



Boundary Patrol: The Relationship Between Special Districts and LAFCos

*California Special Districts Association
1112 I Street, Suite 200, Sacramento, California 95814
T – 916.442.7887; F – 916.442.7889
www.csda.net*

The California Special Districts Association: Who we are

California Special District Association (CSDA) is a not-for-profit association that was formed in 1969 to ensure the continued existence of local, independent special districts. Special districts are a form of local government created by a local community to meet a specific need. When residents or landowners want new services or higher levels of existing services, they can form a district to pay for and administer them.

For over 38 years, CSDA has been offering its members cost-efficient programs and representation at the State Capitol and has a membership of over 1,000 organizations throughout California. We are the only statewide association representing all types of independent special districts including irrigation, water, park and recreation, cemetery, fire, police protection, library, utility, harbor, healthcare and community services districts, among many others.

CSDA provides education and training, insurance programs, legal advice, industry-wide litigation and public relations support, legislative advocacy, capital improvement and equipment funding, collateral design services, and, most importantly, current information that is crucial to a special districts management and operational effectiveness. CSDA also works very hard to keep its members informed and up-to date on current legislative issues and provides an opportunity to have a meaningful representation in the State Capitol.

Boundary Patrol: The Relationship Between Special Districts and LAFCos

Local agency formation commissions (LAFCOs) play an important role in the governance structures of local governments—border changes, formation of special districts, and avoidance of duplicative services, among other things. However, only half of the LAFCOs in the have independent special district representation because special districts refuse to be involved. This means that in those counties, special districts have little or no say in the decisions that impact them directly.

This document, created by the CSDA Legislative Department, is meant to serve as a resource for board members and staff to understand the history of LAFCOs, the interaction between independent special districts and LAFCOs, and why there is a need for districts to have a voice on the commission.

This publication was produced by the CSDA Legislative Department.

Thomas Vu, Legislative Director

Maria Lerman, Legislative Intern

The items in this Guide are designed to provide general direction in various areas and are not meant to be legal advice. It is always recommended that an attorney be consulted with any specific questions.

What is LAFCo: A summary

A Local Agency Formation Commission (or LAFCo) is an independent commission working within the boundaries of each county to assist with the incorporation of special districts and cities, border changes of special districts and cities, and to avoid duplication of services through examining municipal service reviews and spheres of influence. As the current law states, “one of the objectives of LAFCo is to obtain and furnish information which will contribute to the logical and reasonable development of local governments in each county and to shape the development of local governmental agencies so as to advantageously provide for present and future needs of each county and its communities.” Each of California’s 58 counties has a LAFCo, working with the county, cities, special districts and the public.

LAFCos were originally created by the California Legislature in 1963 by the *Knox-Nisbet Act of 1963*. Since its inception 45 years ago, the law has gone through several updates, including a major revision in 1985 (*Cortese-Knox Local Government Reorganization Act of 1985*) and, most recently, in 2000 (*Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000*, the new name of the statutes regulating LAFCos). Under the California Constitution, the state has the sole power to govern the jurisdictions of local governments. The significance of *Cortese-Knox-Hertzberg* is that it delegates the authority of boundary powers to LAFCos from the state. With each of the 58 counties being drastically different from the other, having these decisions made at the county level respects the diversity in people, geography, needs, and governing institutions in California.

LAFCos have five or seven members, depending on the participation of special districts (seven—the limit typically allowed in statutes—if special districts participate). LAFCo’s seven commissioners are comprised of two county supervisors (with one alternate); two city councilmembers or mayors (and one alternate), selected from a city selection committee composed of the cities’ mayors; two independent special district board members (and one alternate), selected by an independent special district selection committee composed of the districts’ presiding officers; and a member of the public. There are limited variations in membership make-up for special situations in certain counties—these exceptions are noted in the statutes of *Cortese-Knox-Hertzberg*.

Fast facts:

- LAFCos were created in 1963.
- The current law that oversees LAFCos was revised in 2000 and 2005.
- Each county has its own LAFCo.
- Independent special districts are not statutorily required to be on LAFCo.
- Special districts are authorized to have two seats on the commission.
- Special districts have representation in only 29 county LAFCos.

