

CHAPTER 4

GENERAL PROCEDURES FOR PROCESSING

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4.010 Background

The Reorganization Act and the individual principal district acts for each district set up an extensive process for the review and approval of changes of organization which is augmented by the environmental review requirements of the California Environmental Quality Act (CEQA). Changes of organization are defined as a project by CEQA and are subject to the provisions of CEQA. Most LAFCo decisions for a change of organization will require the adoption of a Negative Declaration, a mitigated Negative Declaration, or certification of an Environmental Impact Report. The process may be further extended if the change of organization is part of a larger project that requires land use approvals by the County Board of Supervisors, such as a planned residential development or pre-zoning. In these cases the County will be the lead agency for environmental review of the project.

Except in limited situations, a change of organization or reorganization proposal may only be initiated by the landowners or registered voters of the affected territory through the petition process or by the County or an affected special district through the resolution of application process. The Commission is authorized to initiate on its own reorganization proposals involving the consolidation of districts, the merger of districts, the dissolution of districts, and the establishment of subsidiary districts. Landowners and registered voters are also involved in the review process of the proposal through public hearings and written protests. Except when there is unanimous consent by the affected registered voters and landowners for an annexation, detachment, or county service area formation, a public hearing must be held by the Commission

and the conducting authority. In all cases, the registered voters and/or landowners of the affected territory have the final authority to disapprove a change of organization or reorganization proposal through the written protest and election provisions provided in the Reorganization Act.

Before a change of organization or reorganization can become effective, it must be approved by the Commission, the decision-making body of the conducting authority, and possibly the landowners or registered voters of the affected territory. If a change of organization is not approved by the Commission, all proceedings for the change are terminated at that point.

The conducting authority is the legislative body of an affected special district or the Mariposa County Board of Supervisors, which is authorized by the Commission to conduct final proceedings for a change of organization or reorganization. The actions of the conducting authority are generally based on written protests of the affected landowners or registered voters, and the conducting authority may only approve a change of organization if there is not a sufficient written protest or the approval is confirmed by an election.

Procedural requirements for reviewing and approving a change of organization vary for each type of district and change of organization, and only general procedures may be established for the processing, review, and approval of all types of changes of organization. Nonetheless, the following general procedures will apply to all changes of organization proposals except in those specific instances where the general procedures are modified by specific procedures established by the principal district act and/or Chapter 5 of these policies, procedures, and standards.

4.020 Preliminary Steps

Prior to submittal of an application, a preliminary application meeting shall be held between the proponent and the Executive Officer. The proponent shall bring all application forms and information to the meeting. The Executive Officer will review procedure, application requirements, and fees with the proponent and inform the proponent if the application is sufficient for submittal.

4.030 Commission Proceedings

The following general procedures shall be followed by the Commission and staff in considering proposed changes in local government organization or reorganizations. Commission proceedings and resolutions for changes of organization may vary from the general procedures described below in accordance with the applicable sections of the principal district law for the district and Chapter 5 of these policies, procedures, and standards.

- A. Receipt and Acceptance of Application:** The proponent shall submit to the Executive Officer a complete application with a petition or a certified copy of resolution of application, application fees, and other information required by the Commission as described in Chapter 6 of these policies, procedures, and standards. An application

which does not have all required information shall not be accepted by the Executive Officer. Any waivers to application requirements shall be approved by the Commission or Executive Officer prior to final acceptance of the application.

B. Review of Petition or Resolution of Application:

1. Within 30 days of receipt of the application, the Executive Officer shall examine the petition or resolution of application for sufficiency and prepare a certificate of sufficiency indicating the Executive Officer's findings. The petition or resolution shall comply with all requirements set forth in Sections 6.040 and 6.050.
2. If the petition or resolution of application is insufficient, the Executive Officer shall immediately notify by certified mail the chief petitioners or local agency of the insufficiency. Notwithstanding the time limits for securing signatures as set forth in Section 6.040(E), a supplemental petition bearing additional signatures may be filed with the Executive Officer within 15 days after the date the notice is received by the chief petitioners. Within 10 days after the date of the filing of a supplemental petition, the Executive Officer shall examine the supplemental petition and certify in writing the results of the examination.
3. The Executive Officer shall sign the certificate of sufficiency with findings and mail the certificate to the chief petitioners or local agency. All petitions and resolutions of application submitted after signature of the certificate of sufficiency shall be treated as new petitions and resolutions and shall comply with the procedural requirements of this section and the content and time limit requirements set forth in Sections 6.040 and 6.050.
4. The Executive Officer shall determine the number of landowners and/or registered voters of the affected territory in accordance with Sections 56046 and 56048 of the Reorganization Act after conferring with the County Auditor, County Clerk, and County Assessor. The number of landowners in the affected territory shall be determined as shown on the latest equalized assessment roll. The number of registered voters in the affected territory shall be determined as of the date the petition is accepted for filing and a certificate of filing is issued by the Executive Officer.

