasure of the LAFCO or the executive officer. One LAFCO (San Mateo) changed its independent

status to dependent within the last three years, one LAFCO (El Dorado) became independent, and one LAFCO (Solano) is investigating the feasibility of becoming independent.

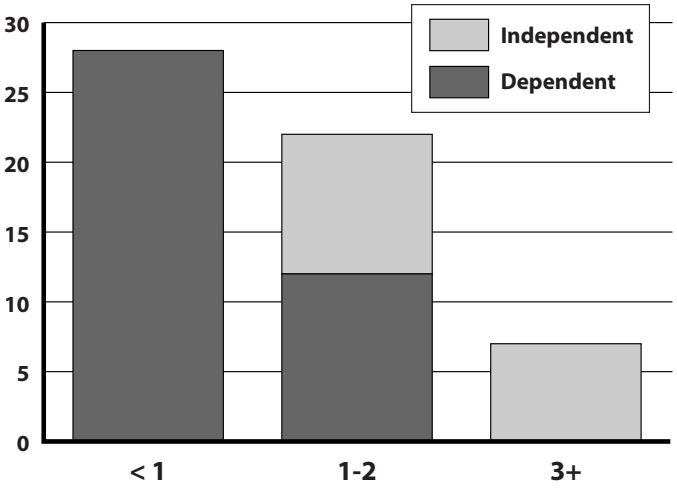
Both dependent and independent LAFCOs report complaints about the perceived lack of impartiality of the LAFCO's decisions. Generally, this was not viewed as a serious issue. Most dependent LAFCOs stated that the problem was more of dedicated staff resources for LAFCO work; often LAFCO work is not a high priority due to the volume of county related work.

## B. Number of Staff

Each LAFCO was asked the number of employees or the percentage of time that each staff person devotes to LAFCO work. Most LAFCO staff consists of an executive officer and a clerk. Some have assigned or hired planners or analysts. Attorneys and other support staff (civil engineers, mappers etc.) were not included. No data were collected regarding the use of outside counsel or county counsel as the LAFCO attorney.

Most LAFCOs reported that the level of activity varies from year-to-year and is loosely but directly related to the economy. In dependent LAFCOs as the need increases, more staff is shifted to LAFCO work from other planning duties. Independent LAFCOs generally do not have the same flexibility but can, if consistent with the fee schedule, hire outside consultants and pass the cost onto applicants.

Figure G-1
**Number of Employees – All LAFCOs**



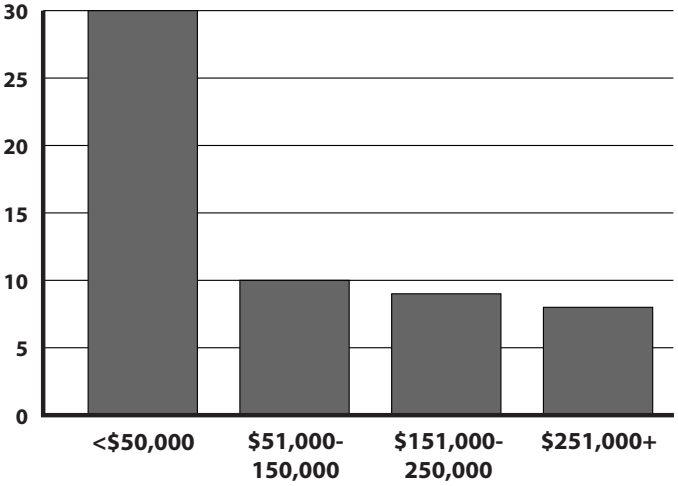

There are approximately 66 full-time equivalent employees of LAFCO across the State of California. Almost half of the LAFCOs have less than one staff person. All of the 28 LAFCOs reporting less than one staff person were dependent and of those, 23 estimated the total staff time to complete LAFCO work to be 35% or less of one staff position. Twenty-two LAFCOs reported one to two staff positions assigned to LAFCO. Seven LAFCOs have three or more employees. Figure G-1 shows staff levels at dependent and independent LAFCOs. Sixty-six percent (43.5 staff positions) of all LAFCO employees in California are employed by independent LAFCOs.

## C. Budget

Each LAFCO was asked its adopted budget for the previous fiscal year. Some "no or low activity" LAFCOs do not maintain budgets separate from the county's departmental budget. These LAFCOs were asked to estimate their total budgets, including staff costs. The estimated total budgeted amount for all 57 LAFCOs is approximately $7,170,570. Budgets ranged was from less than $1,000 to more than $650,000.

Thirty LAFCOs have budgets less than $50,000. All of these are dependent except Lake County LAFCO. It has a budget of $16,000, and a part-time executive officer who is a private attorney hired under contract by the LAFCO.

Figure G-2
**Budget Range For All LAFCOs**

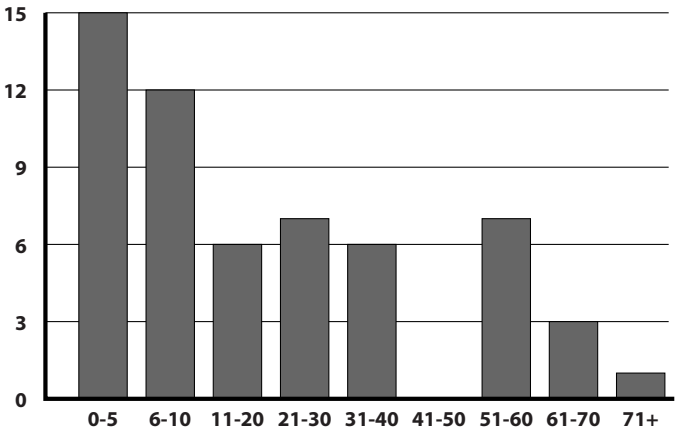



Ten LAFCOs have budgets between $51,000 and $150,000. Of the ten LAFCOs with budgets in this range, six are independent and four are dependent. Nine LAFCOs have adopted budgets between $151,000 and $250,000. Of the LAFCOs with budgets in this range, five are dependent and four are independent. Eight LAFCOs have adopted budgets of more than $250,000. Six of the eight LAFCOs in this range are independent and two are dependent. Figure G-2 indicates the budget ranges for both independent and dependent LAFCOs.

## D. Revenue

Each LAFCO has the ability to charge fees for the various types of jurisdictional changes and 98% of the 57 LAFCOs in California have adopted fee schedules. Most of these fee schedules allow the LAFCO staff to charge a flat fee, usually on a per acre basis, as well as recover costs of time and materials. The total budget, less fee revenues, represents the "net county cost" for LAFCO operation. Each LAFCO was asked to estimate the percentage of its budget that was returned through fees. The estimated total amount returned in fees to all the LAFCOs in the state was $1.6 million. Therefore, of the approximate $7,170,500 budgeted for LAFCOs across the state, 22% is returned to the various counties through revenue. The estimated statewide "net county cost" is approximately $5,470,500.

Figure G-3
**Percent Of Budget Returned Through Fees**




The percentage of fees as a portion of the budget varied widely among dependent LAFCOs. It ranged from a low of 5% to a high of 75%, with a median of 15% and a mean of 20%. Two LAFCOs reported receiving no fees during the previous year due to a lack of activity.

Independent LAFCOs were more consistent in collecting fees. The range of fees recovered ranged from 5% to 66% and a median of 27% and an average of 26%. The total amount of revenue recovered by independent LAFCOs was approximately $1,200,000, or 70% of the total amount recovered throughout California. However, it should be noted that the dependent LAFCOs, staffed by county employees, do not always segregate their costs and their revenues and the totals might change slightly if more accurate information were available.

