

October, 2009

## Legislature Addresses Key LAFCo Issues in 2009

By Bill Chiat, CALAFCO Legislative Committee Chair

The first year of the 2009-2010 legislative session resulted in little progress in addressing most of the major policy issues facing California. Nonetheless, the Legislature did pass several important bills sponsored by CALAFCO. These laws, if all signed by the Governor, will take effect on 1 January 2010 and address a wide range of LAFCo procedures from financial disclosure to railroad property annexations. Several of these items were years in the making, and we are delighted to have closure to them in 2009.

### Financial Disclosure – Completion of a Three-Year Process

AB 528 (Silva) was passed by the Legislature and signed into law by the Governor on 6 August 2009. It clarifies the financial disclosure requirements on actions before a

LAFCo, moves those requirements from Cortese-Knox-Hertzberg to the Political Reform Act, and moves the reporting requirements from LAFCo to the Fair Political Practices Commission.

### Protest Provisions: Clarity to Written Protest Requirements

In 2008 the California First District Court of Appeals ruled in a case that raised a question on the requirements for written protests. In that case, Citizens for Responsible Open Space v. San Mateo LAFCo, the courts found for San Mateo LAFCo and indicated that, while there is ambiguity in the law, the intent of the Legislature was

clear. Information on the court case – and other court decisions related to LAFCo law – can be found on the CALAFCO website at: [www.calafco.org/court\\_decisions](http://www.calafco.org/court_decisions).

CALAFCO sponsored AB 1582 (Assembly Local Government Committee) which, among other things, clarified the language in C-K-H to address the ambiguity identified in the San Mateo case. It requires protest petitions and written protests (§57051) to contain the same information that current law already requires for petitions that initiate boundary changes (§56704). This legislation was signed by the Governor on 5 August 2009.

### Speeding Up the Railroads

Uninhabited annexations may include private railroad track right-of-way. Even when all the affected landowners consent to the annexation, if railroad land is involved, it has proven very difficult to obtain their consent, even though they may not object. That has resulted in protracted processes and the conducting of unnecessary notices and hearings. After five+ years of working with the railroads, we finally had their agreement and legislative success in 2009!



### Minor Changes to LAFCo Laws

The Omnibus bills from both the Assembly and Senate Local Government Committees contained a number of other small changes to CKH and other laws which LAFCos apply. The Assembly Bill (AB 1582) has already been signed by the Governor. The Senate Bill (SB 113) remained on the Governor's desk for signing at the time of this writing.

### 2009 CONFERENCE EDITION

*A NEW DEAL OR  
A HOUSE OF CARDS?*  
CALAFCO 2009 Annual Conference

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Welcome to Tenaya Lodge

# The Sphere

## CALAFCO Journal

October, 2009

The Sphere is a quarterly publication of the California Association of Local Agency Formation Commissions.

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## FROM THE CHAIR

# What About Changes in CALAFCO Organization?



**Roger Anderson**  
Board Chair

By Roger Anderson, Chair  
CALAFCO Board of Directors

For many years the CALAFCO Board of Directors has attempted to involve LAFCos in regional forums to discuss issues of mutual concern and to facilitate communication with the Board. Previously we organized breakfasts by regions at our Annual Conference, and hoped that such groupings would develop into scheduled meetings of LAFCo Commissioners, Executive Officers, Staff, and Counsel. Although many Executive Officers do meet regularly on a regional basis, there appears to be little involvement with the other people involved in LAFCos. The Board believes that there are considerable advantages with a more defined regional structure for CALAFCO, and during the past year the Board has been developing a proposal to formally develop regions within our organization. We are including our present ideas in the agenda for the 2009 Tenaya Lodge business meeting. But we anticipate that the Board will need at least another six months to prepare a proposal that can be approved by the member LAFCos at the Palm Springs meeting in 2010. However to meet this schedule we need help and input from our members, and the Board has scheduled time for discussion about the reorganization at Tenaya Lodge.

The Board anticipates that the organization would be organized into several regions, and that the LAFCos in each region would meet three times per year to discuss issues, share ideas about policies and approaches to difficult applications, and generally encourage Commissioners and Staff to become more involved in CALAFCO and its educational and legislative activities.

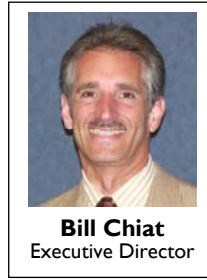
I believe that there are real advantages with a regional organization; however some hard work remains to finalize a proposal. Here is a sample of some questions that I think we will need to address:

- ♦ How many regions should be organized? Which LAFCos will work best together? Who should be delegated to organize the regional activities?
- ♦ How will LAFCos support travel for Commissioners, Staff, and Executive Officers to attend the regional meetings? What is the maximum distance that participants will travel?
- ♦ How can we determine if a regional organization works better than what we now have?

I look forward to listening to anyone who wishes to talk with me at Tenaya Lodge, and I welcome any letters and email ([randerson@calafco.org](mailto:randerson@calafco.org)).

FROM THE EXECUTIVE DIRECTOR

# LAFCos' Contributions to Effective Regional Planning



**Bill Chiat**  
Executive Director

Many of us have been following the implementation of SB 375 (Steinberg - now renamed the *Sustainable Communities and Climate Change Protection Act of 2008*) with great interest. While SB 375 is intended to provide local government with the details of its role in achieving the AB 32 (Nuñez - *California Global Warming Solutions Act of 2006*) greenhouse gas reductions, what is of equal interest to many in local government is the impact of SB 375 in the broader issue of regional planning in California. SB 375 is one of a series of administrative and legislative policy changes over the last decade or so which has moved regional interests into the land use decisions of local agencies. Regional transportation plans and funding, blueprint plans, regional housing allocations – and yes, even LAFCo municipal service reviews and spheres of influence – are examples of discussions and decisions of future land uses moving to more regional levels.

LAFCo has an ongoing and critical role to play in these discussions and decisions. For 46 years LAFCos have had a unique role in regional growth and land use decision-making. While LAFCo is prohibited from directly determining land use, the legislative intent and local policies adopted by each LAFCo have contributed to the regional growth, service delivery and land

**LAFCo has an ongoing role to play in these discussions**

preservation decisions in each county. Looking to this new future, LAFCo can continue to have a significant role and contribution towards effective planning.

Since SB 375 was signed into law last September, there have been ongoing meetings of the stakeholders (cities, counties, COGs, state agencies) to develop guidelines for how the new regional transportation plans and sustainable communities strategies will be prepared and implemented. I have had the opportunity to participate in many of these as CALAFCO's representative. Even though SB 375 may have minimal impact on many of the rural LAFCos, clearly it is catapulting a trend that will affect all LAFCos and local agencies in the future.

