



## LOCAL AGENCY FORMATION COMMISSION

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June 10, 2020

**To:** LAFCo Commissioners  
**From:** Martha Poyatos, Executive Officer *M. Poyatos*  
**Subject:** Consideration of Update of Procedures for the Evaluation of Proposals

### Summary

The Commission has adopted policies and procedures concerning general rules for hearings, municipal service review and sphere of influence and sphere updates, consideration of boundary change proposals, extension of service outside agency boundaries (recently updated), proposals affecting more than one county, conducting authority proceedings (protest proceedings), public member selection and the functions and services of special districts. These documents have been updated accordingly over time based on changes in the Cortese Knox Hertzberg Local Government Reorganization Act (Act). Staff has been working with the Commission's Legislative/Policy Committee on updating the individual policies and once updated, reformatting them into a single document.

This report proposes updates to the Procedures for the Evaluation of Proposals.

### Background and Draft Changes

The Procedures for the Evaluation of Proposals is intended to provide detailed information about the applications procedures to LAFCo and the evaluation of the application by the Commission and staff. While this policy was last updated in 2001, the Commission and staff have utilized the latest versions of the Act when evaluating proposals.

Changes in the Act since that time include additions and amendments to the factors to consider in reviewing a proposal and definitions. As mentioned at the January 2020 Commission meeting, one such factor is related to environmental justice. AB 1628 (Rivas), Chapter 360 amended this factor for consideration (Section 56668(p)) to read as follows:

*The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.*

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**ALTERNATES:** KATI MARTIN, SPECIAL DISTRICT ▪ HARVEY RARBACK, CITY ▪ JAMES O'NEILL, PUBLIC ▪ DAVE PINE, COUNTY

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Staff is concerned that as written, the amended language could be interpreted to limit Commission consideration of this factor to instances that involve siting environmentally damaging facilities in or near disadvantaged communities. Prior to the amendment, the factor addressed availability of public services (such as sewer and water) and the location of public facilities for people of all races, cultures, incomes, including disadvantaged communities. While the intent of the amendment in AB 1628 may have been to add locating environmentally damaging facilities in disadvantaged communities in addition to availability of public services to disadvantaged communities, the new language is not clear.

AB 1628 also amended the definition of environmental justice in two other sections of State government regulations. In these two cases, the definition now includes four statements of what environmental justice includes, but is not limited to. These statements provide clarity that is lacking in the amended language in Section 56668(p). An example of this expanded definition is shown in 30107.3 of the Public Resources Code:

SEC. 4.

Section 30107.3 of the Public Resources Code is amended to read:

30107.3.

(a) "Environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(b) "Environmental justice" includes, but is not limited to, all of the following:

(1) The availability of a healthy environment for all people.

(2) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.

(3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.

(4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

Staff has utilized this expanded definition in the draft update to the policy (Page 11).

Other changes include:

- Referencing code sections as footnotes and not in text, consistent with other recently updated polices
- Removal of general LAFCo introduction and background
- Addition of definitions
- Addition of Section 56668.3 which is specific for when a proposed change of organization or reorganization includes a city detachment or district annexation
- Requirement of APN map upon submittal and copies of environmental documents

- General formatting and numbering changes

### **Committee Review**

On February 24, 2020 the Commission's Legislative and Policy Committee (Commissioners Lohman, Martin, and Jim O'Neill) reviewed the draft policies. After comments on the documents, the Committee recommended the updated policy document be placed on the March LAFCo agenda for information and comment. The committee also recommended that the policy documents be circulated the County, cities, special districts and other interested parties for comment prior to consideration and adoption at the September 16, 2020 LAFCo meeting.

### **Recommended Action:**

- 1) Review and provide input to staff on proposed revisions.
- 2) By motion, direct LAFCo staff to circulate the draft update to the Procedures for the Evaluation of Proposals to the County, cities, special districts, and other interested parties, and place the consideration of adoption of the policy on the September 16, 2020 meeting agenda.

### **Attachments**

- A. Draft Updated Procedures for the Evaluation of Proposals – In track changes
- B. Currently Adopted Procedures for the Evaluation of Proposals