



LAFCO 101

Introduction to Local Agency Formation Commissions

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LAFCO 101 Presenters

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What's Ahead

- ❖ Why LAFCO was Created
- ❖ LAFCO's Legislative Mission, Scope and Composition
- ❖ LAFCO's Planning and Regulatory Functions
- ❖ LAFCO's Legal Foundation
- ❖ Commission Roles and Challenges
- ❖ Q & A





Why LAFCO was Created

- ❖ Post World War II population and housing boom in California
- ❖ From street cars to suburbs - a scramble to finance and extend services
- ❖ City annexation "wars," and a proliferation of limited purpose special districts
- ❖ Governor Pat Brown's Commission on Metropolitan Problems focused on need to encourage orderly boundaries





LAFCO's Purposes

- ❖ Encourage orderly boundaries
- ❖ Discourage urban sprawl
- ❖ Preserve agriculture and open space
- ❖ Promote efficient public services
- ❖ Consider regional housing needs, adequate water and other issues





Legislative Compromise

- ❖ No Statewide Commission
- ❖ A LAFCO in each county
- ❖ Local control; no State appointees
- ❖ LAFCOs are independent; no administrative appeal





Legislative History

- ❖ 1963 - Knox-Nisbet Act – LAFCOs created to regulate boundaries
- ❖ 1965 - District Reorganization Act to unify district procedures
- ❖ 1971 - Spheres of Influence – LAFCOs plan, too
- ❖ 1972 - Allow special district members





Legislative History

(cont'd)

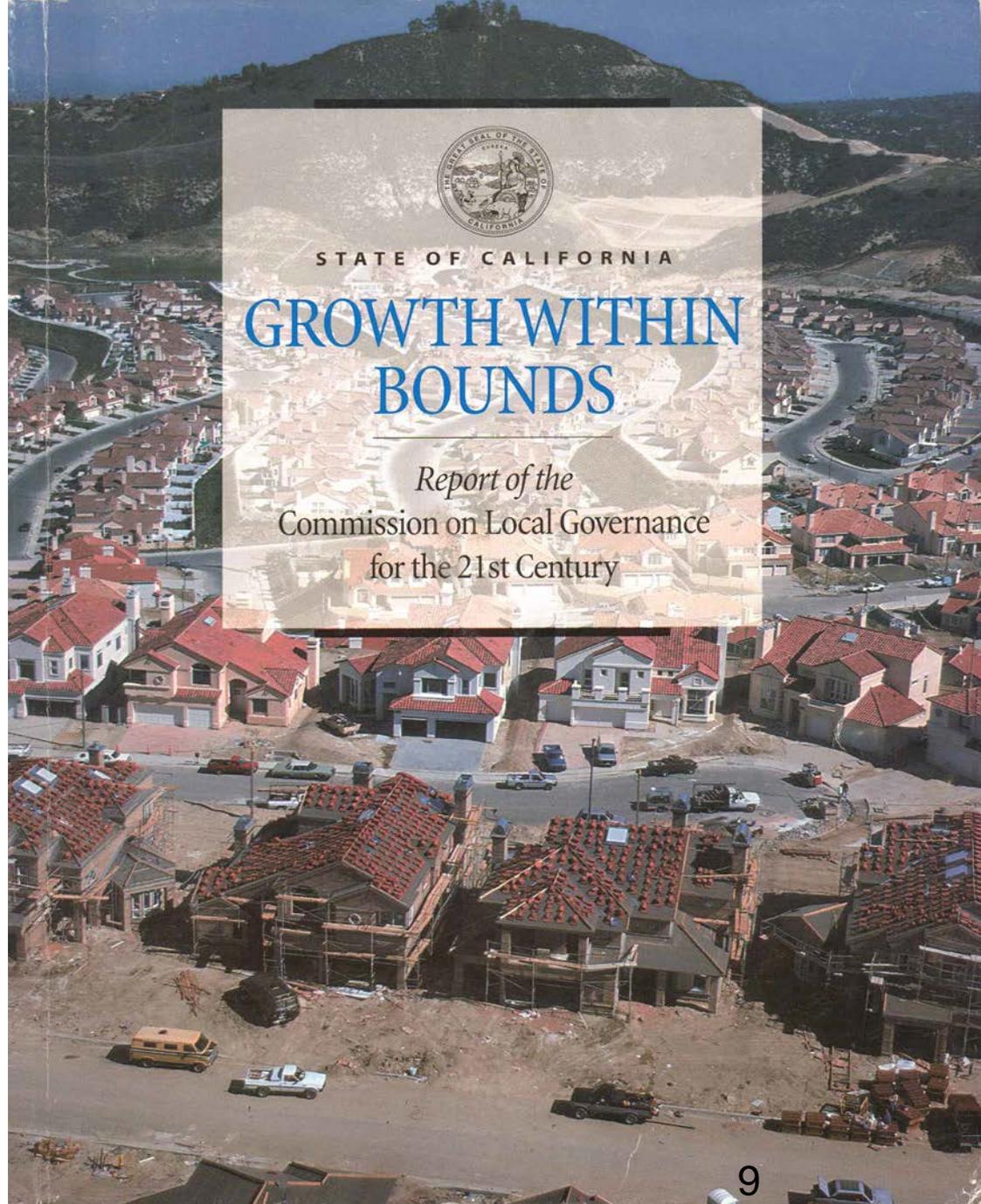
- ❖ 1977 - Municipal Organization Act – Clean up city procedures
- ❖ 1983 - Deadline to prepare Spheres of Influence
- ❖ 1985 - Cortese-Knox- Local Government Reorganization Act - Recodified
- ❖ 1993 - AB 1335 (Gotch) – Improved procedures, extraterritorial review