[REFERENCE: Secs. 56046, 56048, 56706 CGC]

C. Review of Application: The Executive Officer shall review the application proposal for completeness and within 30 days of submittal:

1. Determine if the petition or the resolution of application is sufficient in accordance with Section 4.030. If the petition or resolution is insufficient, the application proposal shall be determined to be not complete for filing.

2. Determine if all information required by Chapter 6 is provided with the application and is complete and accurate. If all information is not provided, the application proposal shall be determined to be not complete for filing.
3. Determine if all application fees have been paid.
4. Determine if additional information pertaining to any of the matters or factors which may be considered by the Commission is required in order for the Executive Officer and the Commission to properly review and consider the proposal. If additional information is required, the application proposal shall be determined to be not complete for filing.

[REFERENCE: Sec. 56706 CGC]

D. Environmental Review: Before an application proposal may be considered complete for filing, the Commission must comply with the provisions of the California Environmental Quality Act (CEQA). One of the following actions must occur before the application proposal is considered complete for filing and a certificate of filing is issued:

1. If the Commission is not the lead agency for the proposal, the lead agency determines the proposal is exempt from the provisions of CEQA, adopts a Negative Declaration or Mitigated Negative Declaration for the proposal, or certifies an Environmental Impact Report for the proposal.
2. If the Commission is the lead agency for the proposal, one of the following occurs in accordance with Chapter 8:
 - a. The Executive Officer determines that the proposal is exempt from the provisions of CEQA and prepares a Notice of Exemption.
 - b. The Executive Officer prepares an Initial Study with a recommendation for adoption of a Negative Declaration or a Mitigated Negative Declaration.
 - c. The Commission directs the Executive Officer to prepare a Final Environmental Impact Report after public review of the draft Environmental Impact Report.

In so much as possible, the Executive Officer shall commence review of the proposal concurrently with the environmental review.

[REFERENCE: Sec. 21000 et seq. PRC]

E. Application Referral: Upon receipt of an application proposal, the Executive Officer shall:

1. Forward a notice to the County Assessor and County Auditor requesting property tax information if an incorporation or formation is proposed.
2. Forward a notice to each interested and affected local agency, State agency, and County department stating that an application has been submitted and that the Commission is soliciting comments on the proposal and requests for additional information. A notice shall be forwarded to the Executive Officer of the Tuolumne Local Agency Formation Commission for applications involving the Lake Don Pedro Community Services District. This notice may be deferred if the application proposal is substantially incomplete, but in no case, shall the notice be forwarded less than 20 days before issuance of a certificate of filing unless the affected local agency has already given notice or the proposal will be considered by the Commission without notice and hearing.

[REFERENCE: Secs. 56658 CGC]

F. Determination of Completeness:

1. Except when the Commission is the lead agency for the proposal pursuant to Section 4.030(D), the Executive Officer within 30 days of submittal of the application proposal or supplemental materials shall either:
 - (a) Determine the application is complete for filing, issue a certificate of filing, and schedule the Commission hearing. The Commission hearing shall be held within 90 days after issuance of the certificate of filing or after the application is deemed to be complete for filing, whichever is earlier; or
 - (b) Determine the application is not complete for filing and notify the proponent, specifying those portions of the application which are incomplete and the manner in which they can be made complete.
2. If the appropriate fees have been paid, the requirements of Chapter 6 have been met, and no formal determination has been made by the Executive Officer within the 30 day period, the application shall be deemed complete for filing and the Executive Officer shall immediately issue a certificate of filing.
3. The Executive Officer may close an application from further processing and refund unused application fees if the Executive Officer determines that substantial progress is not being made by the proponent to further the processing of the proposal. The Executive Office may close an application if there has been no activity on the application for six (6) months.

[REFERENCE: Secs. 56658 CGC]

G. Informational Meeting: The Executive Officer may hold a meeting with affected residents or landowners to present information on the proposal and to receive comments on the proposal.

