

**8a** | Commission  
Discussion

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**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

**MEETING DATE:** October 11, 2023

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** Executive Officer

**SUBJECT:** Policy and Procedures for the Initiation of Proposals  
by the Orange County Local Agency Formation  
Commission

**BACKGROUND**

The Orange County LAFCO Handbook includes the agency's bylaws and local policies adopted to assist the Commission in carrying out its mission and legislative authority pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act). Periodically, the CKH Act is modified, requiring the Commission to also amend the agency's respective policies. This report includes recommended amendments to the "Policy and Procedures for the Initiation of Proposals by the Orange County Local Agency Formation Commission." The policy was adopted by the Commission in 1997 and outlines the legal authority and requirements of OC LAFCO for Commission-initiated proposals. A discussion of the proposed amendments to the policy to align with current provisions of the CKH Act and clarify the Commission's authority and process when initiating a proposal by resolution are provided in the next section of this report.

**POLICY DISCUSSION AND UPDATE**

The Commission's authority to initiate proposals by resolution is codified in various provisions within the CKH Act. These provisions have experienced many amendments over the years. However, the general authority of LAFCOs to initiate a change of organization or reorganization involving special districts and the respective intent, for the most part, have remained the same. OC LAFCO's current policy involving these provisions is intended to highlight and supplement the Commission's authority and requirements for initiating proposals. Additionally, the policy provides the general process for OC LAFCO's review, processing, and hearing of commission-initiated proposals.

Staff is recommending several amendments to the policy that include changes in policy language and updates to provision references and numbering to align with current State law and to provide more clarity to the agency's procedures for Commission-initiated proposals. For ease of

review, the proposed amendments are indicated in redline format in Attachment 1 and are summarized in the table below.

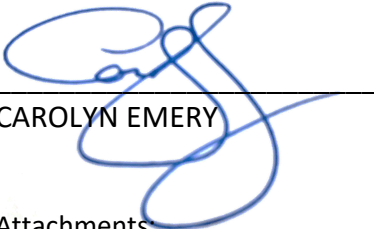
PROPOSED AMENDMENTS – Policy and Procedures for Commission-Initiated Proposals		
Section	Pages	Summary Changes
Section I: Legal Requirements	1-2	Updated to reference and align with current CKH Act provisions and provide more clarity of the Commission’s authority.
Section II: Policy on Initiating Proposals	2-3	Updated to reference and align with current CKH Act provisions and enhance factors to be considered by the Commission.
Section III: Procedure	3-4	Updated to reference and align with current CKH Act provisions, provide more clarity of the Commission’s authority, and improve the internal process for Commission-initiated proposals.

**RECOMMENDED ACTION**

Staff recommends that the Commission:

1. Adopt the Policy and Procedure for the Initiation of Proposals by the Orange County Local Agency Formation Commission, as amended.

Respectfully Submitted,



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CAROLYN EMERY

Attachments:

1. Policy and Procedures for the Initiation of Proposals by OC LAFCO (Redline)
2. Policy and Procedures for the Initiation of Proposals by OC LAFCO (As Amended)

## Policy and Procedures for the Initiation of Proposals by the Orange County Local Agency Formation Commission

### I. LEGAL REQUIREMENTS FOR PROPOSALS INITIATED BY THE COMMISSION

Government Code Sections 56375, 56375.1, and 56879 ~~effective July 1, 1994, authorizes~~ authorize or requires the Commission to initiate the following specific types of proposals:

- **Consolidation** of special districts ~~formed under the same enabling act~~ as defined in Government Code Section 56036.
- **Dissolution** of a special district, pursuant to Government Code Section 56375 or 56375.1 where another agency can assume service responsibility; when a study, prepared pursuant to Government Code Section 56430, concludes that a special district has chronic service provision deficiencies; or within 90 days after a special district has been deemed inactive by the State under Government Code Section 56879.
- **Merger** of a special district with a city if the entire territory of the district is included within the boundaries of the city, where the city encompasses the entire district.
- **Establishment of a subsidiary district** of a city where, pursuant to Government Code Section 57105, the portion or portions of the territory of the district are included within the boundaries of a city and represent at least 70% of the district's territory ~~and population are~~ within the city as well as at least 70% of the registered voters who reside within the district as shown on the voters' register maintained by the OC Registrar of Voters.
- Formation of a new district or districts.
- **Reorganization** which includes two or more of the above changes of organization.