Recommendations (2000):

- ❖ LAFCOs be neutral, independent, and provide well balanced representation.
- ❖ Strengthen LAFCO's powers to prevent urban sprawl and ensure orderly extensions of governmental services.
- ❖ Municipal Service Reviews to inform SOI Updates
- ❖ Strengthen policies to protect agricultural and open space.





Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

Major Reforms:

- ❖ Broaden LAFCO funding formula
- ❖ Make LAFCO the conducting authority
- ❖ Require Municipal Service Reviews and periodic Sphere of Influence updates
- ❖ Add new factors – water supply, regional housing





LAFCO Composition

At the least:

- ❖ 2 County Supervisors
- ❖ 2 City Council members
- ❖ 1 Public member
- ❖ Alternate for each category

30 LAFCOs also include 2 Special District members plus an alternate.

Some LAFCOs have “special seats.”





Commissions a Unique Mix



30 LAFCOs
with Special
District
Members





Local Agencies Regulated by LAFCO

❖ Include:

- ◆ Counties, cities, most special districts

❖ Do NOT include:

- ◆ JPAs
- ◆ Community facilities or Mello-Roos districts
- ◆ School or college districts
- ◆ County boundaries
- ◆ Bridge and highway districts
- ◆ Improvement districts
- ◆ Zones of benefit
- ◆ Air pollution/quality districts





What Can LAFCO Do?

- ❖ City Incorporations (and Disincorporations)
- ❖ District Formations (and Dissolutions)
- ❖ Annexations
- ❖ Detachments
- ❖ Consolidations and Mergers
- ❖ Service Extensions outside a District or City
- ❖ Spheres of Influence
- ❖ Municipal Service Reviews
- ❖ Activate Latent Powers
- ❖ Review Fire Contracts





LAFCO's Planning Functions

- ❖ Develop and update Spheres of Influence for cities and districts
- ❖ Prepare Municipal Service Reviews for all local jurisdictions
- ❖ Work cooperatively on growth, preservation and service delivery issues





LAFCO's Regulatory Functions

- ❖ Administer modifications of existing agencies and creation of new ones
- ❖ Consider boundary changes
- ❖ Control extension of public services
- ❖ Prohibited from directly regulating land use





When Does LAFCO Get Involved?

