

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: MAY 31, 2016
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: INTERESTED PERSONS

SUBJECT: CHANGE OF ORGANIZATION PROTEST PROCEDURES

One of the most frequent questions directed to the LAFCO staff pertains to the rights and responsibilities of voters and landowners within a change of organization (annexation, detachment, reorganization) area. Often, the questions revolve around the procedures that must be followed in submitting written, formal protest to the proceedings. At the outset, a couple of points about this procedure need to be emphasized:

- Written expressions of protest or support for a change of organization are always welcomed by the Local Agency Formation Commission. At the Commission level, however, these expressions are purely “advisory” in the sense that the Commission has the legal ability to approve or deny a proposal regardless of the level of consent or protest. Written protest only becomes legally binding in the final protest hearings.
- The legal requirements for a valid written protest are relatively simple, but they are very precise. Failure to comply with any one of the requirements will invalidate the protest.

With these basic points in mind, the California Government Code, commencing generally with Section 57000, provides the procedures and requirements for submitting a valid written protest. These can be summarized as follows:

1. Within a few days of a Commission action to approve a change of organization (a proposal that may include an annexation, a detachment, or a combination of these changes), a resolution reflecting that approval will be forwarded to a variety of affected agencies and persons. The issuance of the resolution sets in motion two separate processes:
 - a) The law allows a 30-day time period from the date of the Commission adoption of the resolution for any person or affected agency to request the Commission to reconsider its decision. If no written request is submitted during this period, the application will move forward through the protest proceeding.

- b) The LAFCO Executive Officer will formally announce a period of time during which registered voters and/or landowners may submit written protest against the change of organization. The announcement of the protest proceeding is provided through publication of a legal advertisement in a local newspaper and through mailing of individual notices to individual landowners and/or registered voters within the area proposed for change. By law, the protest period can be no less than 21 days from the date the announcement of the protest proceeding is provided, nor more than 60 days.
2. Written protest must be made on the form adopted by the Commission for this process. The protest must meet the following criteria:
 - a) Written protest must be signed, dated, and submitted to the LAFCO office within the protest period designated. Signatures bearing a date prior to the protest proceeding announcement, or signatures bearing a date or received after the close of the protest hearing, will not be counted as a valid protest. Protest cannot be accepted by fax or email.
 - b) At least one check box on the protest form must be marked and must have an original signature at the bottom of the form to be considered valid.
 - c) For a valid landowner protest, an address or parcel number within the change of organization area must be provided. For a valid voter protest, the voter must provide a name and address as they appear on the affidavit of voter registration. Only those voters and owners of land within an change of organization area are eligible to submit a legally binding written protest.

The Commission's adopted protest form, with instructions, are included as attachments to this memo.

3. At the conclusion of the protest period, the LAFCO Executive Officer will make a finding as to the value of valid, written protest. Based upon the level of protest received, the Executive Officer shall issue a resolution taking one of the following actions:
 - a) For *uninhabited* changes of organization (defined in Government Code Section 56046 as those changes of organization which contain less than 12 registered voters):
 - (1) **Terminate** the change of organization if protest is received from landowners who own 50% or more of the assessed value of land (improvement values are not counted) within the area; or,
 - (2) **Approve** the change of organization if written protest is submitted by landowners who own less than 50% of the assessed value of the area.
 - b) For *inhabited* changes of organization (areas containing 12 or more registered voters):

- (1) **Terminate** the change of organization if protest is received from 50% or more of the registered voters from within the change of organization area.
- (2) **Call an election** if protest is received from at least 25% but less than 50% of the registered voters, **or** if 25% to 100% of the number of landowners—who own at least 25% of the total land value—submit written protest. The voters (whether they own land or not) would then decide the issue by majority vote in a special election.
- (3) **Approve** the change of organization without an election if written protest is received from less than 25% of the voters and less than 25% of the landowners (owning less than 25% of the land value).

Further information concerning the protest procedures can be obtained through review of the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code Section 56000 et seq.). Specifically, Sections 57025, 57051, and 57075 will be most relevant to your review.

Additional information can also be obtained by writing or visiting the LAFCO staff office at the address listed above or by phone at (909) 388-0480. The staff can also be reached through E-mail at: lafco@lafco.sbcounty.gov.

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Attachments:

- 1 -- [Written Protest Instructions and Form](#)