## What's Happening Right Now

The California Transportation Commission created a broad stakeholder group to prepare guidelines for the preparation of the new Regional Transportation Plans (RTP) called for in SB 375. Within the RTP is the sustainable communities strategy or alternate strategy that we have discussed within the LAFCo community for the last two years. The RTP is prepared by the Metropolitan Planning Organization (usually the council of governments). The law requires that the spheres of local agencies adopted by LAFCo be considered in the preparation of the sustainable communities strategy or alternate plan.

Because of the enormity of the RTP guidelines, several smaller work groups were created to work on specific areas. I am serving on the Housing and Land Use Work Group which is charged with creating guidelines for the preparing the sustainable communities strategy or alternate. The Group held its first meeting on 14 February. A large number of issues was placed on the table and clearly the group has a lot of work to do in trying to bring everyone into consensus on the guidelines. My emphasis has been twofold: 1) make use of the existing resources from LAFCo (don't reinvent the wheel),



including maps, spheres, inventory of local agencies, and MSRs; and 2) use LAFCo as a resource to connect with the capacity and capabilities of special districts to provide the municipal services that may be required under the various plans.

Work on the guidelines is expected to continue through the fall in concert with the California Air Resources Board (ARB) and its Regional Targets Advisory Committee (RTAC). The ARB is charged with setting the regional greenhouse gas targets that are the foundation of SB 375 implementation. The RTAC is expected to release its recommendations by the end of September. The ARB has a hearing scheduled to consider those recommendations on 19 November. Once ARB adopts the targets, work on completing the

RTP Guidelines is expected to move into high gear. I should be able to start sharing draft guidelines for the sustainable communities strategies and alternates with LAFCo staff later this fall and winter. Ultimate implementation of the RTP and sustainable communities strategy preparation is still several years off.

**LAFCo Contributions and Role**

It is becoming clear that the maps, spheres, local policies and perhaps most importantly – the municipal service reviews – will become valuable elements in the creation of the RTP and the sustainable communities strategy. Special districts are not part of the law or work groups, yet in most parts of the state they provide the needed municipal services anticipated in the RTP. It is through LAFCo that the capacity and capability of those agencies to provide services will enter into the planning in the RTP and sustainable communities strategy. As LAFCos enter into the next round of sphere and MSR updates, recognition of the potential value of that MSR and SOI to the RTP preparation is important.

LAFCos’ SOIs and MSRs are valuable elements

Assessing the current and potential service capabilities of local agencies may be one of the most important roles LAFCo can play in the planning process. It makes little sense for the Metropolitan Planning Agency to duplicate LAFCo’s review of local agencies.

Coordinating LAFCo spheres of influence with the growth plans in

the RTP is another LAFCo role. The law requires the plan to consider current spheres, but not necessarily to adopt those as the planned growth areas. LAFCos need to advocate the policies behind their spheres and share with the MPO concerns of plans which are inconsistent with local agency spheres. LAFCo’s inventory of local agencies (MPOs are likely to be unaware of all the local agencies providing municipal services) and maps of current boundaries and spheres will also be of value to the process.

**What Each LAFCo Should Be Considering**

LAFCos need to be a vital, proactive force in this growing trend towards regionalism, specifically in the preparation of the RFP. Commissions should be considering efforts in three areas:

1. **2013 MSR/SOI Updates.** These will play a critical role in determining the capacity of local agencies to provide services and where growth can actually occur within an RTP. LAFCos may want to evaluate their approach to the MSR/SOI updates to insure the reports will add value to the RTP process.



2. **Review of Sphere and Boundary Changes.** The RTP is several years out and

whether it is consistent with current LAFCo policy is an open question. SB 215 (Wiggins) is on the Governor’s desk for signature at the time of this writing. It will require LAFCos to consider the adopted RTP in boundary decisions. All of this is several years in the future; nonetheless staff may want to be aware of what is contemplated in the RTP as it is developed and how LAFCo changes to local agencies might align with that plan. Clearly once the RTP is adopted, LAFCo will have to consider how its policies and SOIs align with the plan.

3. **Authorize staff participation in the RTP.** If your LAFCo is in a county that is required to prepare a RTP sustainable communities strategy or alternate, consider author-izing your staff to participate in the process, at least at a level to assure that LAFCo policies, spheres and MSRs are considered in the preparation of the plans, and to keep the commission informed about the progress and direction of the RTP.

We’re entering a new world of land use planning. LAFCo has a critical role to play and a contribution to make to continue to assure orderly growth, avoidance of sprawl, protection of agricultural and open space lands, and the efficient delivery of municipal services.

Visit [www.calafco.org/members](http://www.calafco.org/members) for resources on AB 32 and SB 375 implementation and links to climate change Websites.



### **NAPA: New LAFCo Website**

Napa recently launched its new website. The new site was designed by Planeteria (Santa Rosa, CA) and includes pictures and biographies of commissioners and staff. Please visit the new site at [www.napa.lafco.ca.gov](http://www.napa.lafco.ca.gov). Napa has also recently implemented an electronic document management system courtesy of Incrementum (Santa Monica, CA). Finally, we are pleased to announce we will be hosting the 2011 CALAFCO Annual Conference at the Silverado Resort.

*From: Keene Simonds, Executive Officer, Napa LAFCo*

### **FORMATION OF NEW BAY AREA LAFCo CLERKS NETWORK**

We've all seen local networking groups sprouting up. I considered forming a Bay Area group but it never seemed to be the right time. Then last year, my boss Keene Simonds, encouraged me to take on the challenge of forming a network group for the Bay Area LAFCo Clerks. The first thing I did was send out an email to clerks in neighboring counties to establish an interest in forming the group. All Clerks thought it was a worthwhile idea with genuine benefits.

The first Bay Area LAFCo Clerks (B.A.L.C.) Network meeting was held on February 19<sup>th</sup> in Napa at the ABC Café, with the following clerks in attendance: Sandy Hou (Alameda), Kate Sibley (Contra

Costa), Candice Bozzard (Marin), Michelle McIntyre (Solano), Cynthia Olson (Sonoma), and hosted by Kathy Mabry (Napa). A simple agenda was used: Get to Know Each Other, What is Our Role, Current Growth and Regional Issues, State of the Economy, the principles of LAFCo and CALAFCO, as well as how often and where to meet. Thank you to Candice Bozzard for assisting me in getting this group "off the ground."

