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LAFCO and Special Districts: A Special Relationship Between Two Unique Entities

JULY 11TH, 2017 | TAGS: LAFCO ([HTTP://WWW.CSDA.NET/TAG/LAFCO/](http://www.csdanet.org/tag/lafco/)) | BY PAMELA MILLER, EXECUTIVE DIRECTOR CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS ()



(<http://www.csdanet.org/lafco-special-districts-special-relationship-two-unique-entities/handshake/>) There's been a lot of conjecture lately in Sacramento about Local Agency Formation Commissions (LAFCOs) and special districts. All of us find ourselves under the legislative spotlight given the recent interest by the Little Hoover Commission (<http://www.lhc.ca.gov/>) (as a follow-up to their 2000 report) and a rash of legislative bills in 2015 and 2016 relating to LAFCO and various special districts.

I find myself more frequently answering questions such as, "What do LAFCOs do?"; "Why don't LAFCOs take more action to consolidate districts?"; and "What kind of relationship exists between LAFCOs and special districts?"

The reality is that LAFCOs and special districts share more commonalities than differences. While the creation mechanisms differ, both are created for specific purposes. Both focus on providing services at the local level and work directly with local stakeholders. And, perhaps most importantly, both share a mission to ensure the effective and efficient provision of local services to the communities they serve (noting this is not the only mission of LAFCO).

For those of you who are unfamiliar with LAFCO, allow me to take a brief moment to introduce us. LAFCOs were created by the state Legislature in 1963 (under the provisions of the Knox-Nisbet Act (<http://www.sdlafco.org/document/Government%20code%20guides/1978%20Government%20Code-Knox-Nisbet%20Act%20-%20Updated%20April%201978.pdf>)) as a result of recommendations from then Governor Pat Brown's Commission on Metropolitan Area Problems. The Commission was charged with studying urban sprawl and its statewide effects and was formed by the Governor out of growing concern for the post-WWII population and housing boom in California. This boom led to a large number of problems, not the least of which included poorly planned cities due to rapid growth and a scramble to finance and extend government services to meet the increased service demands, the proliferation of freeway suburbs, city annexations wars, costly duplication of services, and the hasty conversion of agricultural land.

So, what does LAFCO do?



(<http://www.csdanet.org/lafco-special-districts-special-relationship-two-unique-entities/calafco-logo/>) The original charge of LAFCO was very limited in scope: to review and approve or disapprove proposals for incorporations and the creation of special districts. However, over the past 54 years, the role, scope, and scale of services provided by LAFCOs have evolved greatly. Today, for example, LAFCOs process city and district annexations and detachments, district consolidations, dissolutions and mergers, city consolidations and disincorporations; address the activation and/or divestiture of district latent services or powers; conduct sphere of influence (SOI) updates and municipal service reviews (MSRs) of special districts and cities; and review and authorize the extension of services by special districts and cities outside existing jurisdictional boundaries, among many other things. Many local agencies look to their LAFCO to facilitate discussions on things like shared services opportunities, property tax exchange agreements, or, more recently, the formation of Sustainable Groundwater Management Agencies (SGMA).

The composition of the LAFCO Commission in all 58 counties is all local, as is the funding. Today, 30 of the 58 LAFCOs enjoy special district representation. This map indicates in yellow those LAFCOs who have special district representation. Like CSDA, CALAFCO (<https://calafco.org/about-us>) feels strongly that special district representation on LAFCO promotes a more diverse and informed decision-making process. Without that representation, special districts are relinquishing their voices on LAFCO.

Recognizing the current statutory process for seating special districts on LAFCO may be a bit cumbersome, CALAFCO and CSDA have come together to co-sponsor legislation to maintain local control and flexibility, while reducing the red-tape in this process. This proposal was born from several years of discussion between CSDA and CALAFCO, as well as the Little Hoover Commission hearing held in August 2016. Both Associations identified improvements to the process for gaining representation on LAFCO as a future opportunity for collaborative change.