## E. Composition of LAFCOs

The majority of LAFCOS (54%) have 5 members, comprised of two county representatives, two city representatives, and one public representative. Additionally, 39% of LAFCOs have 7 members, consisting of two from the county, two from cities, two from special districts, and one representative of the public. Exceptions to the standard LAFCO composition are the following:

**Alpine, Mariposa and Trinity LAFCOs**, with no cities in their counties, have three county and two public representatives (Trinity also has two special district members)

**Calaveras, Del Norte, Inyo, Lassen, Modoc, Mono, Plumas, Sierra, and Tuolumne LAFCOs**, with one city in each of their counties, have two county, one city, and two public representatives

**Los Angeles LAFCO** has two county, three city (including one permanent member from the City of Los Angeles), two special district, and two public representatives

**Sacramento LAFCO** has two county, two city (including one permanent member from the City of Sacramento), two special district, and one public representative

**San Diego LAFCO** has two county, three city (including one permanent member from the City of San Diego), two special district, and one public representative

**Santa Clara LAFCO** has two county, two city (including one from the city with the largest population), and one public representative

There is a total of 329 LAFCO commissioners in the State of California. The rough percentages are: 34% county supervisors, 34% representatives of cities, 17% public representatives and 15% special district representatives. Twenty-five LAFCOs have seated special district members while 32 LAFCOs have not.

## F. Meetings and Projects

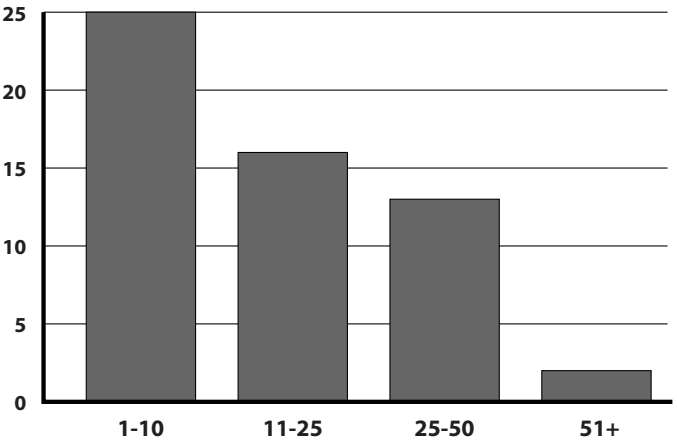
Each LAFCO was asked the number of meetings held each year. Most "low or no" activity LAFCOs have meetings on an as-needed basis. For example, Amador LAFCO has not met in the last 18 months, Del Norte within the last 12 months, Mariposa within the last 24 months, and Sierra within the last 36 months. Of the total number of LAFCOs, 18 meet three or fewer times per year, 16 meet between six and eight times per year and 23 meet ten or more times per year. All LAFCOs reported increased activity concurrent with economic booms. Several LAFCOs report that the complexity of projects has increased significantly in the last five years.

Each LAFCO was also asked to estimate the number of projects heard by the LAFCO at each hearing. That number was then multiplied by the number of hearings estimated annually to produce an estimate of the number of projects processed per year. Twenty-five LAFCOs reported hearing fewer than ten projects per year, sixteen reported between 11 and 25, thirteen reported between 26 and 50, and two LAFCOs reported hearing more than 50 projects per year. The range of the number of projects heard annually by all LAFCOs was from zero to 100, with the median number of 12 and the average of 19. The number of projects heard by dependent

LAFCOs (507 projects) versus independent LAFCOs (557 projects) were roughly equal.

It should be noted that the number of projects is not a reliable gauge of a LAFCO's work level. Many LAFCOs reported that the complexity, public controversy and time required for projects have increased over the last five years. Several executive officers noted that the project size in terms of population and/or acreage is also not a reliable indication of staff time.

Figure G-4
**Number of Projects Per Year**




## G. Number of Agencies

Information from various sources was used to tally the number of cities, independent special districts and county service areas in each county. The sources consulted were: a survey by the Association of California Water Agencies (ACWA), a 1988 CALAFCO survey, this survey, and data from the Department of Finance and the State Controller's Office.

### Cities

The total number of cities in the State of California is 473 (all data in this report exclude San Francisco County). Twenty-three counties have three or fewer cities within their boundaries, 21 have from between four and nine cities, six counties have between 10 and 15 cities, three have 16 to 21 cities, three have between 22 and 33 cities, and one county (Los Angeles) has 88 cities.

### Special Districts

Among all LAFCOs, 24 have not seated special districts and 33 have seated special districts. Each LAFCO was asked for the number of special districts in the county. Several sources were checked to verify the data but statewide information for districts is, at best, inconclusive. LAFCOs reported a total of 2,586 special districts. A CALAFCO survey completed in 1988 reported a total of 2,583 special districts.

The State Controller's Office classifies the number of special districts by type and governing board, showing a total of 4,816 special districts. However, some of these districts, such as permanent road divisions, Mello-Roos districts, and air pollution control districts are exempt from LAFCO jurisdiction. Some other agencies are statutorily exempt from portions of the Cortese-Knox Local Government Reorganization Act, while others are not considered special districts if the LAFCO in that county determines they are not special districts.

The inability to determine which special districts are subject to LAFCO has been cited as a concern. It appears that LAFCO staffs, through habit, custom or records, have the most practical understanding of the number of special districts subject to LAFCO regulations. It was decided that for purposes of this report, data obtained from the LAFCO staff regarding the number of special districts would be used.

### County Service Areas

County service areas (CSAs) are special districts governed by the board of supervisors. The original intent of the CSA principal act was to provide unincorporated areas a means of receiving some governmental services. CSAs can provide a full range of urban level services so they have often been used where there has been large and/or rapid population growth in unincorporated areas. In the 1988 CALAFCO survey, a total of 846 CSAs was reported; the State Controller's Office reports 895 CSAs; LAFCOs responding to this survey reported a total of 636. There could be several reasons for the discrepancy in data but none were researched as part of this report.

## H. Spheres of Influence

All LAFCOs have completed spheres of influence designations for all cities and districts pursuant to Government Code Section 56426, adopted in 1984. Each LAFCO was asked if any comprehensive sphere updates for cities or districts have been completed in the last five years. Specifically excluded were sphere amendments, which are changes in an agency's sphere that often accompany a change in jurisdictional boundaries. Twenty-seven LAFCOs have not completed any comprehensive sphere updates in the last five years. Direction from their LAFCO to pursue other projects, the high number of applications with mandated deadlines, the nature of the districts or cities involved, and a lack of staff or resources were the most frequently cited reasons.

Several LAFCOs noted that, except for the requirement to complete spheres adopted in 1984, there has been little direction from the State or from their own LAFCO to pursue the update of spheres. More frequently, spheres are amended in response to a specific project, i.e., an annexation to city will require an enlargement of the city's sphere to include the territory proposed for annexation. Some LAFCOs felt this gave the LAFCO flexibility in responding to changing local conditions. Other LAFCOs noted that the work level

and lack of staff prevented LAFCOs from completing comprehensive updates.

Thirty LAFCOs have completed some comprehensive sphere studies or have studies in progress. Some LAFCOs have evolved unique responses to the problems of spheres of influence and urban growth. Imperial County LAFCO requires cities to prepare comprehensive service plans and include the sphere in their General Plan prior to annexation. While not a sphere of influence, Imperial County LAFCO and its cities have used the service plans to develop spheres and to determine the effective provision of services. Santa Clara LAFCO, pursuant to Government Code Section 56826, does not review annexations if the annexing territory is within the city's urban limit line.