Each Clerk brought valuable perspectives from his or her LAFCo to share. It was interesting to see how things were done differently at each LAFCo and to share thoughts about the issues we are all facing. It seemed we all had some large projects that we were in the middle of or would be addressing in the near future (i.e. electronic data management/digital recording, etc.). On the surface these projects seemed overwhelming, but we decided that if we work together to keep the dialog and support going, we could tackle them. We are a small enough group that we can work more quickly and efficiently. And, we have the advantage of receiving direct feedback from those Clerks who have the experience. With the current budget constraints on most LAFCos, it is also more cost effective to attend these smaller local meetings rather than a state conference.

The group decided to meet on a quarterly basis. Candice Bozzard of Marin County hosted the 2<sup>nd</sup> Bay Area LAFCo Clerks Network Group on May 21<sup>st</sup> in San Rafael. Cynthia Olson of Sonoma LAFCo hosted the most recent gathering on September 24<sup>th</sup>.

Our newly formed Bay Area LAFCo Clerks meetings have been some of the most fruitful

and exciting meetings I've attended in a long time. They've been a great opportunity to get to know my fellow Clerks a bit better. I'm looking forward to the next B.A.L.C. meetings and invite other Bay Area LAFCo Clerks to join us.

If you have ever thought about forming a networking group, consider starting one in your area. You'll be glad you did. I am delighted my boss encouraged me to form this group!

*From: Kathy Mabry, Clerk, Napa LAFCo*

### **ORANGE: Work in Progress!**

As this article is being written, the days are starting to get a little shorter, the heat of summer is being replaced by the coolness of fall, the beaches are deserted, and summer vacations seem like a distant memory. Hey, but at OC LAFCo, we take no vacations! Our work and commitment to the public, cities and special districts fully sustains us. We *do* not rest. We *will* not rest. We have reached a higher plateau. (Modesty has never been our strong suit.) Bear with us as we share a few of the current projects that OC LAFCo is taking on in 2009-10.

- **Islands** – Annexation of small islands into cities continues to be one of the Commission's highest priorities. Over the last 5 years, we have annexed 35 and have 29 to go. The remaining islands will be the toughest – obstacles are numerous: insufficient infrastructure, private streets, public safety costs, septic tanks, resident opposition, uninterested cities, lack of

## More TRACKS Around the State

transferable County revenue and non-conforming land uses (e.g., medical marijuana dispensaries). With consultant assistance, we are developing a fiscal model which will project how much revenue the County will need to transfer (i.e., sweeten the “pot” – no pun intended) to make it a win-win for both the County and the city over time.



The OC LAFCo staff at work raising issues no one else will!

- **Boundary Report** – At OC LAFCo we reorganize city and district boundaries for breakfast. We’ve found the real challenge is adjusting County boundaries. Even though that is entirely outside LAFCo’s legal purview, we’ve found there’s value in using LAFCo’s unique position among local governments to raise issues that no one else does. (Call us immodest *and* obnoxious – see photo). County boundaries along the western edge of Orange County (abutting Los Angeles County) cut through subdivisions, mobile home parks and bridges, sometimes placing portions of one city in two different counties (we know that’s illegal, but go figure). Staff completed a County Boundary Report identifying these irregularities, presented it to the Board of Supervisors and is meeting with affected cities to see if there is political support for future County boundary adjustments.
- **School District Report** – Ever go to sleep at night dreaming

why school district boundaries don’t match city boundaries? Or that some school sports fields are locked at the close of school just when community sports teams need them most? Or that city recreational facilities seem to operate independently from school district recreational facilities? OC LAFCo staff, of course, never sleeps but we always dream. Staff is currently working on a school district boundary report to determine if there are opportunities for cities and school districts to increase recreational services and share facilities.

- **MWDOC** – OC LAFCo just finished a marathon comprehensive study of governance alternatives for the Municipal Water District of Orange County (MWDOC), a regional wholesale water agency that provides water to local water districts throughout most of Orange County. (You may be surprised to hear that the entire OC LAFCo staff completed the marathon in record time, although the team award was withheld after an ugly dispute at the finish line – something about the OC LAFCo EO attempting to turn back the time clock.) The MWDOC effort was lengthy, controversial, and productive. Eleven governance alternatives were evaluated from a legal, operational, and political perspective. Although a “receive and file” item at the Commission, the report was successful in answering key questions about viable options for regional wholesale water delivery in the OC.
- **New Commissioner** – OC LAFCo is proud to welcome aboard our newest Commissioner – **Derek J. McGregor**. Commissioner McGregor serves on OC LAFCo as its Alternate Public Member. He

is a licensed civil engineer and land surveyor and has owned and operated his own engineering firm since 1987.

- And **Congratulations** to **Arlene Schafer**, Special District representative on Orange County LAFCo, for receiving the California Special District Association’s (CSDA) Past President Award and CSDA Board President of the Year!

From: Bob Aldrich Assistant, Executive Officer, Orange County LAFCo

### SONOMA: Welcome New Commissioners

Sonoma LAFCo welcomes **Teresa Barrett** and **Pam Stafford** as Commissioner and Alternate Commissioner, respectively. Commissioner Barrett, a council-member from the City of Petaluma, had served as an Alternate Commissioner since May 2007. Alternate Commissioner Stafford is a council-member from the City of Rohnert Park.



### Sonoma LAFCo Hosts 2010 Staff Workshop

Sonoma LAFCo looks forward to hosting the 2010 Staff Workshop in Santa Rosa. The workshop will be held at the beautiful Hyatt Vineyard Creek Hotel and Spa on **April 6-8, 2010**.

Mark your calendar to attend this important professional development opportunity for all LAFCo staff.

# LAFCos May Contract for Executive Officer Services



By Scott E. Porter, Colantuono and Levin LLC

Many Local Agency Formation Commissions hire independent contractors as Executive Officers because they have insufficient work for full-time staff or want to save money. Although there was little doubt as to the lawfulness of this practice, the Court of Appeal recently eliminated any doubt in *Hofman Ranch v. Yuba County Local Agency Formation Comm'n*.

There, Yuba LAFCo contracted for part-time "executive officer services" under a contract which outlined 12 broad areas of responsibility the Executive Officer was to provide. The contract, on a standard form of professional services agreement used by Yuba County, stated that the Executive Officer was an independent contractor unentitled to benefits. Over the objections of the petitioner, the LAFCo held a closed session to evaluate the Executive Officer's work and voted to extend his contract.