LAFCos and special districts: Why join?

There is an opportunity for special districts to contribute their expertise, and play an important role by influencing decisions relating to local government organization and boundary issues. This can be done by having formal special district representation on the

commission and for all districts in the county to participate in the LAFCo process. *The decisions are made with or without special district representation.* Yet, about half of the LAFCos do not have special district participation. That begs the question: *As an important component of local government and key service providers, why would special districts not elect to have a voice in decisions that impact them directly?*

Strengthen ties to the community

In the 1970s, updates to the law expanded the number of seats on LAFCo by two to allow independent special districts to have representatives. Special district inclusion can significantly strengthen LAFCos by:

- Ensuring that special districts' perspectives on organizational and boundary issues such as formation, dissolution, annexation of property, detachment of property, eminent domain, consolidation, and re-organization are represented in LAFCo's deliberations.
- Making LAFCo more representative of citizens of the county and the full range of public services they receive, because independent special districts are a major form of government.
- Offering to LAFCo concrete and specific knowledge and responsiveness to public service needs, making it easier to fully represent all voters and taxpayers in the county (because special districts are usually formed to fulfill the service-specific needs of a particular area).

Authorization of latent powers

In addition, representation of independent special districts on the board of a LAFCo also has a large influence on special districts' latent powers. A district must apply for these powers in order to exercise them. While LAFCos without special district representation can and do authorize latent powers of the requesting district, having districts on the commission add expertise to the development of the county while also taking part in the decision making process of a powerful governing body.

Have a say in boundary changes

There are nine types of boundary changes—called change of organization—that LAFCos consider and which special districts may be subject to. These include: annexation, detachment, formation (for a special district), dissolution (for a special district), incorporation (for a city), disincorporation (for a city), consolidation, merger, or establishment of a subsidiary district (for a city). These changes affect special districts in many ways. Without special district participation in the LAFCo decision-making process, special districts have little to no say in what happens to them in their own county.

Future boundaries can be affected as well, as districts would have influence in the development of a municipal service review (MSR), Sphere of Influence (SOI) analysis, change of organization and many other LAFCo decisions.

Refer to the accompanying map to see which counties have special district representation on that county's LAFCo and which do not.

The price to play

Influence has its costs. Operational costs of LAFCOs once fell solely on the shoulders of counties. With the 2000 revisions to the LAFCo laws, the operational costs were apportioned into thirds—one-third is paid by the county, one-third is paid by the cities, and one-third is paid by independent special districts.

Each district pays a certain amount. The allocations within the special district sector are apportioned to each district's total revenue as a percentage of the combined total district revenues within a county. However, no one district pays more than 50 percent of the sector's share of the cost.

The law allows for flexibility in methods of apportionment within the special district sector. This is to reflect the diversity of counties and their economic and political realities. If a majority of independent special districts within a county approve, an alternative method can be implemented, with the caveat that no one district pays more than 50 percent of the cost. Additionally, the one-third allocation of LAFCo operational cost is not set in stone—alternative methods can be established if the commissioners, cities, and the county so agree.

(It should be noted that healthcare/hospital districts that are operating in the red do not have to pay into the special districts' share of LAFCo operational costs.)

Fast facts

- In counties where there are no cities, districts and counties share the cost.
- In counties where there are no special district representation, cities and counties share the cost.
- In one example, the county has been willing to pay for special districts' share of the cost.

How to gain special district representation

Cortese-Knox-Hertzberg made it easier for special districts to get representation on LAFCo. But statutes are easier to follow than the internal politics among local government entities. *A majority of all independent special districts* in the county must approve of the decision to find representation on LAFCo. Here is a basic plan to get special districts involved in LAFCo.

Basic plan for independent special district representation

1. Does an association of special districts already exist in the county? This may take the form of a chapter or association, and is needed to form the special district advisory committee or selection committee.
2. Obtain a list of all of the independent special districts in the county. This list can be gathered from LAFCo staff, the county recorder or registrar of voters, or the Office of the Secretary of State. Be sure to get multiple lists and to cross check.