## I. Policies

Each LAFCO has adopted various policies and procedures. As part of the survey, each LAFCO contact was asked for copies of their adopted policies and procedures. Most frequently, the policies addressed preservation of agriculture, spheres of influence, annexations, incorporations, and consolidations or dissolutions. A table summarizing the policies received from the LAFCOs is appendiced to this report as Table G-3.

The policies of each LAFCO varied in length, detail and scope. Staff assumed that the policies were written to reflect local conditions such as level of urbanization, amount of viable agricultural land, and number of cities, among other factors. However, the amount of information contained in the policies and the variability from one LAFCO to another was an initial concern. The process of evaluating the impacts of each specific policy would involve detailed, sophisticated and lengthy data collection methods.

For example, a thorough analysis of the effectiveness of the agricultural policy of one LAFCO might require, at a minimum and depending on the research design chosen, a clear definition of agricultural land, research into the number of acres of agriculture land in production and idle for each year since adoption of the policy, analysis of the various applications involving agriculture land which were heard by LAFCO, interviews with stakeholders and an economic analysis of the value of agricultural land in the county. While this effort might produce valuable results, repetition of this level of effort for each of the 25 LAFCOs with adopted agriculture policies would be prohibitive in terms of staff cost and effort.

Therefore staff chose to use a "content analysis" approach to describe, analyze and summarize the policies. Each policy submitted by LAFCO was read and reviewed for consistency with the Cortese-Knox Local Government Reorganization Act. Most policies restated the provisions of that statute and the consistency is noted below. Generally, only those portions of the policies that differed from or contained additional requirements to those contained in the Cortese-Knox Local Government Reorganization Act are summarized in the following section.

**Alameda County LAFCO**

Alameda LAFCO has an extensive procedures guide for LAFCO actions which is similar to that prepared by San Diego LAFCO. It is consistent with the requirements of the Cortese-Knox Local Government Reorganization Act.

**Butte County LAFCO**

Butte LAFCO has a detailed and extensive operations manual which covers all LAFCO procedures and generally follows the Cortese-Knox Local Government Reorganization Act, and it is consistent with the policies and procedures and practices of other LAFCOs.

**Contra Costa LAFCO**

Contra Costa LAFCO guidelines have several notable features:

***General Policy Statement:*** This policy statement briefly sets forth the overall policy for Contra Costa LAFCO. It recognizes the existence of the County's Urban Limit Line (ULL) and states that LAFCO will deny changes of territory beyond the ULL without proof of compelling public interest.

***Spheres of Influence/Annexations and Services Outside Jurisdictional Boundaries:*** Both policies are generally consistent with the Cortese-Knox Local Government Reorganization Act.

***Procedures for Multi-County Jurisdictional Proposals:*** Contra Costa LAFCO is one of the few LAFCOs which has an adopted policy to provide guidelines for the LAFCO in evaluating proposals more in scope and applicability. It requires the LAFCOs of both affected counties to agree on a cooperative process.

**Fresno County LAFCO**

Fresno LAFCO has adopted a policy which establishes guidelines to implement the orderly formation and development of agencies, for encouraging consistency with spheres of influence, for the preservation of open space and for the conservation of prime agricultural lands. The policy generally follows the applicable Government Code sections. It includes "LAFCO Standards for Changes of Organization," which follows the requirements of the Cortese-Knox Local Government Reorganization Act, and "Procedures for the Evaluation of Service Plans," which generally follows Government Code Section 56653.

**Glenn County LAFCO**

Glenn LAFCO includes policies regarding general procedures and general standards for review of applications. The policies are primarily advisory and generally follow the existing Government Code sections in the Cortese-Knox Local Government Reorganization Act.

**Imperial County LAFCO**

Imperial LAFCO has a thorough "Policies, Standards and Procedures" manual which describes polices addressing the use of outside consultants, general policies, and general standards for review of LAFCO actions

**Inyo County LAFCO**

Inyo LAFCO submitted "Policies and Standards for the Evaluation and Review of Proposals for the Formation of New Special Districts and Annexation to Existing Special Districts." Since Inyo County has one incorporated city, Bishop, LAFCO requires detachment of territory from a special district prior to annexation to Bishop. Inyo LAFCO also requires the consideration of impacts resulting from LAFCO action on affordable housing.

**Kern County LAFCO**

Kern LAFCO has policies and procedures for the determination of boundaries, environment impact assessment, consideration of economic factors and existing services, and sphere of influence. All of these policies reference the Cortese-Knox Local Government Reorganization Act and generally follow this statute.

***Open Space and Agriculture:*** This provides additional policies and procedures for Open Space and Agricultural lands which cites code but also provides for other factors to determine the agricultural significance of the land.

***Order of Preference of Governmental Agencies:*** This policy provides for a list in order of preference of governmental agencies to provide new or consolidated services. This policy also emphasizes that the number of independent government agencies should be minimized and duplication of service avoided.

***Change of Organization or Reorganization Proposals:*** Provides a procedure for reorganization and requires the applicant to provide a plan for the provisions of services in the reorganization.

**Kings County LAFCO**

The policies and procedures manual of Kings LAFCO set forth its polices for review of proposals as well as standards for the various changes of jurisdictional boundaries.

**Lassen County LAFCO**

Lassen LAFCO includes policies regarding general procedures, criteria for city annexations, for annexations to special districts, for evaluation of incorporations and for the formation of special districts. The policies are primarily advisory and generally follow the existing Government Code sections in the Cortese-Knox Local Government Reorganization Act.

**Marin County LAFCO**

Marin LAFCO's policies guidelines generally follow existing law relating to LAFCO. It has included a policy "Statement of Clarification of LAFCO Guidelines" which address the interaction among the LAFCO policies, the Marin Countrywide Plan the local plans and zoning of cities. If there is inconsistency among these agencies, LAFCO can refer the issue to the County Planning Commission to determine if the inconsistency is immaterial. LAFCO can also establish a reorganization committee to also address the issue. Marin LAFCO has also adopted an urban service area and sphere policy for the Novato community.

**Mariposa County LAFCO**

In 1994, Mariposa LAFCO adopted a comprehensive "Polices, Procedures and Standards" document. It is consistent with existing law and includes some standards specific to the local conditions in Mariposa County.

**Merced County LAFCO**

Merced LAFCO has adopted policies addressing prime agricultural land, city sphere of influence, urban and rural district sphere of influence and changes of organizations. All of these polices generally follow the existing Government Code sections in the Cortese-Knox Local Government Reorganization Act.

**Modoc County LAFCO**

Modoc LAFCO has adopted an operations manual which includes sections on general policies and standards, spheres of influence, annexations and detachment, specialized procedures such as incorporations or consolidations and general procedures for processing applications. It has several components:

***Sphere of Influence:*** The sphere policy discourages sphere amendments by requiring more detailed information and more time to process. It defines a process and standards for determining an area of concern where additional sphere requirements may apply.

***Annexations and Detachments:*** This policy provides standards for the LAFCO to determine the most efficient service provider, includes definitions of service and cost standards, and defines affected populations.

***Incorporations and Special District Actions:*** This section of the operations manual establishes guidelines for the various requests which may come before LAFCO. The policies generally follow the Cortese-Knox Local Government Reorganization Act and the practice at most LAFCOs.

**Mono County LAFCO**

Mono LAFCO provided a copy of its policy regarding spheres of influence. It prioritizes the order of completion for spheres of influence for the agencies under the jurisdiction of LAFCO. It does define an "interim" sphere for agencies with the possibility of joining another agency. It also provides a matrix for the preferred type of special district to be formed depending on the level of services needed, the populations, economic base and desire for self-government. It also allows the LAFCO to establish "Planning Concern Areas" which are areas beyond an agency's sphere where planning and land use development will likely affect the agency. Mono LAFCO includes a brief description of the process for involving all agencies in the establishment and review of proposals in Planning Concern Areas.