The petitioner sued, claiming, among other things, that although the Brown Act allows closed-door evaluation of an "employee," an independent contractor Executive Officer is not an employee. The petitioner relied on a 1968 Attorney General's opinion which stated that "the executive officer of a [LAFCo] must be an employee." That opinion issued well before the 1998 report of the Commission on Local Governance for the 21st Century, which led to a thorough revision of what is now the Cortese-Knox-Hertzberg Act.

The petitioners reasoned that, because the contract expressly stated the Executive Officer was an independent contractor, he

could not be an employee, and therefore his closed-session evaluation violated the Brown Act. Petitioners relied on contract boilerplate stating that the Executive Officer "was not subject to the

direction and control of Yuba LAFCo" and that he would not perform his actions as an "agent, officer or employee of LAFCo."

The Court was not persuaded and rejected the 1968 Attorney General's opinion. The central issue for the Court was not how the contract defined the Executive Officer's role, but what role he had actually played. The evidence indicated that the Executive Officer had handled essentially all of the Commission's business with the support of a Clerk /Analyst, and the Court easily concluded he satisfied the Brown Act's definition of "employee," which includes "an independent contractor who functions as an officer or employee."

By concluding that the LAFCo could review the performance of its contract Executive Officer in closed session, the Court affirmed the practice of outsourcing executive officer services.

*Colantuono and Levin, LLC is a CALAFCO Gold Associate Member.*



## ON-LINE LAFCO RESOURCE

Visit "**LAFCo Legal Decisions and Attorney General Opinions**" on the CALAFCO website for summaries and links to decisions and opinions that affect LAFCo law and processes:

[www.calafco.org/Court\\_Decisions](http://www.calafco.org/Court_Decisions)

# NEW WHITE PAPER ON



## PROTEST PROVISIONS

At the 2009 Annual Conference CALAFCO issued its newest research paper:

***"The Good, the Bad and the Confusing: Current Protest Requirements under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000"***

This new CALAFCO White Paper inventories current protest procedures under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, highlights provisions still contained in the Act rendered obsolete by later adopted amendments to the Act, and identifies potential areas for streamlining the protest provision labyrinth.

The paper was prepared by Paula de Sousa of Best, Best & Krieger.

This paper, along with previous white papers prepared by CALAFCO, are available to download from the CALAFCO website under the "resources" tab.

Papers include:

- ◆ Newly Incorporated Cities: Successful Transitioning to Cityhood: *A Guide to Surviving the Post Incorporation Blues*
- ◆ The Metamorphosis of Special Districts: *Current Methods of Consolidation, Dissolution, Subsidiary District Formation and Merger*
- ◆ CALAFCO Forms Library



**Dear CALAFCO Members:** The CALAFCO Board of Directors is proud to report on the progress of the Association over the last year. 2009 saw continued growth in member services, successful efforts in the legislature, relocation to new office facilities, expansion of the reserve funds, and a solid financial footing. In this report we highlight the activities of the last year and look a bit into the future.

Our achievements are the result of the dedicated efforts of the CALAFCO professional staff and the many volunteer LAFCo staff who contribute their time and expertise. The Board is grateful to the Commissioners who support their staff as they serve in the CALAFCO educational and legislative roles on behalf of all LAFCos.

**EDUCATIONAL SERVICES**

**Staff Workshop and Annual Conference**

CALAFCO continued the tradition of quality educational programs with organizing and carrying out the Staff Workshop in San Luis Obispo in April and the annual conference at Tenaya. Both programs focused on discussion and education of timely issues and best practices. Thank you to *Fresno LAFCo* for hosting the Conference and *San Luis Obispo LAFCo* for hosting the Workshop.

We have worked to keep conference fees down so they are not a barrier to attend CALAFCO educational events. We have not increased registration rates for several years, and negotiated an \$89/night room rate for the 2010 Conference at the Hilton Palm Springs Resort. Hope to see you there!

**CALAFCO University**

Six CALAFCO U courses were offered in 2009 with 195 participants. Our curriculum continues to expand to meet the continuing education needs of LAFCo staff and commissioners. 2009 courses included:



- ◆ End the Chaos: LAFCo Clerk Records and Databases
- ◆ SB 375: What LAFCo Needs to Know (sessions in Southern and Northern California)
- ◆ Fire District Consolidations
- ◆ Development and Annexation Agreements
- ◆ Local Government Finances

Courses were attended by LAFCo staff and commissioners, CALAFCO associate members, and staff from local agencies. The classes provide timely information and opportunities for dialogue

on critical LAFCo issues. Course fees not only offset the costs of the classes but help fund some of the other educational activities of the Association. For members unable to attend the courses, materials for many classes are made available on the website. Thank you to *Joyce Crosthwaite* and the *Orange County LAFCo* staff for organizing these courses. We appreciate the LAFCo staff, associate members and many others who share their expertise by serving as instructors.

**The Website**

The CALAFCO website ([www.calafco.org](http://www.calafco.org)) provides a rich resource to members and others interested in LAFCo issues. The site regularly receives 6,500+ visits per week.



New this year is the **Forms Library**; a valuable resource for LAFCo staff. Posted on the site are over 200 typical LAFCo forms, policies and resolutions. This saves LAFCos hours of staff time to research and prepare the many different forms required for LAFCo processes. The project was coordinated by *Paul Hood* and prepared by Associate Member Winzler & Kelly. Special thanks go to the many LAFCos that made contributions to the library. You can visit the library in the Members Section of the website.

Other additions include posting of Association legal documents, updates on LAFCo-related court cases and Attorney General Opinions, and new versions of various reports and laws. In addition CALAFCO maintains a daily legislative posting for members and list-serves for staff and counsel discussions which foster the sharing of information and resources.

**Research Papers and Publications**

CALAFCO continued its research program with the release at the conference of the newest white paper: *The Good, the Bad and the Confusing: Current Protest Requirements under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000*. Prepared by Paula de Sousa of Best Best & Krieger, the paper provides an inventory of all the at times confusing protest procedures in CKH. This is a valuable resource to LAFCos and provides the Legislative Committee with the research to work on reforms to the obsolete and conflicting provisions of LAFCo law.

We are currently completing the Biannual LAFCo Survey. This comprehensive project documents



statewide information on a range of data from number of applications processed to staffing arrangements and budgets. It's a helpful benchmark tool for commissions. The final document will be posted by the end of the year. Special thanks to Santa Clara Clerk *Emmanuel Abello* for designing the on-line survey and documenting the results. CALAFCO continued to publish *The Sphere*, along with the annual *Membership Directory* and continued distribution of the annual Cortese-Knox-Hertzberg update on behalf of Assembly Publications.

