

CHAPTER 10

SPECIFIC POLICIES FOR EVALUATION OF PROPOSALS

Sections:

10.010	Background
10.020	Incorporation
10.030	Merger and Establishment of Subsidiary District
10.040	District Formation
10.050	District Dissolution
10.060	Consolidation
10.070	Annexation
10.080	Detachment
10.090	Reorganization

10.010 Background

This chapter establishes specific policy standards for the evaluation of change of organization or reorganization proposals. The intent of these standards is to provide guidance to the Commission in their review and evaluation of specific proposals and a basis and understanding for proponents and the general public of the proposal's relation to the Commission's adopted standards. These standards are adopted to address the special requirements of each type of change of organization to ensure a proposal is consistent with the Reorganization Act. All changes of organization or reorganization proposals shall be consistent with the applicable standards, and sphere of influence plans shall also be consistent with these standards and should be written so they promote consistency with these standards when future changes of organization or reorganizations are evaluated.

10.020 Incorporation

- A. The incorporation shall comply with the general policies applicable to changes of organization or reorganizations.
- B. Districts which are encompassed wholly by the boundaries of the proposed city shall be merged with the proposed city unless there is a compelling and overriding reason(s) to establish the district as a subsidiary district.

- C.** The Commission shall act favorably on incorporations in which:
1. It is demonstrated there is a significant unmet need for services or need for improved services within the territory for which incorporation is proposed. In determining whether an unmet need for services or improved services exists, the Commission will base its determination on:
 - (a) Current levels of service in the area to be incorporated;
 - (b) Existing and projected growth rate and density patterns in the area to be incorporated;
 - (c) The sphere of influence plans for local agencies currently providing services to the area.
 2. The incorporation will result in an entity with the capability to provide a more efficient form of urban services to the affected territory and population.
 3. The area to be incorporated has a relatively dense population in a well-defined reasonably compact area.
 4. Continued substantial growth within the proposed area and adjacent areas is projected for the next ten (10) years.
 5. The existing and any alternative means for furnishing necessary services are undesirable.
- D.** The Commission shall act unfavorably on incorporations in which:
1. The area to be incorporated has a relatively low population density or the population is not in a reasonably compact or defined community.
 2. The incorporation is premature in view of lack of projected substantial growth within the next ten (10) years.
 3. Property boundaries do not include all urbanized areas or are otherwise improperly drawn.
- E.** The Commission shall not approve an incorporation unless the incorporation proponents can demonstrate that the proposed city will be able to fund municipal services to the affected population.
- F.** Current State law requires the transfer to a newly incorporated city of all situs sales tax revenue and transient occupancy tax revenue from the city's territory in addition to a proportion of the property tax revenue based on a statutory formula. Consequently, in most incorporations, the net revenue effect will substantially favor the new city at the

County's expense. The Commission shall not approve an incorporation which does not contain agreements that compensates for this lack of revenue neutrality.

- G. The Commission shall not approve an incorporation which splits a special district unless the Commission finds that the resulting service providers are the most logical, efficient, and cost-effective organizational structure for service delivery, there will not be a severe financial impact on the district, and the territory to be included within the city represents both 70% or more of the area of land within the subsidiary district and contain 70% or more of the number of registered voters who reside within the district.
- H. The Commission shall not approve the inclusion of agricultural or open space land which is not designated for urbanization within the next five years of the date of the receipt of the application in any incorporation proposal unless the Commission finds the proposal is structured to ensure the long-term preservation of open space or agricultural lands.

10.030 Merger and Establishment of Subsidiary District

- A. For purposes of this chapter, the merger of districts and establishment of subsidiary districts shall be treated as a formation of a dependent district and the standards for district formations are therefore applicable to mergers and subsidiary districts.
- B. Based on Master Service Area Plans and other data provided, the Commission shall determine whether the proposed city's and district's organizations and operations can feasibly be combined. The Commission shall give particular attention to the following:
 - 1. Employment contracts, policies, and human resource issues;
 - 2. Specified plans for combination of top manager's roles and responsibilities and for staffing key positions; and
 - 3. Plans and safeguards to ensure uniform and consistent service quality throughout the newly merged jurisdiction.
- C. For any proposal for a merger or establishment of a subsidiary district, the Commission shall also consider the alternative proposal of merging the district or establishing a subsidiary district. **[REFERENCE: Sec. 56118 CGC]**
- D. Districts which are encompassed wholly by the boundaries of the proposed city shall be merged with the proposed city unless there is a compelling and overriding reason(s) to establish the district as a subsidiary district.
- E. In establishing a subsidiary district, one of the following criteria shall be met:

1. The entire territory of the district shall be included within the boundaries of the city; or
2. A portion or portions of territory of such district shall be included within the boundaries of the city and such portion or portions shall both represent 70% or more of the area of land within the district and contain 70% or more of the number of registered voters who reside within the district.