- ❖ LAFCOs vary in approach (proactive vs. reactive)
- ❖ Opportunities:
 - ◆ Planning level (e.g., General Plan)
 - ◆ LAFCO application
 - ◆ Project level (e.g., CEQA)
 - ◆ Community issues

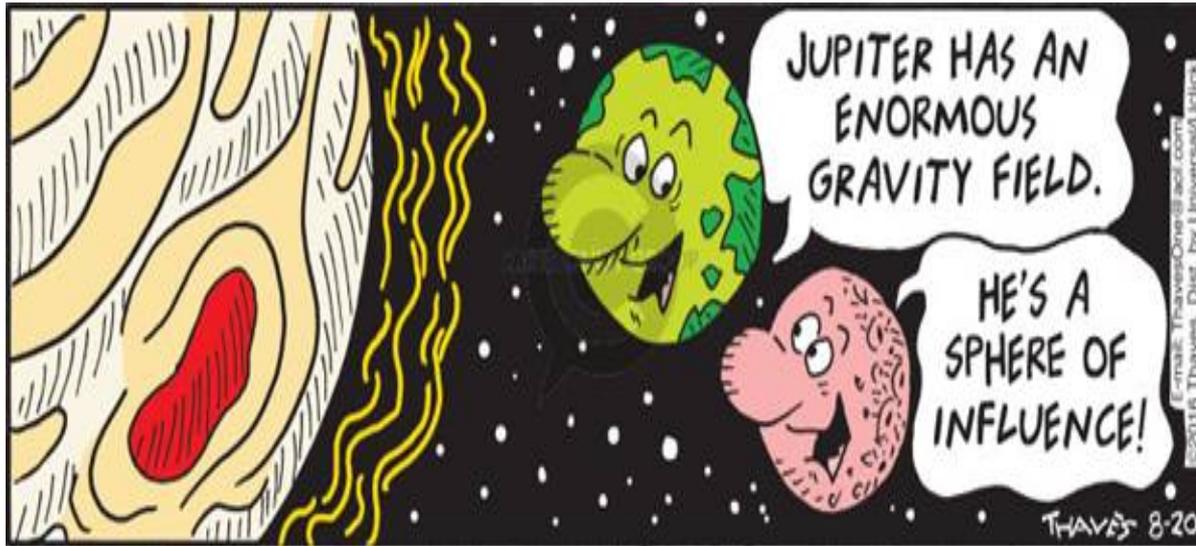




Statutory Requirements

- ❖ Municipal Service Review
- ↓
- ❖ Sphere of Influence
- ↓
- ❖ Boundary change decisions must be consistent with the spheres of influence of affected agencies







LAFCOs' Legal Role

- ❖ LAFCO is the Legislature's "watchdog" over local governments – its job is to regulate local government actions
- ❖ While powers are broad, LAFCO jurisdiction is limited to actions and powers granted by statute
- ❖ Must consider land use issues but cannot directly regulate land use





Subject to State Laws

- ❖ Cortese-Knox-Hertzberg Act
- ❖ Brown Act / Public Records Act
- ❖ CEQA
- ❖ Revenue & Tax Code
- ❖ Political Reform Act / Other Conflict of Interest Laws
- ❖ Principal Acts





Limited Legal Challenge

- ❖ LAFCO decisions are quasi-legislative
- ❖ Not appealable to any other body except the courts
- ❖ Short period to file suit
- ❖ Limited legal challenge to decisions
- ❖ Upheld as long as decision is not “arbitrary and capricious”





LAFCOs' Key Legal Concerns

- ❖ Must act in accordance with state law and locally adopted policies
- ❖ Comply w/ CEQA as lead or responsible agency
- ❖ Must adopt findings to support decision (*McBail*)





Environmental Review of LAFCO Decisions

- ❖ Many LAFCO actions are "projects" under CEQA
- ❖ Pre-zoning makes city lead agency
- ❖ LAFCO is often responsible agency
- ❖ Categorical exemptions tailored to LAFCO actions - Classes 19 & 20





LAFCO Process

❖ Pre-Application Steps

- ◆ Meet with LAFCO staff
- ◆ City-County consultation (for Sphere of Influence amendments)
- ◆ Prepare an application package
- ◆ Initiating petition or resolution





LAFCO Process (cont'd)