**Monterey County LAFCO**

A "Standards for the Evaluations of Proposals" policy includes provisions on annexation, incorporation, spheres of influence and

agriculture and open space lands. The general procedures for submittal of applications are clear and detailed and reference the applications of policies as a part of the entire LAFCO process. The policy follows the requirements of Cortese-Knox and references specific Government Code Sections. However, it allows phasing annexation proposals as a means of preserving agricultural lands and requires demonstration that effective measures have been adopted to preserve agricultural lands. The policy also includes standards for review of proposals affecting groundwater which appear to be unique in California.

**Napa County LAFCO**

Most Napa LAFCO policies reflect existing statutes with little additional interpretation. Two specific unique policies are:

***Agricultural/Open Space Guidelines and Policies:*** Napa LAFCO states that it "will" rely on the Napa County General Plan, even in the case of inconsistencies with affected city general plans, due to the enactment of a voter approved agricultural lands preservation imitative in 1990. It requires an application involving agricultural or open space lands to be evaluated in light of the factors contained in the Government Code as well as for the "economic integrity" of the land, the potential for premature conversion of adjacent lands, and development with uses which would allow agriculture to continue. Agricultural or open space land "shall not be approved for inclusion within any city sphere of influence for the purpose of urban development".

***Sphere of Influence Policies:*** Napa LAFCO requires that unincorporated land developing to urban densities must conform to the applicable city standards and to be the subject of a "joint City-County planning effort". Amendments to a city's adopted sphere must include an analysis of vacant land currently within the city's sphere, city policies regarding in-fill development as well as the factors contained in the Government Code.

**Nevada County LAFCO**

The polices of the Nevada LAFCO generally reflect existing statutes and the generally accepted interpretation of Cortese-Knox Local Government Reorganization Act. It does require that the planning agency of any action either submit a resolution of support or a statement of consistency with the land use planning documents of that agency. The policies for spheres of influence do not permit concurrent sphere amendments and requires submittal of detailed master service elements. The sphere policy does identify "areas of concern" beyond sphere limits and encourages the use of joint powers agreements to provide master service planning in those areas. Other polices address annexations and detachments, extensions of services and specific changes of organization.

**Orange County LAFCO**

Orange LAFCO has adopted policies addressing incorporations, the initiation by the LAFCO of proposals affecting special districts and spheres of influence. All of these polices are consistent with the Cortese-Knox Local Government Reorganization Act. Orange LAFCO has also adopted a detailed policy addressing revenue neutrality for incorporations including a specific process for negotiating the amounts of revenue neutrality. The revenue neutrality policy was adopted concurrently by the County of Orange. Other polices adopted include ones addressing incomplete applications and the processing of conflicting proposals.

**Placer County LAFCO**

Placer LAFCO has adopted a series of policies and LAFCO Guidelines as a means of implementing the Cortese-Knox Local Government Reorganization Act. They are categorized under four headings, three of which reflects the legislative policy guidelines contained in the Act and the fourth address miscellaneous administrative and procedural issues. The three headings that come from the Government Code sections are listed below and the polices, where they differ from or supplement the Cortese-Knox Act, are described.

1) "To encourage the orderly formation of local government agencies," Placer LAFCO requires applicants to prepare a formal plan of services for all jurisdictional changes and provides standards for inclusion of information. It encourages a "community approach" to service provision and encourages coterminous spheres and simultaneous annexations to cities and districts. It has also prioritized the list of types of special districts which may be studied by LAFCO for possible consolidation.
2) "To preserve agricultural lands," it encourages infill development specifically and allows LAFCO to adopt spheres of influence for areas such as agriculture and open space to preserve them.
3) "To encourage logical patterns of growth," Placer LAFCO policy establishes a priority list for the types of lands which should urbanize first and discourages urban level development in unincorporated areas adjacent to cities. Placer LAFCO also requires a market absorption study for annexations and sphere of influence revisions, an analysis of alternative sites, review of city spheres concurrent with adoption of General Plans and may require detachment of areas from a sphere if the market demand for a land use is exceeded by the jurisdictional changes.

Placer LAFCO also has a Sphere of Influence policy which identifies three types of spheres-local agency spheres (cities and special districts), spheres of influence for unincorporated communities and special purpose spheres of influence. For local agency spheres, it includes criteria which if observed may lead to LAFCO support for the request. It requires comprehensive service plans as part of a sphere review. Factors for review for spheres of influence for the unincorporated communities are also included. Special purpose spheres are defined as a means of identifying areas to be excluded from other spheres.

**Riverside County LAFCO**

Riverside LAFCO has two non-standard policies:

***LAFCO Policies and Standards for Review of Proposals:*** This policy addresses the four policy guidelines as contained in the Cortese-Knox Local Government Reorganization Act and is consistent with that statute. Riverside LAFCO has also prepared a strategic plan which is intended to guide the LAFCO and respond to changing conditions in the application of the more generalized policies.

***Communities of Interest Polices:*** The Riverside LAFCO adopted this detailed, specific policy to preserve the integrity of established unincorporated communities, to identify significant communities needing additional scrutiny regarding annexation, to allow specified communities time to develop long-term jurisdictional and organizational plans and to discourage premature or fiscal marginal proposals.

**Sacramento County LAFCO**

In 1993 Sacramento County LAFCO amended its "Policies, Standards and Procedures Manual," an extensive document addressing general standards for review of proposals and specific standards by type of action. A majority of the standards are clear statements implementing portions of the Cortese-Knox Act. The document does require more noticing than that in the existing government code sections and includes, as appendices, guidelines for evaluation of incorporation proposals and a detailed format for preparation of financial feasibility studies for incorporations.

**San Benito County LAFCO**

San Benito LAFCO sent policies regarding the annexation of roads and the conversion of agricultural lands. The policies follow the existing Government Code sections in the Cortese-Knox Local Government Reorganization Act.

**San Bernardino County LAFCO**

San Bernardino LAFCO's "Polices and Procedures Manual" lists, among other sections, the polices adopted by San Bernardino LAFCO in response to local conditions. A majority of policies clarify the requirements of the Cortese-Knox Act. San Bernardino LAFCO has also adopted polices addressing the effective date for changes of organization, requests for reconsideration, disqualification of members from voting, legal defense fees responsibility and individual notice to landowners, among others. The polices include dates of adoption and amendments and are cross-referenced to other, related policies. The Manual also contains a listing of the special districts in the county along with their functions, services, areas and principal acts.

**San Diego County LAFCO**

San Diego LAFCO has an extensive and detailed procedures guide which has been used as a model for other guide in California. It also regularly issues profiles of the agencies under the purview of LAFCO and keeps a current survey of sphere amendments and updates for all the applicable jurisdictions in the county. It has adopted policies on its interaction with regional water quality control boards, with the San Diego Association of Governments (SANDAG) and its regional growth management strategies, and with an ad hoc advisory committee consisting of municipal representatives. It also has a policy addressing the use of the Internet and the establishment and maintenance of a reserve fund for LAFCO. These polices appear to be unique within California.

It has also adopted polices for the city annexation of unincorporated territory, for the preservation of open space and agricultural lands, for spheres of influence, for the recognition of unincorporated communities and for LAFCO initiated changes of organization.

**San Luis Obispo LAFCO**

San Luis Obispo LAFCO has adopted policies establishing general standards for the formation of cities, of special districts and for annexations. This policy addresses a variety of situations likely to be heard by LAFCO. It generally follows the requirements of the Cortese-Knox Local Government Reorganization Act. In the "General Standards" section, it does require consideration of impacts on affordable housing as well as "grand fathering" the provision of services by an agency outside its boundaries. In the subsection addressing standards for incorporations, San Luis Obispo LAFCO discourages incorporations adjacent to existing cities and has established a priority of "preferable" actions such as annexation, reorganization, and final incorporation.

