

Shasta LAFCO Policies and Procedures

CHAPTER 4

ORGANIZATION CHANGES AND REORGANIZATION

Section 1. Shasta LAFCO Jurisdiction

1.1 Specific Authority

Shasta LAFCO has the specific authority to review and approve or disapprove:

- a. Annexations to, or detachments from, cities or districts;
- b. Formation or dissolution of districts;
- c. Incorporation or disincorporation of cities;
- d. Consolidation or reorganization of cities or districts;
- e. Merger of a city and a district;
- f. Establishment of subsidiary districts;
- g. The establishment of, and amendments to, spheres of influence;
- h. Extensions of service beyond an agency's jurisdictional boundaries; and
- i. Provision of new or different services by districts.

1.2 Limited Authority to Initiate Proposals

Under specific circumstances, Shasta LAFCO may initiate proposals resulting in the formation, dissolution, or consolidation of districts; merger of a city and district; establishment of a subsidiary district; or reorganizations that include any of the aforementioned changes of organization.

1.3 Limitation of Authority Relating to Land Use Conditions.

In order to carry out the legislative policies identified above, Shasta LAFCO has the power to approve or disapprove applications, or to impose reasonable conditions of approval. However, while Shasta LAFCO is charged with consideration of the impacts of land use in its determination, it is prohibited from directing specific land use or zoning actions. Shasta LAFCO can deny an application where the land use that would result violates CKH Act statutory policies.

Section 2. Notice and Public Participation

2.1 Public Participation Encouraged

Shasta LAFCO encourages participation in its decision-making process. The CKH Act provides for a wide dissemination of notice. Shasta LAFCO shall not necessarily be limited to the minimum requirements by law and policy. The Commission will provide

opportunity for the public to be heard at LAFCO meetings in accordance with the procedures set forth in its Administrative Policies.

2.2 Unnecessary Public Hearings Eliminated

Where LAFCO is authorized by CKH Act to consider a proposal without public hearing, the proposal will be considered by the Commission without a public hearing, unless the Executive Officer or the Commission determines that the matter is of sufficient public interest or controversy to warrant a public hearing (CKH Act §56662, 56664).

Section 3. Initiation of Proceedings

3.1 Methods to Initiate Proceedings

The CKH Act permits initiation of applications to Shasta LAFCO by resolution of an affected agency or by direct landowner/voter petition. Proposals for changes of organization or reorganization through resolution or petition must contain the same information, as required by CKH Act § 56700, with the exception of the signature requirement, which applies solely to proposals by petition.

If the proposal will require a public hearing and is submitted by resolution of application, prior to adopting the resolution, the initiating agency may notify registered voters and property owners and affected/interested agencies (G.C. §56654).

Section 4. Application Requirements

4.1 Pre-Application

Shasta LAFCO encourages a pre-application discussion between the proponent and Shasta LAFCO staff, which can save the prospective applicant substantial time once the process has begun. Shasta LAFCO staff will review procedures, applicable spheres of influence, information requirements, environmental review requirements, processing fees, and provide application forms.

4.2 Application Materials

Applications to the Commission must contain CKH Act (G.C. §56652 and 56653) required information and materials, including a completed application form, a plan for services, and the applicable fees or deposit toward fees as specified by the Shasta LAFCO Fee Schedule.

Except when the Commission is the Lead Agency pursuant to the California Environmental Quality Act, (CEQA) (as defined in Public Resources Code §21067), an application must also contain complete documentation of the Lead Agency's

environmental determination. No application for a change of organization or reorganization will be deemed complete and scheduled for hearing unless Revenue and Taxation Code (Section 99) requirements for tax apportionment agreements have been satisfied.

4.3 Fees and Indemnification

The application shall also include an agreement to pay costs and indemnification pursuant to the current Shasta LAFCO fee schedule. The agreement to pay costs and indemnification must be signed by the applicant for the application to be deemed complete.

4.4 Authorized Officer

Where the application is by resolution of application from an agency, the application and related agreements must be signed by an authorized officer of the agency.