H. Notice of Hearing:

1. The Executive Officer, at least 21 days prior to the date set for hearing, shall give notice of the hearing by:
 - (a) Publication in a newspaper of general circulation within the county;
 - (b) Posting near the door of the hearing room or upon any official bulletin board used for the purpose of posting public notices by, or pertaining to, the legislative body or commission;
 - (c) Mailed notices shall be sent to all affected property owners within the affected territory.
 - (d) Mailed notices shall be sent to property owners in proximity to the affected territory in accordance with the requirements of Section 17.132.020.A of Chapter 17.132 of Title 17 Zoning.
 - (e) Mailing to each affected agency which contains territory or whose sphere of influence contains territory within the proposal, the chief petitioner(s), persons requesting notice, and the County Administrative Officer.
2. Some Commission actions, such as annexations and detachments, may be made without notice and a hearing with written consent of all landowners and the affected local agency. Notice and opportunity to request a public hearing must be given to local agencies whose boundaries are affected. If no hearing is requested by an affected local agency, the Executive Officer shall forward the application and Executive Officer Report to the Commission for their consideration at a Commission meeting. If the Commission desires to provide notice and hearing prior to making a determination on the proposal, the Commission may order a public hearing on the proposal and set a date, time, and place for the hearing. The hearing shall be held no more than 90 days after the date of the order.

[REFERENCE: Secs. 56662, 56663, 56153, 56154, 56155, 56157, 56158, 56159, 159160 CGC]

I. Executive Officer Report:

1. The Executive Officer shall review the application proposal and any comments received and prepare the written report and recommendation. The report shall include the information required by Section 7.020(B) of these policies, procedures, and standards.
2. At least five (5) days prior to the hearing or meeting, the Executive Officer shall mail the report to each Commissioner, the chief petitioners, each affected local agency requesting a report, each agency whose boundaries or sphere of influence will be affected, the County Administrative Officer, and the Executive Officer of the LAFCo of any other affected county.

[REFERENCE: Sec. 56665 CGC]

J. Commission Hearing: The Commission shall hear the proposal on the noticed date and time. The hearing may be continued for up to 70 days. [REFERENCE: Sec. 56666 CGC]

K. Commission Resolution: Within 30 days of the conclusion of the hearing, the Commission shall adopt a resolution of determination taking action on the proposal in accordance with Sections 7.030(A)(3) or 7.030(A)(4).

L. Notification of Action: The Executive Officer shall send by certified mail the Commission's resolution to the chief petitioners if any, each agency whose boundaries will be affected, and the conducting authority. The Executive Officer shall send all written protests received by the Commission to the conducting authority.

M. Notice of Determination: The Executive Officer shall file a Notice of Determination with the Mariposa County Clerk and with the California State Clearinghouse describing the environmental document and action taken by the Commission pursuant to the California Environmental Quality Act.

4.040 Conducting Authority Proceedings

The conducting authority, in considering proposed changes in local government organization or reorganizations, shall follow the following general procedures. These procedures shall be modified as necessary to comply with any applicable sections of the principal district law for the conducting authority and Chapter 5 of these policies, procedures, and standards.

- A. The proceedings of the conducting authority shall comply with the resolution of approval adopted by the Commission.

- B.** The conducting authority may establish a schedule of processing fees and require the deposit of such fees before further action is taken on the proposal.

C. Hearing Date:

1. The clerk of the conducting authority shall set the proposal for hearing within 35 days of the Commission's resolution date of adoption. The date of the hearing shall not be less than 15 or more than 60 days after the notice is given.
2. The Commission may authorize the conducting authority to continue the hearing to a date extending beyond the dates specified in the Reorganization Act.
3. The Commission may authorize the conducting authority to take action without notice and a hearing if authorized by the Reorganization Act and principal district act.

[REFERENCE: Secs. 57002(a)(b) CGC]

- D.** At least 21 days prior to the hearing, the clerk of the conducting authority shall give notice of the hearing by:

1. Publication in a newspaper of general circulation;
2. Posting near the door of the hearing room;
3. Mailing to all affected property owners within the affected territory and within 600 feet of the boundaries of the affected territory. The Commission may waive this requirement for proposals with over 500 affected property owners if notice of the hearing is posted in public places within the affected territory. The number and location of public notices shall be determined by the Executive Officer.
4. Mailing to each affected agency which contains territory or whose sphere of influence contains territory within the proposal, chief petitioner(s), persons requesting notice, and the County Administrative Officer.