[REFERENCE: Sec. 57105 CGC]

10.040 District Formation

- A. The district formation shall comply with the general policies applicable to changes of organization or reorganizations.
- B. In order to reduce and minimize the number of agencies providing services, the Commission shall discourage the formation of new districts unless the formation is part of a reorganization not resulting in the creation of additional districts OR there is evidence of a clear need for the district's services and/or administration from the landowners and/or residents, there are no existing districts available or able to annex and provide similar services, and there is an ability of the new agency to provide for and finance the needed services.
- C. The Commission shall act favorably on district formations in which:
 1. It is demonstrated there is a significant unmet need for services or need for improved services within the territory for which formation is proposed due to the inadequate level or quality of services currently being provided.
 2. Development requires one or more urban-type services, and by reason of location or other consideration, such service or services may not be provided by any of the following means in descending order of preference:
 - (a) Annexation to existing independent district;
 - (b) Annexation to existing dependent district;
 - (c) Creation of zone of benefit within Countywide County Service Area No. 1.
 3. Formation is for a primarily rural or agricultural area and district is for a limited non-urban type service such as irrigation, drainage, soil conservation, etc. and cannot be provided by an existing district or a zone of benefit within Countywide County Service Area No. 1.
- D. The Commission shall act unfavorably on district formations in which:

1. There is an undemonstrated or minor need for urban-type services or such services as needed may be provided by the following district alternatives in descending order of preference:
 - (a) Annexation to existing independent district;
 - (b) Annexation to existing dependent district;
 - (c) Creation of zone of benefit within Countywide County Service Area No. 1.
 2. The formation is premature in view of lack of anticipated substantial growth within the next ten (10) years.
 3. The formation would result in the multiplication of districts in the area thereby making difficult the ultimate provision of adequate full local services to the area.
 4. The proposed district is not the best suited to the purpose and better district alternatives are available.
- E. The Commission shall not approve a district formation unless the proponents can demonstrate that the proposed district will be able to fund the services it intends to provide.
- F. The Commission shall not approve the inclusion of agricultural or open space land which is not designated for urbanization within the next five years of the date of the receipt of the application in any formation proposal unless the Commission finds the proposal is structured to ensure the long-term preservation of open space or agricultural lands.

10.050 District Dissolution

- A. The dissolution shall comply with the general policies applicable to changes of organization or reorganizations.
- B. The Commission shall not approve a dissolution unless the Commission has adopted a zero sphere of influence for the district.
- C. The Commission shall not approve a dissolution unless the proposal meets one of the following criteria:
 1. The corporate powers of the district are not presently being used and there is a reasonable probability that those powers will not be used in the future; OR
 2. The dissolution is part of a reorganization where the result will be better service, reduced costs, and/or more efficient and visible administration of services to the residents and/or landowners of the affected territory.

10.060 Consolidation

- A. For purposes of this chapter, consolidation of districts shall be treated as a district formation and the standards for district formation are therefore applicable to consolidations.
- B. Based on Master Service Area Plans and other data provided, the Commission shall determine whether the organizations and operations of the districts proposed to be consolidated can feasibly be combined. The Commission shall give particular attention to the following:
 - 1. Employment contracts, policies, and human resource issues;
 - 2. Specified plans for combination of top manager's roles and responsibilities and for staffing key positions; and
 - 3. Plans and safeguards to ensure uniform and consistent service quality throughout the newly consolidated jurisdiction.

10.070 Annexation

- A. The annexation shall comply with the general policies applicable to changes of organization or reorganizations.
- B. The Commission shall encourage the development of existing vacant or non-agricultural, non-open space lands for urban uses within the existing boundaries of a district before any proposal is approved which would allow for or lead to the development of existing agricultural and open space lands for non-agricultural and non-open space uses which are outside the district boundaries.
- C. The Commission shall encourage the development of existing agricultural and open space lands for urban uses within the existing boundaries of a district before any proposal is approved which would allow for or lead to the development of existing agricultural and open space lands for non-agricultural and non-open space uses which are outside the boundaries of the local agency.
- D. The Commission shall act favorably on proposals for urban-type services in which:
 - 1. The district proposes to annex developed urban land inside their sphere of influence and it is not demonstrated by the residents or owners of property being annexed that such areas should not be annexed.
 - 2. The proposal is part of an orderly, phased annexation program by an agency for territory within its sphere of influence.