Proposals initiated by the Commission must be consistent with the recommendation of a sphere of influence study conducted pursuant to Government Code Section 56425 or other governmental study performed pursuant to Government Code Section 56378 and Section 56430. Each of the above types of proposals has specific legal requirements which must also be met. In approving a proposal it has initiated, the Commission's resolution making determinations must make both of the following determinations, as required by Government Code Section ~~56852~~ 56881:

1. Public service costs of a proposal that the Commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.
2. A change of organization or reorganization that is authorized by the Commission

promotes public access and accountability for community needs and financial resources.

## II. POLICY ON INITIATING PROPOSALS

- A. Proposals initiated by the Commission shall be selected on the basis of a municipal service review, sphere of influence update, or other governmental study recommendations prepared pursuant to Government Code Section 56378.
- B. Commission prefers proposals submitted by petition of voters or landowners or by resolution of application by an affected local agency. However, the Commission will consider initiating proposals that it believes furthers the interests of increased efficiency and government accountability. Factors to be considered in determining whether to initiate a proposal will include but will not be limited to the following:
1. A municipal service review (Section 56430), sphere of influence update (Section 56425) or other governmental study has shown that a proposal may result in one or more of the following: a) lower overall public service costs; b) assuming of service responsibility by a logical potential successor agency or agencies; c) overall enhancement to public service levels and efficiencies through alternative and logical service options; d) greater fiscal and operational accountability and transparency; and, e) increased public access~~lower overall public service costs, overall increased levels of service to the citizens of one or more agencies affected, and/or greater local government access and accountability.~~
  2. There exists a level of public concern about a district's services or governance which, in the Commission's view, warrants initiation of a proposal.
  3. Boundaries of existing agencies artificially divide a community of interest or overlap different communities of interest.
  - ~~4. A sphere of influence, municipal service review, or other governmental study indicates that services may be beneficially shifted from a special district to a multi-purpose local governmental agency.~~
  - ~~5. There is a logical potential successor agency or agencies which could assume service responsibility.~~
  - 6.4. There are identifiable benefits to future and existing citizens from increased coordination and regional planning affecting facility planning, infrastructure financing, public resources protection, or service reliability.
  5. The Commission can complete the necessary review, analysis, and processing with its own staff resources, or funds are available from the successor agency or other sources to pay for the additional assistance needed to complete the review and processing of the proposal.

7.6. A special district has been deemed inactive pursuant to Government Code Section 56879, and the Commission has prepared a study pursuant to Government Code Sections 56378, 56425, and 56430 and made determinations pursuant to Government Code Section 56881.

### III. PROCEDURE

- ~~A. The Commission will consider whether or not to initiate a proposal at a regular public meeting. The Commission will consider a preliminary staff report, which estimates, to the extent possible without a full study, an assessment of the factors identified above. After reviewing the preliminary report, if the Commission decides to proceed, it will adopt a resolution of application pursuant to Government Code §56800.~~  
When considering the initiation of a proposal, the Commission will take into account studies prepared in accordance with Government Code Sections 56378, 56425 and 56430 and other factors identified in Section II of this policy and discuss them at a regular public meeting. During the meeting, the Commission will consider a staff report and recommendation, including an estimate, when applicable and possible, to assess factors warranting further study or that were not included or identified in previous study.
- After consideration at a regular public meeting, if the Commission decides to initiate a proposal, it will adopt a resolution of application pursuant to Government Code Section 56375 and, if applicable, Government Code Section 56375.1.
- B. If the Commission initiates the proposal, staff review will commence. Staff review will provide for agency participation and comment, environmental review, a property tax exchange (if applicable), and an Executive Officer's report and recommendation, as required for all proposals. The Executive Officer's report shall address the factors as required for all proposals in Government Code Section 56668, and the report shall provide the information as required in the Commission's application questionnaire for similar changes of organization. The Commission shall consider any legislative act or constitutional amendment passed by the voters that would have any substantive effect on the proposal under consideration.
- C. The Commission may refer the proposal to a reorganization committee as provided in Government Code Sections ~~§56475, 56836 and 56848. As an alternative, the Commission may refer the proposal to the Special Districts Advisory Committee from which an executive steering committee would be formed. A representative from each affected district and any additional representatives the Commission deems appropriate could be added to the steering committee.~~
- D. Following completion of staff review, and upon compliance with CEQA, ~~the Commission will consider the Executive Officer's report, the report of any reorganization or special districts advisory committee, and comments of affected agencies and the public at a hearing noticed for that purpose in the manner provided by law.~~ the Commission will consider the Executive Officer's report, the report of any reorganization committee, if applicable, and comments of affected agencies and the public at a hearing noticed for that purpose in the manner provided by State law. The hearing may be continued from time to time not to exceed 70 days and in accordance with State law.