[REFERENCE: Secs. 57002, 57025 CGC]

- E.** The conducting authority shall hear the proposal at the noticed time and date. The hearing may be continued for up to 60 days. Any written protests shall be filed with the clerk prior to the conclusion of the hearing and must be signed, have the signature date, and address or location of the property. The value of written protests shall be determined by the conducting authority. **[REFERENCE: Secs. 57050, 57052 CGC]**

- F.** Within 30 days of the conclusion of the hearing, the conducting authority shall adopt a resolution taking one of the following actions:

1. In cases of district annexations only, disapprove the change of organization and terminate proceedings.
2. Terminate proceedings if a majority written protest is received. If a proposal is terminated, the same proposal cannot be submitted to the Commission before one year from the date of adoption of the conducting authority resolution, or two years if a city incorporation was included.
3. Order the change of organization or reorganization if a sufficient written protest is not received or the Commission authorizes the conducting authority to conduct proceedings without an election.
4. Order the change of organization or reorganization subject to confirmation by the voters and call for an election if a sufficient written protest is received. A resolution calling for an election on the question shall be adopted and forwarded to the Elections Clerk and Executive Officer.

[REFERENCE: Secs. 57075 CGC]

- G.** The resolution shall include a finding of the value of written protests filed and not withdrawn on the proposal, all other findings required for the action, and those items set forth in Section 57082 of the Reorganization Act. **[REFERENCE: Sec. 57075 CGC]**
- H.** A resolution ordering a change of organization or reorganization subject to confirmation by the voters shall address the factors set forth in Section 57100 of the Reorganization Act.
- I.** The clerk of the conducting authority shall transmit to the Executive Officer by certified mail a certified copy of the resolution confirming the change of organization or reorganization subject to confirmation by the voters or terminating proceedings within five (5) days after adoption of the resolution. **[REFERENCE: Sec. 57144 CGC]**
- J.** If the conducting authority does not take action on the proposal within the time frames established by the Commission and the Reorganization Act, the Commission may authorize the Board of Supervisors to assume jurisdiction to conduct and complete any proceedings in accordance with Sections 57005 and 57006 of the Reorganization Act.

4.050 Election

- A.** If the conducting authority calls for an election, the election shall be conducted in accordance with Sections 57100 to 57179 of the Reorganization Act and the applicable provisions of the Elections Code.

- B. The Commission shall prepare an impartial analysis of the election question in accordance with Section 7.080.
- C. For the purposes of this section, all references to "clerk" of the conducting authority in which the Mariposa County Board of Supervisors is the conducting authority shall mean the Mariposa County Clerk.
- D. After counting the returns of the election(s), the legislative body of the conducting authority shall:
 - 1. Declare by resolution the total number of votes cast in the election(s) and the total number of votes cast for and against the change of organization or reorganization.
 - 2. Adopt a resolution taking one of the following actions:
 - (a) Confirming the change of organization or reorganization if the majority of the votes cast upon the question are in favor of the change of organization or reorganization based on the criteria set forth in Section 57176 of the Reorganization Act.
 - (b) Terminating proceedings if the majority of the votes cast upon the question are against the change of organization or reorganization.

[REFERENCE: Secs. 57100 to 57179 CGC]

4.060 Completion and Effective Date

- A. Proceedings for a change of organization or reorganization proposal shall be completed within one (1) year of the date of the Commission's resolution. **[REFERENCE: Sec. 57001 CGC]**
- B. The clerk of the conducting authority shall transmit to the Executive Officer by certified mail a certified copy of the resolution confirming the change of organization or reorganization or terminating proceedings within five (5) days after adoption of the resolution. **[REFERENCE: Sec. 57144 CGC]**
- C. The Executive Officer shall determine compliance of the conducting authority resolution with the Commission resolution. If it is in compliance, the Executive Officer shall issue a certificate of completion that completes the proceedings. If it is not in compliance, the resolution shall be returned to the conducting authority for correction. **[REFERENCE: Sec. 57200 CGC]**

- D. The Executive Officer shall record the certificate of completion with the County Recorder. If no effective date is specified in the Commission resolution, the recordation date shall be the effective date. [REFERENCE: Sec. 57200 CGC]
- E. The Executive Officer shall issue a statement of boundary change or creation and file the statement and appropriate fees with the State Board of Equalization and the County Assessor. Property tax resolutions, if any, shall be forwarded to the County Auditor for property tax transfer. [REFERENCE: Sec. 57200 CGC]
- F. The Executive Officer shall forward the certificate of completion, statement of boundary change, and effective date to the conducting authority, agencies whose boundaries are affected, County Surveyor, County Administrative Officer, and other affected County departments. [REFERENCE: Secs. 57203, 57204 CGC]

4.070 Appeals of Executive Officer Determinations

All written determinations of the Executive Officer may be appealed to the Commission upon filing of a Notice of Appeal with the Executive Officer. All appeals shall be processed in accordance with the Mariposa County Appeals Procedure, as adopted by resolution by the Board of Supervisors, except as modified by these policies, procedures, and standards.