The role of LAFCOs and special districts

The nature of relationships between LAFCOs and special districts vary across the state from one of mutual respect, to a fear and contempt of LAFCO, and many places in between. Many LAFCOs are proactive in their efforts to stay connected with the special districts

in their area. For those LAFCOs with special districts seated on their LAFCO, staying connected with special districts is a much easier task. Further, regardless of whether special districts are seated on LAFCO, a district's response to LAFCO's outreach is important to the building of that relationship. If you do not hear from your LAFCO, you are encouraged to reach out to them and initiate dialogue.

Special districts are strongly encouraged to talk with your respective LAFCO early and often when you are considering any kind of organizational change. Believe it or not, your LAFCO wants your district to be as successful as you do. So, the recommendations made by the LAFCO during an application process or the MSR process are intended for that purpose.

So, what is a MSR and why are they done?

By statute, LAFCOs are required to conduct MSRs (Government Code Section 56430 (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=56430)). Over the years, the frequency with which the MSR is to be conducted and the factors to be considered in a MSR have changed. Today, the statute indicates LAFCO shall, as necessary, review and update each SOI every five years. Should there be a change in the SOI, then the appropriate MSRs must be revisited. The "as necessary" clause allows for the adoption of local policies based on local circumstances and conditions.

MSRs today must include LAFCOs' determinations on seven areas, including: growth and population projections for the area being studied; location and characteristics of any disadvantaged unincorporated community within or contiguous to the SOI; present and planned capacity of facilities, adequacy of public services, and infrastructure needs and deficiencies; financial ability of the agency to provide the services; identification of opportunities for shared services; accountability for community service needs (including governance and operational efficiencies); and any other matters the LAFCO deems relevant in the provision of services.

CALAFCO is hearing an increasingly concerning message regarding the recommendations in MSRs. Simply put, LAFCOs have been criticized for not doing enough when it comes to dissolving or consolidating districts. CALAFCO recognizes that CSDA and its members are also feeling the heat of this criticism. We want to acknowledge that reorganizing agencies does not necessarily improve services – ultimately LAFCO recommendations are designed to improve the provision of service. Each district has its own funding approach and some have distinctly different levels of service. Consolidation or dissolution for the sake of change is not as simple or logical a path as one presumes and often leads to unintended consequences. LAFCOs must always recognize and respect that a special district board is locally elected and is accountable to its constituents when making local decisions, even if in stark contrast to a LAFCO recommendation. So, when such a recommendation is made or when the LAFCO initiates a district reorganization action, it is not done lightly.

Having said that, many LAFCOs around the state have taken proactive action to reorganize districts. The inherent and complex issues related to reorganizations take time, effort and great understanding to successfully work through. These are not recommendations or actions taken lightly by the LAFCO and they are done with the intent to ensure the most efficient and effective provision of services to the community being served. The most successful and systemic changes occur when the local agencies involved work with the LAFCO rather than against the LAFCO, and always when the public is involved in the decision-making process. CALAFCO took our LHC testimony as an opportunity to educate and inform the LHC and others on what has been accomplished by LAFCOs and districts in the realm of creating greater service efficiencies through district reorganizations, while also acknowledging more can be done.

Future opportunities for collaboration, education, and action

CALAFCO and CSDA have made great progress in strengthening our Associations' relationship and increasing the lines of communication not only between the leaders of our organizations but also amongst our members. In addition to co-sponsoring legislation this year, we co-authored two User Guides in 2016 (one on the formation of a special district (<http://www.csdanet.net/wp-content/uploads/2013/02/2016-Formation-Guide-WEB.pdf>) and one on the process for appointing special district representatives (<https://calafco.org/sites/default/files/documents/Countywide%20RDA%20Oversight%20Board%20Final.pdf>) to new countywide RDA Oversight Boards). Going forward, CALAFCO will again participate in CSDA's Legislative Days in May; we continue to attend each other's Annual Conferences; and we continue to stand together in educating the larger statewide stakeholder community on the special relationship that exists between our two unique entities.

Further, both Associations have been making great effort since August 2016 to communicate a positive message and educate the members of the Little Hoover Commission on all things related to special districts and LAFCO, including the topic of consolidation. This is also true of members of the Legislature, in light of the increase in bills specific to individual districts over the past several years. The LHC report on special districts, climate adaptation, and LAFCOs was expected in early spring. However, we recently learned their final report is being postponed, and there is a strong possibility an additional hearing could