~~At the hearing, the Commission will consider testimony of any interested person or affected agency. The hearing may be continued from time to time not to exceed 70 days.~~

- E. Within 35 days after the conclusion of the hearing, the Commission will adopt a resolution making determinations and either approving the proposal, subject to any terms and conditions which the Commission deems appropriate or disapproving the proposal.
- F. If the proposal is disapproved, the Commission will not initiate a substantially similar proposal for a period of three years. The Commission may waive this limitation if changes in conditions or circumstances warrant earlier reconsideration.
- G. If the proposal is approved, the Commission's resolution making determinations shall include the determinations required by Government Code ~~§56852~~ Section 56881 that (a) public service costs are likely to be less than or substantially similar to the costs of alternative means of providing the services and (b) the proposal promotes public access and accountability for community needs and financial resources.
- H. If the proposal is approved, the Commission will conduct protest proceedings in accordance with Part 4, Government Code Section 57000 et. seq of the Government Code. ~~authorize the Board of Supervisors, as conducting authority, to complete the proceedings as provided by law.~~ Special hearing, protest, and election requirements as provided in Government Code Sections ~~§~~57008 and ~~§~~57092 will apply, including a public hearing within the territory of the affected district(s).
- I. Upon completion of the conducting authority proceedings by the Commission ~~Upon completion of proceedings by the conducting authority~~ with or without an election as may be required, the Executive Officer will comply with the filing and reporting requirements of Part 4, Chapter 8 of the Government Code.

**Originally Adopted: 1997**

**Last Reviewed: ~~3/8/2023~~ 10/11/2023**

**Last Revised: ~~2/8/2012~~ 10/11/2023**

## Policy and Procedures for the Initiation of Proposals by the Orange County Local Agency Formation Commission

### I. LEGAL REQUIREMENTS FOR PROPOSALS INITIATED BY THE COMMISSION

Government Code Sections 56375, 56375.1, and 56879 authorize or requires the Commission to initiate the following specific types of proposals:

- **Consolidation** of special districts as defined in Government Code Section 56036.
- **Dissolution** of a special district, pursuant to Government Code Section 56375 or 56375.1 where another agency can assume service responsibility; when a study, prepared pursuant to Government Code Section 56430, concludes that a special district has chronic service provision deficiencies; or within 90 days after a special district has been deemed inactive by the State under Government Code Section 56879.
- **Merger** of a special district with a city if the entire territory of the district is included within the boundaries of the city.
- **Establishment of a subsidiary district** of a city where, pursuant to Government Code Section 57105, the portion or portions of the territory of the district are included within the boundaries of a city and represent at least 70% of the district's territory as well as at least 70% of the registered voters who reside within the district as shown on the voters' register maintained by the OC Registrar of Voters.
- **Formation** of a new district or districts.
- **Reorganization** which includes two or more of the above changes of organization.

Proposals initiated by the Commission must be consistent with the recommendation of a sphere of influence study conducted pursuant to Government Code Section 56425 or other governmental study performed pursuant to Government Code Section 56378 and Section 56430. Each of the above types of proposals has specific legal requirements which must also be met. In approving a proposal it has initiated, the Commission's resolution making determinations must make both of the following determinations, as required by Government Code Section 56881:

1. Public service costs of a proposal that the Commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.
2. A change of organization or reorganization that is authorized by the Commission promotes public access and accountability for community needs and financial resources.