**LEGISLATIVE SERVICES**

**Legislative Agenda and Committee**

The Board reviewed and revised the Legislative Policies which guide the Association's Legislative Committee. The Committee met regularly during the session to propose and review legislation which affects LAFcos. The committee advanced a broad legislative agenda in 2009 and brought success to many of the legislative efforts. Please see the article on the cover for a complete report on our legislative activities. The positive results of the Committee's



efforts in producing new legislation and avoiding bad legislation would have been impossible without the leadership of Committee Chair *Bill Chiat* and the volunteer efforts of LAFco staff and board members who are critical in crafting legislation, providing recommendations to the

Board on legislative issues, and supporting the legislative process.

**Resource to the Legislature and State Agencies**

Due to our efforts to help solve problems and resolve issues constructively, CALAFCO continues to be a sought-after resource to legislative committees, members and staff, and to state agencies. Those activities included serving as a member of the work groups working on the implementation of SB 375 and the Regional Transportation Plan guidelines. CALAFCO also participated in groups working on a variety of issues that remain open, such as expedited processes to annex economically disadvantaged communities and dealing with nonperforming special districts. We expect that there will be significant legislative activity next year that will demand CALAFCO's continuing attention.

**ASSOCIATION MANAGEMENT**

**Biannual Strategic Plan Review – Regional Structure for CALAFCO**

The Board held its biannual retreat in Irvine in February. A wide range of issues was discussed, and the Board updated both its strategic and legislative priorities. Those documents are available on the website. The Board also discussed a member proposal to structure CALAFCO into regions to facilitate conversations on local issues and to insure the Board has broad input to policy decisions. The Board created a special committee to examine the issue and prepare a recommendation. Over the course of the spring and summer the committee and Board met a number of times on the issue. The Board weighed the issues heavily and engaged in extensive conversation before crafting the policy and strategy proposal now before the members. In the end the 15 members of the Board were unanimous in their support of the proposal. The proposal will be discussed by the membership at the 2009 annual meeting and further refined over the next year. It is anticipated the membership will vote on the final plan at the annual meeting in 2010.

**Financial Management and Policies**

The Association stands on a strong financial base and is in compliance with all state and federal rules governing not-for-profits. This year the Board revised its policy manual and brought the Association into full compliance with the new IRS Form 990 requirements for 501(c)(3) organizations, prior to the 2009 deadline. The policies, along with other Association documents, are available in the Members Section of the website. The Association maintains its records with the national non-profit reporting organization, Guidestar ([www.guidestar.com](http://www.guidestar.com)).

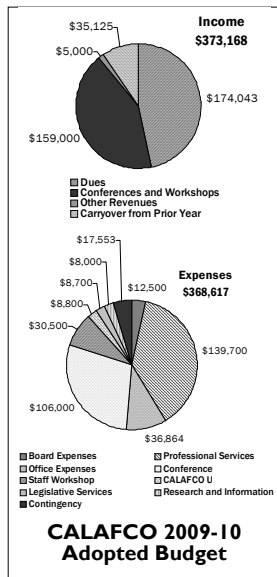


The Board manages the financial resources closely. Additions were again made to the fund reserve this year, which will help support member services in uncertain economic times. The reserve is currently \$78,345, about 34% of the annual operations budget outside of the conference and workshops. The increases resulted from financially successful events and prudent management of the Association's resources. The Association maintains much of its funds with the Local Agency Investment Fund (LAIF). While the interest rates have remained low, the Association has not lost any of the principle in its savings or investments. The Board adopted an

investment policy, and the staff is exploring options for investment of Association funds that are secure and produce an acceptable rate of return. All financial records are reviewed quarterly by an outside CPA with reports to the Board.

### 2009-10 Budget

The CALAFCO adopted budget for 2009-10 had only minor changes from 2008-09. Some increases in rent and professional services resulted from the move to new offices in Sacramento and additional hours for the administrative support of the conference and workshop, and the expanded CALAFCO U activities. The budget is balanced and does not tap any of the reserve funds. The Board voted this year to suspend the automatic dues increase for 2009-10 and maintain the dues at 2008-09 levels. The Board was able to maintain member services without the dues increase.



### New Offices

Early in 2009 CALAFCO moved to its new location in downtown Sacramento. CALAFCO maintains its offices in a partnership with the Regional Council of Rural Counties (RCRC). We are able to take advantage of the services of RCRC (meeting rooms, internet access, phones, copy and mail services, receptionist services) while only paying for the actual space leased. We value the relationship with RCRC and pleased with the new space and support.

Finally we want to recognize the outstanding leadership of executive director **Bill Chiat** and executive officer **Paul Hood** (San Luis Obispo LAFCo). Added to that is our appreciation of the contributions of **Jamie Szutowicz** in the CALAFCO office, deputy executive officers **Joyce Crosthwaite** (Orange LAFCo) and **SR Jones** (Nevada LAFCo), and Legal Counsel **Clark Alsop** (BB&K). These people, along with many volunteers, associate members, and the members of the Board have all worked together this year to bring many achievements and a strong organization to you and the Association.

Sincerely Yours,

*The CALAFCO Board of Directors*

## Legislative Update

*Continued from cover*



- ♦ **Sphere of Influence Deadline for New Districts (AB 1582)** – Allows a LAFCo to determine the SOI of a new district at the time of formation, but requires that it be determined within one year. This is consistent with current law for the SOI of a new city.
- ♦ **Incorporation Elections (AB 1582)** – Eliminates an inconsistency in current incorporation law regarding the system for future council elections. This will allow future council elections to be at-large, by district or from district (§57116).
- ♦ **Reorganization Election Costs (AB 1582)** – Clarifies that only subject, and not affected, local agencies are responsible for reorganization election costs (§56077).
- ♦ **CSD Name Change (SB 113)** – Requires Community Service Districts which change their name to notify state and local agencies, including LAFCo, in each county in which the district is located.
- ♦ **Property Tax Negotiation Sunset Extended (SB 113)** – Revenue & Tax Code 99 provides for a negotiation period for a property tax exchange agreement between the city and county. Current law has a sunset on this provision of 1 January 2010. SB 113 extends that sunset to 2015.

### Regional Transportation Plans as a LAFCo Factor

Senator Wiggins introduced **SB 215** which adds regional transportation plans (RTP), including sustainable communities strategies, to the list of factors LAFCo considers in making boundary decisions. This language was added to 56668(g) which already includes city and county general plans. Since SB 375 includes a requirement for the RTP to consider spheres of influence, it was deemed appropriate that LAFCo also consider adopted RTPs in its decisions. The bill is on the Governor's desk.