**San Mateo County LAFCO**

San Mateo LAFCO policies consist of several components:

***Procedures for the Evaluation of Proposals:*** This document is a step-by-step guide to the requirements of the Cortese-Knox Local Government Reorganization Act.

***Policy and Procedures for Initiation of Proposals:*** This policy implements Government Code Section 56375 which authorizes LAFCO to initiate proposals in specific conditions.

***Standards for Evaluation of Proposals:*** This policy follows the requirements of the Cortese-Knox Local Government Reorganization Act.

***Policy for the Development and Determinations of Spheres of Influence:*** This policy generally follows the requirements of the Cortese-Knox Local Government Reorganization Act but does allow for "lands under study" which are areas with special financial and social problems. While considering the transfer of lands to a city's sphere, LAFCO may consider traffic, noise, economic, social and ethnic balance as well as a balance of land uses. San Mateo LAFCO has also adopted a policy requiring the periodic review of spheres of influence.

***Rules and Regulations Affecting Special Districts:*** This policy generally follows existing law but does clearly list the special districts which come under the purview of LAFCO.

**Santa Barbara County LAFCO**

Santa Barbara LAFCO has adopted a "Commissioners Handbook" which contains, among other sections, the policy guidelines and standards adopted by the LAFCO. Santa Barbara LAFCO includes policies regarding the orderly formation of agencies' spheres of influence, environmental review, open space preservation, conservation of agricultural land, and standards of review for various LAFCO actions. The policies generally implement and restate the existing Government Code sections in the Cortese-Knox Act.

**Santa Clara County LAFCO**

Santa Clara LAFCO has adopted guidelines for boundary agreements, spheres of influence, and annexations that are consistent with the Cortese-Knox Local Government Reorganization Act. The boundary agreement guidelines include several criteria for review of the proposed boundary change. There is also a policy which recognizes any urban growth boundary or urban limit line adopted by a city or approved by a voter initiative. Two other policy components are notable:

***Urban Service Areas:*** This policy provides that Santa Clara LAFCO will review and amend a city's Urban Service Area once a year, if it is desired by the city. When a proposed amendment is being considered Santa Clara LAFCO must consider several factors, and it must discourage Urban Service Area expansion which include agricultural or open space lands unless the applicant has demonstrated that measures have been adopted to protect the land.

***Incorporation:*** This policy provides general guidelines for incorporation as well as a requirement for a feasibility study on the part of the applicant which include the following factors: inventory of current local government services, roster of agencies that provide these services, determination of desired change in services, and financial feasibility.

**Santa Cruz County LAFCO**

Santa Cruz LAFCO provides guidebook entitled, "Standards for Evaluating Proposals," which includes numerous policies including general plans, in-fill development, provision of services, staged growth, annexations, logical boundaries, and prime agricultural lands. These policies are generally consistent with the intent of the Cortese-Knox Act. A Spheres of Influence policy provides that the LAFCO will use spheres of influence to discourage inefficient development patterns and to encourage the orderly expansion of local government agencies. Included in this policy is that city and county general plans will be considered, the elimination or consolidation of small single-purpose special districts will be encouraged, and the discouragement of leapfrog expansion.

**Shasta County LAFCO**

A Spheres of Influence policy includes a statement that Shasta LAFCO encourages "regionalization" of local government and discourages the formation of new special district with specific criteria defined for approval of exceptions. A policy regarding "Annexation of Territory to Cities and Special Districts," contains general guidelines for the annexation of any territory and a specific section on the annexation of agricultural land. It is consistent with existing statutes.

**Solano County LAFCO**

Solano LAFCO is in the process of updating its standards and procedures and the copy reviewed was in draft form. It includes a section on the content of "Comprehensive Annexation Plans", which each city must complete, and standards for review of proposals.

A total of six mandatory and five discretionary standards outline which proposals for jurisdictional changes must demonstrate ensure consistency. Each standard includes a statement of the standards, a discussion and explanation of the local conditions and intent driving the adoption of the standard and a statement of the documentation required to prove consistency. The mandatory standards address, among other issues, spheres of influence, and their required consistency. Other mandatory standards include:

***Change of Organization/Reorganization to the Limits of the Sphere of Influence:*** Annexations to the limit of an agency's sphere is not allowed if the proposal includes open space land. This is in response to efforts among the cities, county, land trusts, and LAFCO to ensure Solano County's active efforts to protect open space land and green belts around communities.

***Effect on Natural Resources:*** The standard describes conformance with state and local laws regarding the preparation and content of environmental documents.

**Stanislaus County LAFCO**

Stanislaus LAFCO has adopted a "Policies and Procedures Manual". The manual includes a list of local problems and needs which the Stanislaus LAFCO uses to develop policies and procedures. The Manual also includes sections on standards for review of proposals with a list of factors which the LAFCO may use in determining their approval or disapproval of a proposal. Factors favorable to approval and unfavorable to approval are both listed.

The standards for review are consistent with the existing statute governing LAFCOs but the format of the manual and the clear detailing of factors favorable and unfavorable for review of applications was distinctive among the LAFCOs submitting policies. Standards for the annexation of territory to cities and districts where urban services are provided (including streets and canals), for the annexation of territory to special districts in rural and regional situations, for special district formation, for incorporations, for city protest of Williamson Act contracts, and for spheres of influence amendments were all included.

**Tehama County LAFCO**

Tehama LAFCO's "Policies, Procedures and Standards" is a detailed document with policies and procedures uniform with that required by the Cortese-Knox Local Government Reorganization Act. It contains a logical and readable format and instructions for

the preparation of financial analysis for incorporation proposals.

**Trinity County LAFCO**

Trinity LAFCO has adopted policies for the appointment of members, for establishing standards for the evaluation of service plans and reorganizations. It has also adopted a policy establishing standards for the evaluation of plans of service for special districts which propose to generate or distribute electricity.

**Tulare County LAFCO**

In 1996, Tulare LAFCO adopted a spheres of influence policy which allows the 20-year planning boundaries established by the County and the eight cities to be used by LAFCO, if deemed adequate, as the sphere of influence. The policy establishes a schedule of sphere reviews and a procedure and schedule for subsequent implementation of the spheres. It requires a general plan amendment and a finding of regional significance prior to approval of a sphere amendment. It also contains provisions requiring an ultimate dividing line between agencies and a complete list of agencies affected by the policy.

**Ventura County LAFCO**

Ventura LAFCO has adopted an extensive "Commissioner's Handbook" describing the general policies and standards for LAFCO actions, spheres of influence, orderly development, annexations and detachments and other changes of organization and jurisdictional boundaries. These polices are consistent with Cortese-Knox and other LAFCO interpretations of the act. Ventura LAFCO does distinguish between "minor" and "major" sphere amendments and encourages jurisdictions to limit their amendments to three per year and permit major amendments only after a comprehensive review of the entire sphere of influence.

**Yolo County LAFCO**

Yolo LAFCO has two fairly unique components to its policies and guidelines:

***Spheres of Influence:*** These guidelines establish two boundaries which are ten-year lines/areas and twenty-year lines or areas. Specific and detailed criteria for both the ten-year and twenty-year lines or areas in incorporated territory is included. Unincorporated areas are also addressed.

***Agricultural Conservation Policy:*** Yolo LAFCO has adopted a unique and specific agricultural conservation policy which includes a land evaluation and site assessment (LESA) computer model. The LESA model is used as a planning tool to assist in making decisions concerning the relative significance of agricultural land resources. It was adapted by Yolo LAFCO to address the unique agricultural resources of the county and to provide a standardized and impartial evaluation of the significance of agricultural lands.