**II. POLICY ON INITIATING PROPOSALS**

- A. Proposals initiated by the Commission shall be selected on the basis of a municipal service review, sphere of influence update, or other governmental study recommendations prepared pursuant to Government Code Section 56378.
- B. Commission prefers proposals submitted by petition of voters or landowners or by resolution of application by an affected local agency. However, the Commission will consider initiating proposals that it believes furthers the interests of increased efficiency and government accountability. Factors to be considered in determining whether to initiate a proposal will include but will not be limited to the following:
  - 1. A municipal service review (Section 56430), sphere of influence update (Section 56425) or other governmental study has shown that a proposal may result in one or more of the following: a) lower overall public service costs; b) assuming of service responsibility by a logical potential successor agency or agencies; c) overall enhancement to public service levels and efficiencies through alternative and logical service options; d) greater fiscal and operational accountability and transparency; and, e) increased public access.
  - 2. There exists a level of public concern about a district's services or governance which, in the Commission's view, warrants initiation of a proposal.
  - 3. Boundaries of existing agencies artificially divide a community of interest or overlap different communities of interest.
  - 4. There are identifiable benefits to future and existing citizens from increased coordination and regional planning affecting facility planning, infrastructure financing, public resources protection, or service reliability.
  - 5. The Commission can complete the necessary review, analysis, and processing with its own staff resources, or funds are available from the successor agency or other sources to pay for the additional assistance needed to complete the review and processing of the proposal.
  - 6. A special district has been deemed inactive pursuant to Government Code Section 56879, and the Commission has prepared a study pursuant to Government Code Sections 56378, 56425, and 56430 and made determinations pursuant to Government Code Section 56881.

**III. PROCEDURE**

- A. When considering the initiation of a proposal, the Commission will take into account studies prepared in accordance with Government Code Sections 56378, 56425 and 56430 and other factors identified in Section II of this policy and discuss them at a regular public meeting. During the meeting, the Commission will consider a staff report and recommendation, including an estimate, when applicable and possible, to assess factors warranting further study or that were not included or identified in previous study. After consideration at a regular public meeting, if the Commission decides to initiate a proposal, it will adopt a resolution of application pursuant to Government Code Section



56375 and, if applicable, Government Code Section 56375.1.

- B. If the Commission initiates the proposal, staff review will commence. Staff review will provide for agency participation and comment, environmental review, a property tax exchange (if applicable), and an Executive Officer's report and recommendation, as required for all proposals. The Executive Officer's report shall address the factors as required for all proposals in Government Code Section 56668, and the report shall provide the information as required in the Commission's application questionnaire for similar changes of organization. The Commission shall consider any legislative act or constitutional amendment passed by the voters that would have any substantive effect on the proposal under consideration.
- C. The Commission may refer the proposal to a reorganization committee as provided in Government Code Sections 56836 and 56848.
- D. Following completion of staff review, and upon compliance with CEQA, the Commission will consider the Executive Officer's report, the report of any reorganization committee, if applicable, and comments of affected agencies and the public at a hearing noticed for that purpose in the manner provided by State law. The hearing may be continued from time to time not to exceed 70 days and in accordance with State law.
- E. Within 35 days after the conclusion of the hearing, the Commission will adopt a resolution making determinations and either approving the proposal, subject to any terms and conditions which the Commission deems appropriate or disapproving the proposal.
- F. If the proposal is disapproved, the Commission will not initiate a substantially similar proposal for a period of three years. The Commission may waive this limitation if changes in conditions or circumstances warrant earlier reconsideration.
- G. If the proposal is approved, the Commission's resolution making determinations shall include the determinations required by Government Code Section 56881 that (a) public service costs are likely to be less than or substantially similar to the costs of alternative means of providing the services and (b) the proposal promotes public access and accountability for community needs and financial resources.
- H. If the proposal is approved, the Commission will conduct protest proceedings in accordance with Part 4, Government Code Section 57000 et. seq of the Government Code. Special hearing, protest, and election requirements as provided in Government Code Sections 57008 and 57092 will apply, including a public hearing within the territory of the affected district(s).
- I. Upon completion of the conducting authority proceedings by the Commission with or without an election as may be required, the Executive Officer will comply with the filing and reporting requirements of Part 4, Chapter 8 of the Government Code.

**Originally Adopted: 1997**  
**Last Reviewed: 10/11/2023**  
**Last Revised: 10/11/2023**