### Creation of a District Outside of LAFCo Process

CALAFCO opposed **SB 211** (Simitian) which would allow the Santa Cruz Board of Supervisors to create an open space district and exempt it from the LAFCo formation process. Initially CALAFCO was the sole voice of opposition. However as the bill moved, several communities, stakeholders and Santa Cruz LAFCo took an oppose position. Ultimately it became a two-year bill.

### A Couple We Watched with Interest

**AB 1232** (Huffman) – This affects six agencies in Marin County that provide sanitary services. It allows Marin LAFCo to initiate a consolidation without protest after 2010 if the districts have not done so. The bill grew from frustration that, after numerous discharges, grand jury reports and an MSR that considered consolidations, the

districts have done nothing. The bill passed and awaits the Governor's action. It is one of the first legislative efforts to give teeth to LAFCo MSRs and authority.

**SB 575** (Steinberg) – A clean-up to SB 375 last year. It makes adjustments to timeframes for alignment of the Regional Housing Needs Assessment and the Regional Transportation Plans. It makes changes to provisions for planning grants and provides that SB 375 shall be known as the “*Sustainable Communities and Climate Protection Act of 2008*.” The bill passed and is on the Governor's desk.

**Two-Year Bills**

**AB 853** (Arambula) intended to create an expedited process for the annexation of economically disadvantaged lands. CALAFCO raised concerns with the bill, which would basically circumvent the LAFCo process. Based on our issues and objections from cities and counties, the author agreed to make this a two-year bill. It remains to be seen whether this bill will gather any steam in the second year.

**AB 1104** (Blakeslee) would authorize a LAFCo to identify nonperforming districts and temporarily assign the administration of that district to another local agency. It is viewed as less dramatic than bankruptcy and allows the possibility for better management of an agency while the services are maintained. CALAFCO has been part of the process and will continue to work with the author on language that we could support.

**AB 711** (Charles Calderon) appropriates \$112,000 from the General Fund to provide a loan to the East Los Angeles incorporation proponents to fund their incorporation fiscal study. While the legislation is consistent with all provisions of C-K-H, it is the first time an attempt has been made to use this provision. CALAFCO has a watch position on the bill.

**On the Horizon**

Several areas have been identified for study:

- ♦ *Separate Council Election System from Incorporation.* Current law requires voters to determine the system for election of future councils (at large, by district, from district) at the time of incorporation. The committee is considering language that would make this an option at incorporation, with the default of at large, and leave this as a decision for the future city.
- ♦ *Revenue and Tax Code Clean-Up.* There is a range of inconsistencies within R&T §99. Legislative efforts have corrected some, but confusion remains. The committee is identifying these inconsistencies and will propose correcting legislation.
- ♦ *Conversion of RIDs and MIDs to CSDs.* CALAFCO supports efforts of the Senate Local Government Committee to convert the few remaining Resort Improvement Districts and Municipal Improvement Districts to CSDs. The Legislature

removed the ability to form RIDs and MIDs in the 1960s after exposure of abuses of the law.

- ♦ *Expand Authority of LAFCo Under §56133 to Extend Services.* The committee is examining the elimination of the exemption for non potable/recycled water under §56133 while expanding LAFCo flexibility to approve service extensions outside of a sphere.

It's hard to know what will happen in Sacramento this next year, but your Legislative Committee is ready to educate members on the legislative needs of LAFCo. The committee meets bimonthly during the legislative session. Regular legislative updates are available on the CALAFCO website along with agendas and minutes from Legislative Committee meetings.

**2009-10 CALAFCO LEGISLATIVE PRIORITIES**

**Viability of Local Governments**

Support legislation that maintains or enhances LAFCo's ability to review and act to assure the efficient and sustainable delivery of local services and the viability of agencies providing those services to meet current and future needs. Support legislation which provides LAFCo and local communities with options for local governance and service delivery, including incorporation as a city or formation as a special district.

**Agriculture and Open Space Protection**

Preservation of prime agriculture and open space lands that maintain the quality of life in California. Support policies that recognize LAFCo's ability to protect prime agricultural, and open space lands, and that encourage other agencies to coordinate with local LAFCos on land preservation and orderly growth.

**Water Availability**

Insure adequate water supplies and infrastructure planning for current and planned growth. Support policies that assist LAFCo in obtaining accurate data to evaluate current and cumulative water demands for service expansions and boundary changes including impacts of expanding private and mutual water company service areas on orderly growth.

**Authority of LAFCo**

Support legislation that maintains or enhances LAFCo's authority to condition proposals to address any or all financial, growth, service delivery, and agricultural and open space preservation issues.

# Williamson Act and Annexations: Process and Procedures

By: John Gamper, California Farm Bureau Federation

At the CALAFCO staff workshop in April, I participated in the panel that posed the question:

*If annexations are for development purposes and Williamson Act contracts are for agricultural preservation purposes, why annex lands under a Williamson Act contract?*

When all the panelists agreed that unless a valid city protest of the original contracted land had been exercised by the annexing city, the city must succeed to the contract's land use restrictions, a lively discussion ensued with other workshop participants regarding perceived "inconsistencies" in the law. I thought it might be helpful to review the specific annexation provisions of Cortese-Knox-Hertzberg (CKH) and the California Land Conservation Act of 1965, popularly known as the Williamson Act.

The short answer to the question posed is - don't approve the annexation of land subject to a Williamson Act contract unless the aforementioned protest is on file. Otherwise the city will continue to enforce the contract and implement the agricultural preserve zoning after annexation to insure that agriculture and uses compatible with agriculture will continue on a long-term basis.

Before analyzing the statutory basis for this conclusion, it may be instructive to reflect on the clear guidance to LAFCOs with respect to agricultural land in general. From its very inception in 1963 and with the substantive amendments and recodification 37 years later, CKH has sought to discourage urban sprawl and preserve open-space and prime agricultural land. In addition to statements of state policy in legislative findings and declarations, it could be argued that the very purpose of LAFCOs is to promote the conservation of agricultural land (§56301). The Legislature has also insisted that LAFCOs think long and hard about conserving unrestricted agricultural land, as evidenced by the factors that must be considered in reviewing proposals in §56377 and §56668(d), and (e).

When a city proposes to annex land that is enforceably restricted by a Williamson Act contract, CKH (§56752) and the Williamson Act (§51243) only provide the city two options:

- ♦ succeed to the contract by creating an agricultural preserve pursuant to §51230 and adopting a Williamson Act ordinance that contains the city's uniform rules for implementing the program as required by §51231, or
- ♦ exercise a formal protest of the Williamson Act contract pursuant to §51243.5(d) or as provided in §51243.5(e). [Note: The allowance for a city protest of a Williamson Act contract was repealed on January 1, 1991.]