## IV. ANALYTICAL STATISTICS

The data collected through the survey was run through a series of multiple regressions to determine if there were clear external indicators of the expected level of activity for a LAFCO. Data describing the counties such as the population, the change in population over the last data year (January 1997 to January 1998), the density, the percent of the county's population living within incorporated boundaries, as well as the number of cities, county service areas and special districts were regressed against the activity level in LAFCOs-the reported number of projects, the size of the staff, the frequency of meetings and the budget.

For all LAFCOs across California almost 30% of the general activity level is determined (closely correlated with the variability) by the change in population over the previous year. This would indicate statistically that those counties with the fastest growth should have the highest level of activity. Intuitively, this is logical but it was not always corroborated by other data collected. For example, several executive officers noted that activity at LAFCO seem to trail months or even years behind economic booms. This lag in time between economic growth and LAFCO applications may be a weakness in the agency's ability to respond quickly to changing circumstances or it could merely be the nature of the development process since a LAFCO application for a jurisdictional change usually follows entitlements granted by other agencies.

A large amount of the variability in the LAFCOs' budget and staff size is related to the number of cities in the county and the population. Specifically, well over 40% of the variability in budget amounts can be explained by either the population size or the number of cities. Over a quarter of the variability in the size of the staff can be linked to any one of the following independent variables: population, density, proportion of the population in cities or number of cities. Again this confirms the application of logic and common sense - urbanizing areas and cities in the more densely populated counties are most likely to request annexation of territory as extra-urban populations and tax bases swell in the periphery of the spheres.

There was, however, no significant correlation between the number of special districts or CSAs and LAFCO's activity level. In other words, they are population and density independent. Additionally, anecdotal information from executive officers seems to indicate that most applications involving special districts are "routine" applications. However, it was also mentioned that reorganizations involving special districts were often the most complex and contentious of all projects.

The statistics for both independent and dependent LAFCOs were analyzed separately. The results were similar – much of all the activity at both dependent and independent LAFCOs is related to the number of cities (accounting for almost a third of the variability in the staff size and almost half of the variability in the amount of the budget), the percent of the county's population residing within a city (correlated with over a quarter of variability in

the number of projects and the staff size, almost 30% of the variability in the budget amount and more than a third of variability in the number of meetings) and the level of population (responsible for over a quarter of the variability in the staff size and more than 40% of the variability in the amount of the budget).

## V. CONCLUSIONS

### A. Independence/Dependence

A clear majority of LAFCOs are dependent and over half of these dependent LAFCOs report assigning the equivalent of less than one staff-year to LAFCO related work. Most LAFCO staff contacted stated that the low level of activity would not seem to justify a separate LAFCO staff. Several also expressed support for their local LAFCO and opposition to the idea of a regional LAFCO. Executive officers of other dependent LAFCOs reported that using county staff for LAFCO functions worked well. It would appear that there is little support among LAFCOs for requiring that all LAFCOs be made independent. The biggest problem, outside of funding, reported by dependent LAFCOs regarding their status was the lack of "protected" staff time for LAFCO work.

### B. Number of Staff

There appears to be a strong correlation between the number of staff of a LAFCO and the percentage of the population in the county residing within cities, the density, the number of cities and the total population. Approximately 35% of the size of LAFCO staffs across California is strongly related to the above-mentioned factors. The number of special districts and county service areas did not show any significant relationship to the activity level of LAFCO. It would appear that as the population and number of cities increase in a county, the activity level at LAFCO also increases. This is supported by anecdotal information supplied by LAFCO staffs that projects are increasingly complex and contentious and require significant amounts of staff time. One possible explanation is the cities' and counties' increasing need to annex revenue producing land uses.

### C. Budgets and Revenue

The total for all LAFCO budgets is approximately $7,170,500. Dependent LAFCOs account for 35%, or approximately $2,500,000 of the total, while Independent LAFCOs account for the balance. Collection of fees is higher overall in independent LAFCOs, with 70% of all fees and revenue in the State collected by independent LAFCOs. However, it appears that several LAFCOs do not keep accurate or updated figures regarding budgets, revenues or costs of staff time. It would appear that a unified format for reporting revenues, expenditures and time is needed.

### D. Composition of LAFCO

Those LAFCOs who did have special district representation were asked if independent special districts had requested representation. A clear majority of the LAFCOs who had not seated special districts stated that it had either been rarely discussed or that the special districts had not shown any interest. From the anecdotal evidence supplied by LAFCO staff, it does not appear that the composition of the LAFCO is a high priority concern with the majority of LAFCOs.

### E. Meetings and Projects

The frequency of meetings and the number projects heard at each meeting varied and has been described in other sections of this report. LAFCO staff reported that the number of projects and therefore the frequency of meetings seems to increase during times of economic growth. However, a number of LAFCOs also reported that the complexity, controversy, depth of analysis and staff required to analyze projects seems to be also increasing independently of the economy. One executive officer stated, "We've done the easy projects; all that's left are the hard ones."

Several LAFCO staffs also reported escalating amounts of time spent in pre-application contact and meetings. Several LAFCO executive officers noted that the number of applications that are inconsistent with Cortese-Knox and local policies, and therefore discouraged by LAFCO during the pre-application contact, is significant. A majority of LAFCOs reported the need for special studies but again noted the lack of money and staff resources.

### F. Spheres of Influence

All LAFCOs completed sphere designations in 1985. Fifty-three percent of the LAFCOS reported having some comprehensive spheres studies in progress. A majority of the LAFCOs who had not completed comprehensive sphere studies within the last five years noted the lack of staff resources, the unique, local nature of the agencies, and the priorities set by their own LAFCOs. Several LAFCO staffs expressed concern that the lack of completing spheres would be seen as a failure of LAFCO and noted the absence of policy direction from the State and the weak authority of sphere boundaries in Cortese-Knox. A few also expressed concern about the political will of their LAFCOs to make the hard decisions regarding sphere limits.

A majority of staff contacted thought that LAFCO, with the right tools, could be extremely valuable in the debate on urban growth and sprawl. However, it appeared that few saw that as the role of LAFCO at this time. It appears that the previous "passive" nature of LAFCOS, where they only responded to applications submitted to them, may have become a form of institutional culture which persists to this day. This supposition seems to be supported by the length of service of LAFCO commissioners and employees. While no detailed or quantifi-

able data was gathered, anecdotal information supplied by LAFCO staff indicates that many LAFCO commissioners and staffs have been with LAFCO for a long period.

**G. Policies and Procedures**

For the 38 LAFCOs submitting copies of their policies and procedures, it appears that there is external consistency among the LAFCOs in policy language and provisions. It does not appear that there are major differences in the interpretation or application of the provisions of the Cortese-Knox Local Government Reorganization Act. Where there are unique and specialized policies or procedures, it is usually in those counties with resources and problems not typically encountered by other LAFCOs.