Section 5. Commission Proceedings

5.1 Upon submittal of an application, the Executive Officer shall review the proposal and within 30 days of its receipt either:

- a. Determine that the application is complete and issues a Certificate of Filing, setting the Commission hearing within 90 days. After receiving an application and before issuance of a Certificate of Filing, the Executive Officer shall give mailed notice to affected agencies, county departments, school districts, and other affected counties' LAFCOs pursuant to CKH Act §56658(b), unless the subject agency has already given notice pursuant to CKH Act §56654(c); or
- b. Determine that the application is not complete and notifies the proponent pursuant to CKH Act §56658(g).

5.2 If a proposal involves a district annexation that is not initiated by the annexing district, or a proposal involving the detachment of territory from a city, the proposal shall be scheduled as an informational item for the next Commission meeting and the annexing district or detaching city shall be notified that the proposal has been submitted. No later than 60 days after the date the proposal is on the Commission's agenda as an informational item the annexing district or detaching city may transmit a resolution terminating the proceedings (CKH Act. §56751, 56857).

5.3 The Executive Officer, at least 21 days prior to the date set for hearing, shall give notice by publication, posting, website, and mailed notice to landowners and registered voters (CKH Act §56660 and 56661). Some Commission actions can be made without notice and hearing, such as annexations and detachments with written consent of all landowners. Notice and opportunity to request a public hearing must be given to agencies whose boundaries are affected (CKH Act §56662).

5.4 The Executive Officer shall review the application and any comment received, and shall prepare a written report and recommendation. The report reviews pertinent factors and policies, procedures, spheres of influence, and general and specific plans.

5.5 The Executive Officer shall mail the report at least five days prior to the hearing to each commissioner, each person named in the application to receive a report, each affected local agency requesting a report, each agency whose boundaries or sphere of influence will be changed, and the Shasta LAFCO Executive Officer of any other affected county (CKH Act §56665).

5.6 The Commission shall hear the proposal on the noticed date and time. The hearing may be continued for up to 70 days (CKH Act §56666). The Commission must consider a number of factors and policies in compliance with CKH Act. §56668 and 56668.3.

Section 6. Commission Proceedings/Action

In its actions, the Commission may:

- a. approve the proposal as submitted;
- b. approve the proposal with an amendment;
- c. approve the proposal with conditions; or
- d. deny the proposal.

Within 35 days after the conclusion of the hearing, the Commission shall adopt a resolution approving, approving conditionally, or disapproving the proposal (CKH Act §56880). Upon execution of the resolution, copies shall be mailed to the chief petitioners, if any, and the affected agencies whose boundaries would be changed by the proposal. (CKH Act §56882)

If the proposal is approved, a protest hearing shall be scheduled unless it has been waived in accordance with CKH Act §56663. If the proposal is approved with conditions, the resolution of approval shall include a description of the required terms and conditions for approval. If the proposal is denied, no further proceedings shall be taken on that proposal and no similar proposal involving the same territory may be initiated for one year unless the Commission waives that stipulation as detrimental to the public interest (CKH Act §56884).

Section 7. Reconsideration of Shasta LAFCO Decisions

7.1 Request and Fees

A request for reconsideration shall be made in accordance with G.C. §56895 within 30 days of the Commission's determination and shall be accompanied by the appropriate

reconsideration fee deposit as established in the Shasta LAFCO Fee Schedule. If the request does not specify the required grounds for reconsideration or does not otherwise comply with statutory requirements, the Executive Officer shall return the incomplete request to the requesting party, along with a statement of the deficiency. A request will be placed on the Commission's agenda only if the requesting party supplies the missing information before the end of the 30-day reconsideration period.

7.2 Grounds for Reconsideration

Shasta LAFCO will consider changing its previous determination only under one or more of the following circumstances:

- a. Compelling new evidence about the proposal, which was previously unavailable is brought to the Commission's attention;
- b. Factors significant to the Commission decision were overlooked or have changed, such as a change in an applicable federal, state, or local law; or
- c. A significant, prejudicial error in procedure is found.