Prior to 1991, the right to protest a Williamson Act contract was strictly limited to cities whose boundary

was within one mile of the contracted land and only under the circumstances noted in subdivisions (d) and (e) of §51243.5. Eleven years after its repeal, the Legislature felt it was important to make three new findings and declarations related to a city's right to protest a Williamson Act contract. Section 51243.6 emphasizes the constitutional foundation of the Williamson Act that requires the land use restrictions to be meaningful and the fact that a city's right not to succeed to a contract is strictly limited to the provisions of §51243.5. Thus, it is reasonable to assume that the limitations in CKH relative to the options for a city requesting annexation of land subject to a Williamson Act contract must be strictly interpreted.

Therefore, if a city did not file a valid protest with the county prior to Dec. 8, 1971 or did not have a formal protest approved by the LAFCO prior to January 1, 1991, they must succeed to a Williamson Act contract. As noted above, in order to succeed to a contract, a city must create an agricultural preserve in its zoning ordinance and adopt uniform rules for the enforcement of the Williamson Act.



CKH, in §56754, also includes a required determination by LAFCO that a city will either succeed to the Williamson Act contract or exercise a valid protest. LAFCO must also require a city, as a condition to annexation, to prezone the territory to be annexed or present evidence that the existing development entitlements on the territory are vested or are already built, and are consistent with the city's general plan. Thus, in order for §§56754 and 56375 to have coherent meaning, the pre zoning requirement could only be imposed on a city that has the ability to exercise its limited authority not to succeed to the contract due to the presence of a valid protest of the original contract. If a valid protest is not exercised by an annexing city, LAFCO must require the city, as a condition to annexation, to adopt the rules and procedures required by the Williamson Act.

While the limitations on city-proposed annexations of land subject to a Williamson Act contract are clear in Chapter 3--Proceedings for Cities (§56720 et seq.), the CKH provisions relative to reorganization in Chapter 5--Proceedings for Special Districts (§56821 et seq.) add confusion to the issue. In subdivision (a) of

§56856.5 a LAFCo is prohibited from approving or conditionally approving any change of organization or reorganization that would result in an annexation of land subject to a Williamson Act contract to a city or special district which would provide sewer, nonagricultural water, or streets or roads to that land unless the services benefit land uses allowed under the contract.

It should be noted that §56856.5 is in Article 2 of the chapter entitled "Reorganization." Since reorganization is defined as two or more changes in organization initiated in a single proposal, and Article 2 is limited to issues surrounding reorganization, the reference to "organization" seems out of place. The reference to a city annexation in a chapter dealing with proceedings for special districts also appears incongruous except for the fact that a special district reorganization might include transferring territory to a city that would provide sewer, nonagricultural water, or streets and roads. Thus the permissive provisions in subdivision (c) appear to be limited to reorganizations that include special district(s) and a city and do not apply broadly to a proposed annexation by a city.

If a LAFCo allowed a reorganization under §56856.5(c), LAFCo would still be bound by §56754 and § 56889; i.e., the annexing city would still be required to succeed to the contract or exercise a valid protest, and the LAFCo order would still have to impose, as a condition, the adoption of the rules and procedures required by the Williamson Act.

Finally, a hypothesis contrary to fact was proffered during the workshop that merits further discussion. It was suggested that the strict prohibition on the annexation of land subject to a Farmland Security Zone contract (§51296 et seq.), without the landowner's consent, undermines the other statutory requirements in CKH relative to a standard Williamson Act contract. As the sponsor of the Farmland Security Zone provisions, I firmly believe that the Legislature intended to give landowners maximum control over the destiny of their farm or ranch land as an added inducement to participate in the longer 20-year Williamson Act contract. The CKH requirements noted above relative to the annexation of land subject to a standard Williamson Act contract clearly stand alone and must be implemented in a fashion that provides protection to the constitutional foundation of the Williamson Act.

The California Farm Bureau Federation appreciates its excellent working relationship with CALAFCO, and we look forward to working with you to insure the proper implementation of both Cortese-Knox-Hertzberg and the California Land Conservation Acts.

*John Gamber is the Director of Taxation and Land Use for the California Farm Bureau Federation. The author would like to gratefully acknowledge Elizabeth Kemper, executive officer of Yolo LAFCo, and Peter Detwiler, staff director of the Senate Local Government Committee, for their valuable contributions to this article. Their contributions, while essential, dealt with context and not with the interpretation of the statutes. Any flaws in the latter rest solely with the author.*

## "The Final Word"

From Paul Hood  
CALAFCO Executive Officer

Since this is my last CALAFCO Annual Conference after 32 years with LAFCo (three in San Mateo and 29 in SLO) I'd like to say thanks to all of you I have known throughout the years. It has been a distinct pleasure knowing and working with you all. I will be retiring on October 31, 2009 and cannot think of a better way to leave than by attending the Annual Conference in Yosemite.

My association with LAFCo has been both a challenge and a very satisfying experience. I am sure my fondest memories will be of all of the LAFCo folks, both in San Luis Obispo and Statewide, I have known through the years.

I will also be completing my 2-year term as CALAFCO's Executive Officer, with two years before that as Deputy Executive Officer. Working with the CALAFCO Board of Directors and the CALAFCO staff, Bill and Jamie, has also been a distinct pleasure. I can honestly say that I am proud of the progress of the Association over the last few years in terms of member services, legislative efforts, and the development of a sound financial base.



The Association has not been without its challenges and continues to develop in very different and changing times. However, I believe that CALAFCO has evolved during the recent tough economic times into a much stronger and more responsive organization. Hard work is still ahead but, if recent events are any measure, the organization has met and will continue to meet the test.

Anyway, please accept my best wishes for the future and keep up the good work!

Thank you!

Paul Hood

## Serious or Not: Disincorporation Talks Swirl Around California Municipalities

Written by Andrew Carico

As the old saying goes, the only things guaranteed in life are death and taxes. Well, for some California municipalities, local taxes may no longer be a guarantee.

With the recession making its impact everywhere, local municipalities find themselves in an ever-increasing state of financial stress and searching for new ways to cope.

Now some California municipalities are thinking the once un-thinkable: disincorporation.

Upon disincorporation, a city or town's powers as a municipality are surrendered to the state and county. The city or town ceases to have further duties and all of the city or town offices cease to exist.

This process could allow residents to avoid paying local taxes, escape the costs of local services and pensions, and get other services more cheaply by sharing the costs with the surrounding county.