Table G-1
**DEPENDENT LAFCO DATA**
**Summary Survey Data - Dependent LAFCOs**

| *Counties* | *Budget* | *% fees* | *Number of commissioners* | *Number of staff* | *Number of meetings* | *Number of projects* |
|---|---|---|---|---|---|---|
| **Alameda** | $110,000.00 | 24% | 7 | 0.5 | 6 | 12 |
| **Alpine** | $1,000.00 | 5% | 5 | 0.1 | 1 | 1 |
| **Amador** | $30,000.00 | 10% | 5 | 0.2 | 1 | 5 |
| **Butte** | $41,000.00 | 66% | 7 | 2.0 | 12 | 45 |
| **Calaveras** | $10,000.00 | 33% | 7 | 0.3 | 3 | 3 |
| **Colusa** | $10,000.00 | 50% | 5 | 0.2 | 1 | 6 |
| **Fresno** | $188,000.00 | 28% | 5 | 2.0 | 6 | 40 |
| **Glenn** | $20,000.00 | 10% | 5 | 0.1 | 1 | 6 |
| **Humboldt** | $36,000.00 | 5% | 7 | 0.9 | 6 | 10 |
| **Imperial** | $50,000.00 | 75% | 5 | 0.8 | 12 | 20 |
| **Inyo** | $50,000.00 | 5% | 5 | 0.4 | 6 | 18 |
| **Kings** | $19,600.00 | 16% | 5 | 0.4 | 6 | 12 |
| **Lassen** | n/a | n/a | 4 | 0.2 | 1 | 1 |
| **Madera** | $5,000.00 | 5% | 5 | 0.1 | 6 | 4 |
| **Mariposa** | $5,000.00 | 5% | 5 | 0.1 | 1 | 1 |
| **Merced** | $16,000.00 | 30% | 5 | 0.3 | 8 | 15 |
| **Modoc** | $16,000.00 | 5% | 5 | 0.2 | 1 | 1 |
| **Mono** | $16,000.00 | 10% | 7 | 0.2 | 2 | 4 |
| **Monterey** | $245,000.00 | 10% | 5 | 1.0 | 10 | 25 |
| **Napa** | $163,800.00 | 10% | 5 | 1.3 | 6 | 18 |
| **Placer** | $165,000.00 | 10% | 5 | 1.1 | 8 | 15 |
| **Plumas** | $22,000.00 | 5% | 5 | 0.1 | 2 | 3 |
| **Sacramento** | $350,000.00 | 10% | 7 | 1.4 | 14 | 40 |
| **San Benito** | $9,000.00 | 5% | 5 | 0.2 | 3 | 4 |
| **San Luis Obispo** | $48,000.00 | 54% | 7 | 1.1 | 12 | 35 |
| **San Mateo** | $251,000.00 | 12% | 7 | 1.2 | 12 | 30 |
| **Santa Clara** | $133,000.00 | 30% | 5 | 1.1 | 6 | 35 |
| **Sierra** | $1,400.00 | 10% | 5 | 0.1 | 1 | 1 |
| **Siskiyou** | $13,270.00 | 10% | 5 | 0.3 | 2 | 3 |
| **Solano** | $140,000.00 | 21% | 5 | 1.3 | 7 | 15 |
| **Sonoma** | $36,000.00 | 5% | 7 | 0.8 | 6 | 10 |
| **Stanislaus** | $42,000.00 | 68% | 5 | 1.2 | 12 | 24 |
| **Sutter** | $26,000.00 | 10% | 7 | 0.4 | 7 | 10 |
| **Tehama** | $3,500.00 | 55% | 5 | 0.1 | 3 | 4 |
| **Trinity** | $7,000.00 | 5% | 7 | 0.2 | 3 | 6 |
| **Tulare** | $125,000.00 | 50% | 5 | 1.1 | 12 | 20 |
| **Tuolumne** | $23,000.00 | 5% | 5 | 0.2 | 2 | 4 |
| **Yolo** | $153,000.00 | 10% | 5 | 1.0 | 12 | 20 |
| **Yuba** | $18,000.00 | 50% | 5 | 0.1 | 3 | 10 |
| | | | | | | |
| **Totals** | $2,598,570.00 | n/a | 220 | 23.6 | 224 | 537 |
| **Averages** | $68,383.42 | 20% | 5.5 | 0.6 | 5.6 | 13.4 |

Table G-2
**INDEPENDENT LAFCO DATA**
**Summary Survey Data - Independent LAFCOs**

| *Counties* | *Budget* | *% fees* | *Number of commissioners* | *Number of staff* | *Number of meetings* | *Number of projects* |
|---|---|---|---|---|---|---|
| **Contra Costa** | $220,000.00 | 32% | 7 | 2 | 12 | 48 |
| **El Dorado** | $169,000.00 | 15% | 7 | 2 | 12 | 10 |
| **Kern** | $220,000.00 | 10% | 5 | 3 | 12 | 48 |
| **Lake** | $16,000.00 | 5% | 5 | 1 | 6 | 6 |
| **Los Angeles** | $500,000.00 | 0% | 9 | 3 | 12 | 0 |
| **Marin** | $263,000.00 | 27% | 7 | 3 | 12 | 25 |
| **Mendocino** | $80,000.00 | 30% | 7 | 1 | 8 | 10 |
| **Nevada** | $120,000.00 | 15% | 7 | 2 | 12 | 25 |
| **Orange** | $628,000.00 | 25% | 7 | 6 | 14 | 45 |
| **Riverside** | $340,000.00 | 20% | 7 | 3 | 11 | 30 |
| **San Bernardino** | $694,000.00 | 23% | 7 | 5 | 12 | 100 |
| **San Diego** | $583,000.00 | 35% | 8 | 5 | 13 | 75 |
| **San Joaquin** | $140,000.00 | 50% | 5 | 1.5 | 11 | 30 |
| **Santa Barbara** | $130,000.00 | 14% | 7 | 1 | 14 | 30 |
| **Santa Cruz** | $248,000.00 | 15% | 7 | 2 | 11 | 25 |
| **Shasta** | $71,000.00 | 55% | 7 | 1 | 8 | 20 |
| **Ventura** | $150,000.00 | 66% | 7 | 1 | 12 | 30 |
| | | | | | | |
| **Totals** | $4,572,000.00 | n/a | 116 | 42.5 | 192 | 557 |
| **Averages** | $268,941.18 | 26% | 6.8 | 2.5 | 11.3 | 32.8 |

**TOTALS, DEPENDENT AND INDEPENDENT LAFCOS**

| | | | | | | |
|---|---|---|---|---|---|---|
| **State Totals** | $7,170,570.00 | — | 336 | 66.1 | 416 | 1,064 |
| **State Averages** | $130,374.00 | 22% | 6.11 | 1.20 | 7.56 | 19.35 |

Table G-3
## POLICIES AND PROCEDURES ADOPTED BY LAFCOs

| *County* | *General Information* | *Annexation* | *Consolidation and Dissolution* | *Incorporation* | *Sphere of Influence* | *Agriculture and Open Space* | *Additional Policies* |
|---|---|---|---|---|---|---|---|
| **Alameda** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy | Adopted policy | |
| **Alpine** | Follows Cortese-Knox | | | | | | |
| **Amador** | Follows Cortese-Knox | | | | | | |
| **Butte** | | Adopted policy | Adopted policy | Adopted policy<br>- Outlines requirements for revenue neutrality<br>- Determinations for the need for incorporation<br>- LAFCO must weigh benefits against adverse conditions | Adopted policy<br>- LAFCO may designate an area beyond the sphere as an "area of concern" | Adopted policy | - Adopted policy on Chico urban area "green line" policy<br>- Proposals must be consistent with the general plan |
| **Calaveras** | Follows Cortese-Knox | | | | | | |
| **Colusa** | No policies received | | | | | | |
| **Contra Costa** | | Adopted policy | No policy | Adopted policy on change of organization only | Adopted policy<br>- Reviews of all city spheres in 1999 | Adopted policy | - Urban limit lines<br>- Procedure for multi-county proposals<br>- Application checklist |
| **Del Norte** | No policies received | | | | | | |
| **El Dorado** | No policies received | | | | | | |
| **Fresno** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy | Adopted policy | |
| **Glenn** | | Adopted policy | Adopted policy | Adopted policy on change of organization only | Adopted policy | Adopted policy | |
| **Humboldt** | No policies received | | | | | | |
| **Imperial** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy | Adopted policy | - List of all special districts including functions, formation, and annexation procedures<br>- Sphere of influence maps |