Section 8. Conducting Authority Proceedings

8.1 Waiver of Conducting Authority Proceedings

The Commission may waive final Conducting Authority proceedings in accordance with CKH Act. §56662 and 56663, and otherwise authorize the Executive Officer to file a Certificate of Completion upon approval of a change of organization or reorganization and satisfaction of all terms and conditions pursuant to G.G. §57200.

8.2 Setting the Matter for Hearing

Within 35 days of final Shasta LAFCO action, the Executive Officer shall set the matter for hearing and cause a notice thereof to be published in accordance with G.C. §57025. The date of the hearing shall not be less than 21 nor more than 60 days, after the date the notice is given. The hearing may be continued for up to 60 days.

8.3 Conclusion of Hearing

Within thirty (30) days of the protest hearing, the Executive Officer shall, based on the value of written protests filed, either order the change, order the change subject to an election, or terminate the proposal. The Executive Officer shall report to the Commission at its next meeting the outcome of any protest hearing that is conducted.

8.4 Delegation of Authority to Conduct Protest Hearing

The Commission shall delegate to the Executive Officer the authority to conduct protest hearings unless it specifies otherwise. The purpose of delegating certain duties to the

Executive Officer is to increase scheduling flexibility, to avoid extending Commission meetings to conduct non-discretionary procedures, and to expedite the boundary change process. If the Commission chooses to retain such authority, this decision shall be stated in the terms and conditions for approval of the subject proposal. The Executive Officer shall have the authority to issue the appropriate order upon completion of the protest proceedings.

Section 9. Elections

9.1 Elections Code

Special elections on changes of organization or reorganization are governed by the general election provisions and the local election provisions of the Elections Code. If the Conducting Authority determines that there is any inconsistency between the general elections provisions and the local elections provisions, the local provisions shall control. Elections proceedings are pursuant to CKH Act §57125 et seq.

9.2 Election by County or City

When the Conducting Authority determines that an election shall be conducted, the Conducting Authority shall inform either the board of supervisors or the city council of the affected city of that determination. The board or the city council shall then do all of the following: (1) Call, provide for, and give notice of a special election on the question; (2) Designate precincts and polling places; (3) Take any other action necessary to call, provide for, and give notice of the special election and to provide for the conduct and the canvass of returns of the election; (4) Direct the elections official to conduct the necessary election.

9.3 Confirmation of Election Results

The canvass of ballots cast shall be conducted pursuant to the Elections Code, and upon completion of the canvass the elections official shall immediately report the results to the Shasta LAFCO Executive Officer. Within 30 days of the report of the canvass of the election, the Conducting Authority shall issue a resolution confirming the election results. If the majority of votes are in favor, the resolution shall also order the change of organization or reorganization. If the majority of votes cast are not in favor, the resolution shall call for the termination of all further proceedings.

Section 10. Final Filing

The effective date of the change of organization or reorganization is the date the signed Certificate of Completion is filed at the County Recorder's office unless otherwise specified by the Commission (G.C. §57202). A certificate of completion will not be filed until any and all conditions are satisfied. If the Certificate of Completion has not been filed

within one year after the Commission approves a proposal, the proceeding is deemed abandoned unless the Commission authorizes an extension prior to the expiration of that year (CKH Act §56895).

The Certificate of Completion, including the recording numbers affixed by the County recorder, will be distributed to affected agencies, County surveyor, County assessor, County auditor, and the State Board of Equalization. The State Board of Equalization will distribute relevant information to the Department of Finance, the Controller, and to the Secretary of State, as appropriate (CKH Act §57203, 57204).

Section 11. Specific Application Requirements

11.1 Provision of New Services by Districts

The Commission is responsible for determining latent powers for special districts under the Commission's jurisdiction. Towards this end, the Commission shall periodically review and update the functions and services established for each special district as part of its periodic review of municipal services pursuant to G.C. §56430. In conducting a municipal service review, the Commission may require the special districts to provide current information concerning established functions and services. The Commission may remove any function or service established for a special district if the Commission determines that the function of service is not currently being provided by the district.

