



Solano Local Agency Formation Commission

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Delivered Electronically

Date: June 23, 2017
To: Presiding Judge, 2016-17 Solano County Grand Jury
CC: Cheryl Clower, Administrative Assistant to the Grand Jury
From: Nancy Shopay, Chair, Solano Local Agency Formation Commission
Subject: Response of Solano Local Agency Formation Commission

Thank you for your careful assessment of the municipal service review (MSR) process as implemented by Solano LAFCO. Solano LAFCO will include the Grand Jury's recommendations in the implementation of our adopted work plan in the upcoming fiscal year. The 2017-18 work plan, as adopted by the commission, puts an emphasis on adoption/update of spheres of influence for agencies which have a recently completed municipal service review as well as completion of municipal service reviews for certain agencies and groups of agencies which are overdue for a review/update of their sphere of influence.

Response:

It is important to understand that there is no direct mandate within the Cortese-Knox-Hertzberg (CKH) Act for LAFCO to prepare and/or update the municipal service review for a city or district on a fixed five-year schedule. As the report notes, the five-year time line refers to sphere review by LAFCO and appears in the following section:

G.C. §56425 (g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

When taken with §56430 (a) below, LAFCO is required to complete the MSR research and report in order to inform the commission's determinations and decision on the sphere of influence.

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§56430 (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission.

Thus, the Grand Jury could easily conclude that a MSR for each district and city is required every five years. However, it is the sphere of influence that LAFCO is required to review every five years, and this requirement is qualified in the statute by the phrase “as necessary”.

The necessity to update the sphere of influence is caused by a requirement for proposals for boundary changes to be consistent with an up-to-date sphere of influence. A current sphere of influence (less than five years old) is necessary to for the review of boundary changes and changes of organization (eg. annexations, detachment, etc.). All city and district boundary changes (annexations, detachments, etc.) must be consistent with the adopted sphere(s) of influence of the agencies whose boundaries will be changed.

Solano LAFCO policies, Section I, paragraph 3, states:

“The review and update (of the sphere) shall be made to ensure a current sphere is in place to process a proposed change of organization”.

Pursuant to Government Code §56375.5, a current sphere of influence (less than five years old) is necessary for the review of boundary changes and changes of organization (eg. annexations, detachment, etc.).

Every determination made by a commission regarding the matters provided for by subdivisions (a), (m), and (n) of Section 56375 and by subdivision (a) of Section 56375.3 shall be consistent with the spheres of influence of the local agencies affected by those determinations.

When no boundary changes are proposed, a sphere of influence older than five years could remain un-updated, without compromising the law. It is inconceivable that the legislature intended LAFCO to prepare MSR studies every five years for every agency even if an agency’s services and operations were unchanged. A review and update of the MSR could theoretically be of some useful purpose, but would not be required by statute or locally adopted policy unless needed for either a sphere amendment or valid boundary change. The law uses the term “as necessary”. Whenever possible, LAFCO avoids expenditure of government funds that are not necessary.

In the event that a boundary change is proposed for an agency with a sphere of influence that is more than 5 years old, the proposal would immediately trigger the need to update the sphere of influence and be based on a current municipal service review. If the commission attempted to act on the proposed boundary change in the absence of an up-to-date sphere of influence (updated within five

years) and without a current municipal services review, then the action might not withstand legal challenge.

Clarification:

The Grand Jury report cites that the sphere of influence is “adjacent territory the city ultimately expects to annex or to serve, as well as any area which is of particular interest to the city”. That is not an incorrect description, however the sphere of influence is more accurately defined by statute at Government Code §56076. "Sphere of influence means a plan for the probable physical boundaries and service area of a local agency, as determined by the commission". For example, most agencies' spheres include all territory within the boundaries plus areas outside the boundaries. For an agency that plans to stop providing service in the future, a sphere with no physical territory is adopted; this is called a zero sphere.

Solano LAFCO policies further define long term and near term sphere of influence designations at section IV.C.2-3, as well as areas of concern at section IV.B.a-c.