3. The proposal would eliminate islands, corridors, or other distortions of existing boundaries.
 4. The proposed area is urban in character or urban development is imminent requiring municipal or urban-type services.
 5. The proposal is for publicly-owned property used for public purposes.
 6. The proposal is by an agency in order to facilitate construction of public improvement(s) or facility(ies) which otherwise would be difficult to construct.
 7. The Service Area Plan demonstrates that adequate services will be provided within the time frame needed by the inhabitants of the annexed area. Proposed annexations of land areas that lie outside of the current and next five year increment of projected service delivery in the Service Area Plan are presumed not to comply with this standard unless the applicant clearly establishes that special and unique circumstances exist which ensure the provision of quality services during the applicable time frame for the affected area consistent with the other standards.
- E.** The Commission shall act favorably on proposals for rural-type services in which services can be provided by the annexing district, are needed by residents or landowners, and district annexation is the most economical and practical method of supplying the service.
- F.** The Commission shall act unfavorably on proposals for urban-type services in which:
1. The area is not presently urban in character and the proposal would result in a premature intrusion of urbanization in a predominantly rural area.
 2. For reasons of topography, distance, natural boundaries, or like considerations, the extension of services would be financially infeasible, or another means of supplying services by acceptable alternatives is preferable.
 3. The proposal appears to be motivated by inter-agency rivalry, land speculation, or other motives not in the public interest.
 4. The boundaries of the proposed annexation do not include logical service area or are otherwise improperly drawn.
- G.** The Commission shall not approve a proposal in which the affected territory is not contiguous with existing boundaries of the district unless the affected territory meets all of the following criteria:

1. Is at least 10 acres in size but does not exceed 1,000 acres.
2. Does not exceed 50% of the territory within the existing district.
3. Annexation is necessary for orderly growth and territory cannot be annexed to another district, be formed as a new district, or be served by a zone of benefit within Countywide County Service Area No. 1.

Territory is not contiguous if its only connection is a strip of land more than 300' long and less than 200' wide.

- H.** The Commission shall not approve an annexation which will result in corridors, peninsulas, or otherwise further the distortion of existing boundaries unless the Commission finds that the annexation as proposed is necessary for orderly growth and it is not feasible or desirable to add additional territory to lessen a boundary distortion.
- I.** An annexation shall not be approved to facilitate the delivery of one or a few services to the affected territory which is detrimental to existing service recipients or to the other services provided by the district.
- J.** The Commission shall not approve an annexation unless the Service Area Plan of the affected district demonstrates that adequate services will be provided within the time frame needed by the inhabitants of the affected territory. Proposed annexations for land areas that lie outside of the current and next five-year increment of projected service delivery in the Service Area Plan are presumed not to comply with this standard unless the proponent clearly establishes that special and unique circumstances exist which ensure the provision of quality services during the applicable time frame for the affected territory consistent with the other standards.

10.080 Detachment

- A.** The detachment shall comply with the general policies applicable to changes of organization or reorganizations.
- B.** The Commission shall consider detachments in areas which require organized public service if another service provider is capable and willing to provide the service(s).
- C.** Detachment from a district shall not relieve the landowners within the detaching territory from existing obligations for bonded indebtedness or other indebtedness incurred previously by the district to provide service to the detaching territory unless one of the following apply:
 1. The relief from indebtedness is part of a revenue exchange agreement applying to the detachment;

2. The service benefits previously received by the applicant can be readily assumed by another landowner within the district who is willing to assume the financial responsibility in exchange for the added services; OR
 3. The indebtedness is secured by revenue generated by the provision of services and the detaching territory does not receive such services.
- D.** The Commission shall not approve a detachment unless one of the following can be demonstrated:
1. The detachment is necessary to ensure the more efficient delivery of services essential to the public health and safety, and the successor provider supplies services of equal or higher quality; or
 2. The district does not provide services to the affected territory and it cannot be reasonably foreseen that such services will be provided in the future.
- E.** The Commission shall not approve a detachment if the detachment will significantly reduce the efficiency of service delivery to the remaining service recipients of the district from which the detachment will occur.
- F.** The Commission shall not approve a detachment which conflicts with the adopted Master Service Area Plan of the district from which detachment is sought.

10.090 Reorganization

- A.** The reorganization shall comply with the general policies applicable to changes of organization or reorganization and the specific policies applicable to each individual change of organization which make up the reorganization proposal.
- B.** The Commission shall evaluate independently each component organizational change which makes up a reorganization proposal.