Any special district desiring to undertake the provision of any new or different function or class of service, or divest an existing power within its boundaries, shall adopt a resolution of application for filing with LAFCO pursuant to G.C. §56824.12. In addition, applications for provision of new or different functions or classes of service must be accompanied by a plan for providing service consistent with G.C. §56653.

11.2 Extension of Services by Contract

11.2.1 Commission Approval Required. Except for the specific situations exempted by G.C. §56133(e), a city or district shall not provide new or extended services to any party or property outside its jurisdictional boundaries unless it has obtained written approval from LAFCO, consistent with the CKH Act and the policies described herein.

11.2.2 Extension of Services within Sphere. Annexation to cities and special districts involving territory located within the affected agency's sphere of influence is generally preferred to extending services by contract or agreement. The Commission recognizes, however, there may be local circumstances that justify approval of extended services by contract or agreement within the affected agency's sphere of influence.

Such local circumstances most frequently involve extension of service to meet an

existing health and safety need, where annexation is not practical or deemed undesirable for other policy reasons. The Commission will give great weight to properly documented existing health and safety needs when considering justification of such extensions. The Commission discourages use of contract service extensions for the purpose of extending services to new development. The Commission will approve such extensions only under extraordinary circumstance and may apply strict limitations on such services

11.2.3. Extension of Services Outside Sphere. The Commission shall authorize a city or special district's request to provide new or extended services outside their jurisdictional boundary and sphere of influence only in response to an existing or future threat to public health or safety in accordance with G.C. §56133(c).

11.2.4 Administrative Approval Under Urgent Circumstances. The Commission authorizes the Executive Officer, in accordance with G.C. §56133(d), to administratively approve a city or special district's request for extended services by contract or agreement if there is an existing and urgent public health or safety emergency as identified in writing from the local public health officer. The Commission shall ratify the Executive Officer's determination at the next regularly scheduled meeting.

11.2.5 Exemptions to LAFCO Approval Requirement. Commission approval may not be required for cities or special districts to provide new or extended services outside their jurisdictional boundaries in accordance with the provisions of G.C. §56133(e). The Executive Officer shall consult with cities and districts to determine whether extended services agreements are subject to Commission review.

11.2.6 Anticipation of Later Annexation. G.C. §56133 (b) authorizes the Commission to approve contracts for extension of services "in anticipation of a later change of organization". The Commission defines the term "anticipation of a later change of organization" as follows: a) The inclusion of the area to be served within the sphere of influence of the serving agency shall be sufficient to comply with this provision.

11.2.7 Agreements Consenting to Annex. Whenever the Commission determines to condition the approval upon a later annexation of the affected property, the condition shall normally include a requirement that the owner record an agreement consenting to annex the territory, which agreement shall bind future owners of the property. The agreement shall be prepared by Shasta LAFCO legal counsel and provided to the landowners for execution and recording. Proof of recordation will be required before the LAFCO contract approval becomes final and effective.

11.3 Shasta LAFCO Initiated Proposals

11.3.1 As provided under G.C. §56375(a), the Commission is authorized to initiate the following specific types of proposals:

- a. Consolidation of two or more special districts.
- b. Dissolution of one or more special districts, where another agency or agencies can assume service responsibilities.
- c. Merger of a special district with a city, where the city encompasses the entire district.
- d. Establishment of a subsidiary district of a city, where at least 70% of the district's territory and population are within the city.
- e. Reorganization which includes two or more of the above changes of organization.

11.3.2 The Commission will consider initiation of such proposals in instances in which the following conditions apply:

- a. A sphere of influence, municipal service review, or other governmental study has shown that a proposal may result in lower overall public service costs, greater local government access and accountability, or both.
- b. The Commission can complete the necessary review, analysis, and processing with its own staff resources, or funds are available to pay for additional assistance needed to complete the review and processing of the proposal.

11.3.3 The Commission reserves its discretion to initiate such proceedings in exceptional circumstances in which there exists a level of public concern about a district's services or governance which, in the Commission's view, warrants initiation of a proposal. The Commission may refer the proposal to a reorganization committee as provided in G.C. §56827. As an alternative, the Commission may refer the proposal to an advisory committee composed of a representative from each affected district and any additional representative the Commission deems appropriate.