The idea of incorporation brings residents a local government with the ability to raise money through taxes and bond issuances. It also gives them more control of zoning decisions and development and usually provides for local services such as trash pickup and police as well. This process is practiced by all cities in California currently.

Disincorporation, however, rarely occurs. According to the California Association of Local Agency Formation Commissions, the most recent case in California occurred in 1972 when stalled growth and political instability led Cabazon to dissolve itself.

Recently, two California cities have gained national attention for their consideration of this step to escape their financial burdens.

The city of Vallejo has been rumored to be contemplating disincorporation. According to many, if disincorporated, the city would have to eliminate 38 jobs and shift its sewer services to the county.

Additionally, disincorporating would end public-safety-employee contracts, which city leaders blame for pushing the city into bankruptcy.

The idea of disincorporating came about through a statement during a council meeting over a year ago by then City Manager Joe Tanner.

Vallejo Public Information Officer JoAnne West said that Tanner just this week had his last day on the job

after the council decided not to renew his contract. The council will be meeting Monday night to fill the vacancy.

Vallejo Finance Director Rob Stout said that even though there are rumblings of disincorporation, it is not a serious option.

"We are not seriously considering any type of disincorporation," stated Stout.



"The idea came from a comment from (now former) City Manager Tanner during a council meeting—it was more out of frustration than an attempt at serious policy," Stout said.

"Instead of disincorporation we are considering reducing city salaries and benefits—something we can do automatically with our bankruptcy status," Stout added.

However, not everyone is taking disincorporation so lightly.



Mark Kirk is Chief of Staff for San Bernardino County Supervisor Gary Ovitt. He sees the disincorporating idea as a serious problem for counties that would then have to shoulder the burdens of the former cities.

"At the county level, we're taking the possibility extremely serious," stated Kirk. "We have to know what kind of impact disincorporating would have on the counties."

Furthermore, Kirk stated that several cities are facing extreme crisis because of their lack of preparation.

"Several cities just weren't ready for this," stated Kirk. "The quieter a city is about their financial status, the more nervous I get about their future."

Finally, Kirk warned that counties would be wise to prepare for disincorporation.

"Any county that is not looking at this potential problem seriously is not being diligent," Kirk stated.

The step towards disincorporation would lead into unchartered waters for several California cities. Time will tell whether cities adopt the unconventional idea.



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# In the Interest of Full Disclosure: Perspective of an Applicant

By Jim Sutton and William Tunick, The Sutton Law Firm

Starting next year, those involved in LAFCo proceedings may feel like they are in the midst of a political campaign rather than an annexation or re-organization proceeding. At least they certainly will have to start acting like they are a political campaign by filing public “campaign” reports with the county clerk disclosing all of the money they are spending to support or oppose the proposal.

More specifically, starting on January 1, 2010, new provisions of the Political Reform Act (Govt. Code §84250-84252; all future statutory references are to the Government Code) will treat those supporting or opposing LAFCo proceedings as if they are taking a position on a local ballot measure and subject these entities to campaign-like regulations (Stats. 2009, ch. 113 [“AB 528”]). For the most part, these new provisions merely consolidate and clarify reporting requirements

applicable to LAFCo proceedings that are currently scattered throughout both Cortese-Knox-Hertzberg and the Political Reform Act (see §56100.1, 56700.1, 57009 & 84250-84252); however these existing rules have rarely (if ever) been followed, and never (to our knowledge) enforced. Going forward, real estate developers, citizen groups, and municipalities involved in LAFCo proceedings, as well as their attorneys and lobbyists, will have to pay close attention to these new rules, or risk exposing themselves to fines or even criminal penalties.

The new rules have three important implications. First, unlike the current disclosure law, these new requirements apply to LAFCo proceedings initiated by either petition or

resolution (§82035.5, as amended by AB 528 [adopting an all-encompassing definition of “LAFCo Proposal”]). Second, they require disclosure of all expenditures, and do not exempt expenditures made to comply with the legal requirements of a particular LAFCo proceeding (§84251). Third, and perhaps most importantly, the new requirements come under jurisdiction of the Fair Political Practices Commission (FPPC), and errors and omissions may be punishable by administrative, civil, or even criminal penalties. (§91000 et seq.)

## Requirements Under The Political Reform Act

A few key requirements under the Political Reform Act warrant mentioning specifically given their importance. As an initial matter, the new provisions require anyone who spends \$1,000 or more in connection with a LAFCo proceeding to register as a “committee” and file, on irregular filing deadlines, special reports with the clerk of the county in which the LAFCo is located (§82013, 84101 et seq. & 84252, as amended by AB 528). The reports must list any and all payments made for the purpose of influencing or attempting to influence the actions of either the LAFCo or voters for or against the qualification, adoption, or passage of an annexation, organization, re-organization, boundary change, etc. (§84251); reportable payments include legal fees paid by a developer, a city’s payment to an EIR consultant, flyers distributed by a neighborhood group, etc.

In addition to the disclosure provisions, filers will be subject to the same record-keeping requirements as ballot measure

committees (e.g., keeping back-up documentation for every transaction for at least four years (2 Cal. Code of Regs. §18401)), and could be audited by the FPPC. (§90000 et seq.) They will also have to print a “Paid for by” disclaimer on advertisements taken out in a local newspaper or mailings sent to local residents. (§84305 & 84501 et seq.) Because the new law empowers LAFCos to enact their own reporting requirements to supplement these FPPC reports, supporters of LAFCo proposals and their opponents may have to look to the LAFCo as well as the FPPC for guidance. (§56100.1(b) as amended by AB 528.)

## Questions Remain

Despite the relatively clear-cut rules set forth above, applying laws intended to regulate ballot measure committees to participants in LAFCo proceedings is often like forcing square pegs into round holes. Indeed, questions about the new rules abound. For example, while ballot measure committees must file “pre-election” reports a set number of days before an election, it is unclear whether LAFCo committees will be required to do the same and, if they are, when they must file these reports. Also, the name of a ballot measure committee must include the name of the “measure” – but what is the name of the “measure” in a LAFCo proceeding and who constitutes the committee?

As these questions illustrate, the new rules are sure to become a trap for the unwary. The broad requirements will force those supporting and opposing LAFCo proposals to more closely consider how and when they spend money in connection with the proceeding, and in many cases, compel those participants to seek legal advice to avoid running afoul of the new “campaign” rules.



# The Sphere

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CALAFCO provides educational, information sharing and technical support for its members by serving as a resource for, and collaborating with, the public, the legislative and executive branches of state government, and other organizations for the purpose of discouraging urban sprawl, preserving open-space and prime agricultural lands, and encouraging orderly growth and development of local agencies.

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