3. Schedule a meeting to explain the necessity for representation and how it can be obtained—this includes the ability to affect latent power authorizations, changes to organization, better representation of the community, and payment structures as required by law.
4. All independent special districts in the county must receive a prepared resolution (from you) asking for inclusion on LAFCo. This is to be adopted by the governing board of each district. Whether the district votes to adopt the resolution is another matter, but you—as a proponent of LAFCo representation—must make the initial move and offer a pre-prepared draft resolution.
5. Develop working relationships with the LAFCo staff and members. This will help guide you along the process. Additionally, be familiar with the *Cortese-Knox-Hertzberg Act* and the processes involved.
6. When an adequate number of independent special districts are in agreement on LAFCo representation and the executive officer of the LAFCo has received them (over the course of a year), and a positive indication from the LAFCo staff have been received, the hearing for special district representation can proceed. A hearing can be initiated in two ways:
 - Independent special districts present their resolutions to the commission, asking for a *resolution of intention* from the LAFCo. After the hearing, the commissioners would vote to approve or disapprove the resolution of intention. Approval would mean allowing for LAFCo representation.
 - LAFCo may make a motion to start the procedures by itself. With this option, a resolution of intention is drafted by LAFCo and is voted on by the independent special districts selection committee (comprised of the presiding officers of each special district in the county). Approval would mean allowing for LAFCo representation.

(Sample documents for these steps are available at the CALAFCo special districts resource page: http://www.calafco.org/special_district_resources.html.)

The politics of it all

Practically speaking, which ever route is decided upon, the majority of special districts in the county must support the effort to gain LAFCo representation. This is done by either the approval of resolutions by the majority of districts, or a vote of the presiding officers of each district. For an iron-clad decision, it is recommended that proponents of representation do both:

- After you and other proponents have enough affirmative votes and gathered enough resolutions, approach LAFCo to initiate the procedures.
- At the hearing, present the gathered resolutions to show support and solidarity among the districts for representation.

Conclusion

The roles of the various local governments are like a puzzle. The role of a local agency formation commission is to make sure the pieces—the boundaries and services provided—fit properly and do not overlap. Districts provide important, community-specific services. However, without representation on the commission, districts have little ability to affect what happens in and around the communities they service. Having representation gives districts a voice in decisions that affect them.

LAFCo statutes: The *Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000*—Important sections to note

California Government Code

Section 56000: Beginning of LAFCo statutes

Section 56325: Selection of the commissioners

Section 56332: Selection of the independent special district commissioners

Section 56375: Powers of the commission

Section 56381: Sharing of costs

Section 56381(b)(1)(D): Healthcare/hospital districts operating in the red do not have to pay into the sector's share of cost

Section 56381(b)(1)(E): No single district will pay more than 50 percent of the sector's share of cost

Section 56821: Proceedings for special districts (representation)

Section 56822: Content of the Resolution of Intention

Section 56925: Proceedings for special districts (reorganization)

Section 56859: Proceedings for special districts (formation)

Resources

Assembly Local Government Committee (<http://www.assembly.ca.gov>)

California Association of Local Agency Formation Commissions (CALAFCo)
(<http://www.calafco.org>)

- CALAFCo Special District Resources
(http://www.calafco.org/special_district_resources.html)

California Codes and Regulations (<http://www.leginfo.ca.gov/calaw.html>)

California Special Districts Association (CSDA) (<http://www.csda.net>)

Senate Local Government Committee (<http://www.senate.ca.gov>)

Helpful documents

Assembly Bill 2838 (2000), Assembly Member Bob Hertzberg

Growth within Bounds: Planning California Governance for the 21st Century,
Commission on Local Governance for the 21st Century (2000)

Guide to Cortese-Knox Local Government Reorganization Act of 1985, Assembly Local
Government Committee (October 1985, revised November 1999)

Guide to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000,
Assembly Local Government Committee (2002)

*It's Time to Draw the Line: A Citizen's Guide to LAFCos, California's Local Agency
Formation Commissions (Second Edition)*, Senate Local Government Committee (May
2003)

LOCAL AGENCY FORMATION COMMISSIONS

Are you seated on LAFCo?

 **LAFCos with Special District representation**



Govern with your peers. Claim your seat on LAFCo.