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Table G-3 (continued)
**POLICIES AND PROCEDURES ADOPTED BY LAFCOs**

| *County* | *General Information* | *Annexation* | *Consolidation and Dissolution* | *Incorporation* | *Sphere of Influence* | *Agriculture and Open Space* | *Additional Policies* |
|---|---|---|---|---|---|---|---|
| **Inyo** | | Adopted policy | No policy | No policy | Adopted policy | Adopted policy | - Standards for formation of special districts<br>- Consideration of affordable housing on all proposals |
| **Inyo** | | Adopted policy | No policy | No policy | Adopted policy | Adopted policy | - Standards for formation of special districts<br>- Consideration of affordable housing on all proposals |
| **Kern** | | Adopted policy | Adopted policy | Adopted policy on change of organization only | Adopted policy | Adopted policy | |
| **Kings** | | Adopted policy | No specific policy | No policy | Adopted policy | Adopted policy | Application checklist |
| **Lake** | Follows Cortese-Knox | | | | | | |
| **Lassen** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy | Adopted policy | |
| **Los Angeles** | No policies received | | | | | | |
| **Madera** | Follows Cortese-Knox | | | | | | |
| **Marin** | | Adopted policy | Adopted policy | No policy | Adopted policy | Adopted policy | Urban service area policy for the Novato Community |
| **Mariposa** | | Adopted policy | Adopted policy | Adopted policy<br>- Includes favorable and unfavorable conditions<br>- Policy on revenue neutrality including measuring costs | Adopted policy | Adopted policy | - List of special districts<br>- Application checklist and other sample forms |
| **Mendocino** | No policies received | | | | | | |
| **Merced** | | Adopted policy | No policy | Adopted policy on change of organization only | Adopted policy | Adopted policy | |

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|---|---|---|---|---|---|---|---|
| **Modoc** | | Adopted policy<br>- Additional definitions<br>- Determination of most efficient cost provider | Adopted policy | Adopted policy<br>- Factors for determining approval or disapproval of incorporation | Adopted policy<br>- Discourages sphere amendments by requiring more information | Adopted policy | |
| **Mono** | | Adopted policy | Adopted policy | Adopted policy on change of organization only | Adopted policy<br>- Allows the LAFCO to establish planning concern areas | Adopted policy | Provides a matrix for the preferred type of special district to be formed. |
| **Monterey** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy | Adopted policy<br>- Requires effective measures be adopted to preserve these lands | Standards of review for proposals affecting groundwater |
| **Napa** | | Adopted policy | Adopted policy | No policy | Adopted policy<br>- Sphere amendments must include analysis of vacant land, policies on infill | Adopted policy<br>- Relies on county general plan<br>- May not be included in sphere for urban development | |
| **Nevada** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy<br>- Concurrent sphere amendments prohibited<br>- Identifies areas of concern | Adopted policy | Planning agency of any action must submit resolution of support or statement of consistency with planning documents |
| **Orange** | | Adopted policy | Adopted policy | Adopted policy<br>- Detailed policy on revenue neutrality includes process for negotiations | Adopted policy | Adopted policy<br>- Schedule for review of spheres | Adopted policy to encourage public participation |
| **Placer** | | Adopted policy<br>- Requires market absorption study<br>- Analysis of alternative sites | Adopted policy<br>- Prioritized list of types of special district for possible consolidation | Adopted policy | Adopted policy<br>- Identifies three types of spheres<br>- Comprehen-sive service plans required for review | Adopted policy<br>- Encourages infill development | |

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|---|---|---|---|---|---|---|---|
| **Plumas** | Follows Cortese-Knox | | | | | | |
| **Riverside** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy | Adopted policy | - Preparing a strategic plan<br>- Communities of interest policies |
| **Sacramento** | | Adopted policy | Adopted policy | Adopted policy<br>- Guidelines for evaluation of incorporation proposals<br>- Detailed format for preparation of CFA | Adopted policy | Adopted policy | Includes general standards for review of proposals |
| **San Benito** | Follows Cortese-Knox | | | | | | |
| **San Bernardino** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy | Adopted policy | Complete listing of special districts |
| **San Diego** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy<br>- Current survey of sphere amendments | Adopted policy | - Complete listing of special districts<br>- List of election requirements<br>- Policy on the use of the Internet |
| **San Joaquin** | No policies received | | | | | | |
| **San Luis Obispo** | | Adopted policy | Adopted policy | Adopted policy<br>- Discourages incorporations adjacent to existing cities | Adopted policy | Adopted policy | - General standards for formation of cities and special districts<br>- Requires consideration of affordable housing |
| **San Mateo** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy<br>- Periodic review of spheres | Adopted policy | - Procedures for the evaluation of proposals<br>- Urban service areas designated by LAFCO<br>- Policy on LAFCO-initiated proposals |

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| **Santa Barbara** | | Adopted policy<br>- Standards for favorable and unfavorable approval | Adopted policy | Adopted policy<br>- Standards for favorable and unfavorable approval | Adopted policy | Adopted policy | - Standards for special district formation<br>- Roster of cities and special districts |
| **Santa Clara** | | Adopted policy | Adopted policy | Adopted policy<br>- General guidelines<br>- Factors to be included in feasibility study | Adopted policy | Adopted policy | - Requirements for filing proposals<br>- Policy recognizing local urban limit lines<br>- Urban service area policy |
| **Santa Cruz** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy<br>- Discourages inefficient development patterns | Adopted policy | Standards for evaluating proposals |
| **Shasta** | | Adopted policy | Adopted policy | No policy | Adopted policy<br>- Encourages regionali-zation<br>- Discourages formation of new special districts | Adopted policy | |
| **Sierra** | No policies received | | | | | | |
| **Siskiyou** | Follows Cortese-Knox | | | | | | |
| **Solano** | | Adopted policy | Adopted policy | Adopted policy on change of organization only | Adopted policy<br>- Annexations to the limit of an agency' s sphere is prohibited if it includes open-space land | Adopted policy | In the process of updating its standards and procedures (received draft form) |
| **Sonoma** | No policies received | | | | | | |
| **Stanislaus** | | Adopted policy<br>- Standards for annexations to special districts in rural areas | No policy | Adopted policy | Adopted policy | Adopted policy | Contains a list of factors the LAFCO uses in determining approval or disapproval of a proposal |

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|---|---|---|---|---|---|---|---|
| **Sutter** | Follows Cortese-Knox | | | | | | |
| **Tehama** | | Adopted policy | Adopted policy | Adopted policy<br>- Instructions for the preparation of the financial analysis | Adopted policy | Adopted policy | |
| **Trinity** | | Adopted policy | Adopted policy | No policy | No policy | No policy | Standards for the evaluation of service plans for special districts that propose to distribute electricity |
| **Tulare** | | No policy | No policy | No policy | Adopted policy<br>- LAFCO may use the 20-year boundaries adopted by the county<br>- Requires a general plan amendment for approval of a sphere amendment | No policy | |
| **Tuolumne** | Follows Cortese-Knox | | | | | | |
| **Ventura** | | Adopted policy | Adopted policy | Adopted policy | Adopted policy<br>- Distinguishes between minor and major sphere amendments<br>- Encourages jurisdictions to limit amendments to 3 per year | Adopted policy | - Includes timelines and requirements for proposals<br>- Guidelines for orderly development |
| **Yolo** | | Adopted policy | Adopted policy | No policy | Adopted policy<br>- Ten-year and twenty-year boundary lines established | Adopted policy<br>- Land evaluations and site assessment computer model | Standards for review of proposals |
| **Yuba** | No policies received | | | | | | |

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