❖ Public Hearing Steps

- ◆ LAFCO receives application package
- ◆ Referrals, tax exchange and comment to affected agencies
- ◆ Review for completeness
- ◆ Consistency analysis
- ◆ Staff report with recommendations
- ◆ Conduct public hearing





LAFCO Process (cont'd)

❖ Post-Hearing Steps

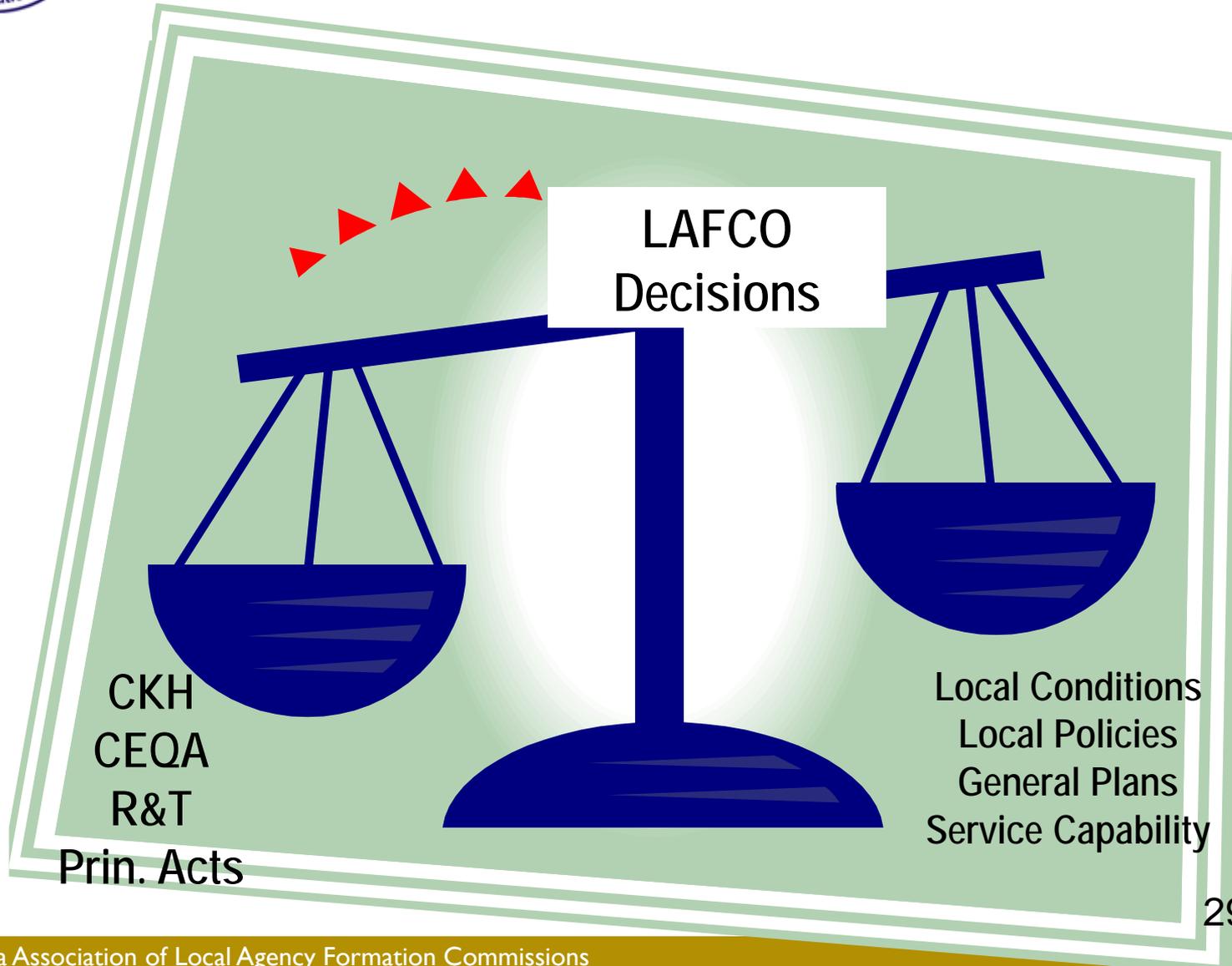
If Commission approves application, then:

- ◆ Reconsideration period, if required
- ◆ Conduct Protest hearing, if required
- ◆ Satisfy any conditions of approval
- ◆ File documents with County Recorder and State Board of Equalization, if required





LAFCO Balancing Act





LAFCO Misperceptions

- ❖ LAFCO has a “magic wand” that instantly solves boundary and service issues.
- ❖ LAFCO proceedings do not require deliberate review and analysis that require agency and public collaboration and/or support.
- ❖ LAFCO is an arm of the county, not the state.
- ❖ LAFCO’s sole mission is to dissolve agencies, particularly special districts.
- ❖ LAFCO’s role is always “reactive” and not “proactive.”





Litigation

- ❖ Any decision can be litigated, so it is a good idea to do thorough reports and make good findings supported by record evidence as a routine practice
- ❖ Still, the riskier projects tend to identify themselves
- ❖ Talk to your counsel early and often about those
- ❖ Make a good record





Litigation

- ❖ What Claims are Most Common?
 - ◆ CEQA
 - ◆ Cortese Knox Hertzberg Act
 - ◆ Civil Rights Claims
 - ◆ Public Records Act
 - ◆ Brown Act
 - ◆ Political Reform Act and Other Conflict Laws





Litigation

- ❖ Most common claims seek a writ of mandate
- ❖ Such cases are reviewed on your administrative record
- ❖ The standard of review is more deferential under CKH and CEQA than on civil rights claims or the Political Reform Act or Brown Act





Avoiding Litigation

- ❖ Thus, preventing litigation can be summarized as
 - ◆ Avoid procedural error
 - ◆ Ensure there is substantial evidence to support every required finding
- ❖ Common procedural errors
 - ◆ Notice
 - ◆ Making all the findings and tying findings to evidence
 - ◆ Allowing a fair hearing, avoiding bias and conflicts of interest





LAFCOs are Independent

“Where you stand depends on where you sit.”

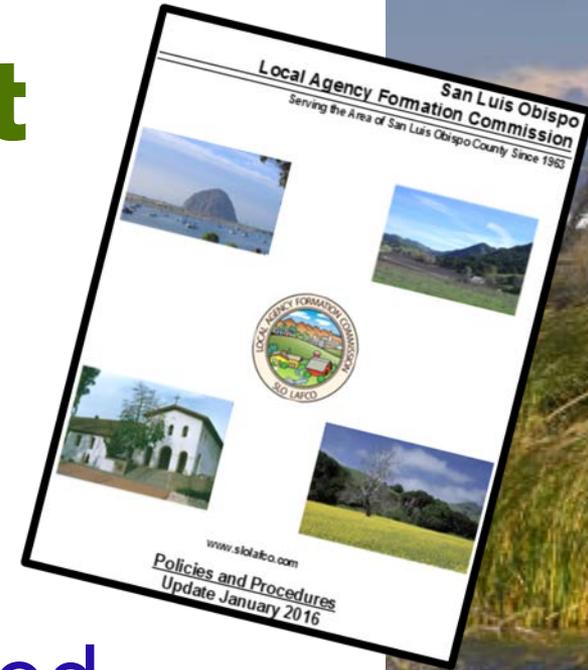
All commissioners take off their county, city, or special district hats and sit as members of LAFCO





LAFCOs are Independent

- ❖ Commissioners make final decisions
- ❖ Adopt local policies
- ❖ Decisions cannot be appealed to other administrative bodies
- ❖ LAFCO staff accountable to Commission and statutes





Commissioners are Independent, too

- ❖ Exercise independent judgment on behalf of public, not appointing agency
- ❖ Based on CKH and local LAFCO policies - not solely on interests of appointing agency
- ❖ “LAFCO Hat” involves a broader perspective representing “public as a whole”





Commissioners' Role

- ❖ What decisions will you make?
- ❖ What are your responsibilities?
- ❖ Active agenda vs. reactive caseload
- ❖ Make decisions that are supported by statute, local policies, and sound and comprehensive staff analysis





Each Commission is Independent

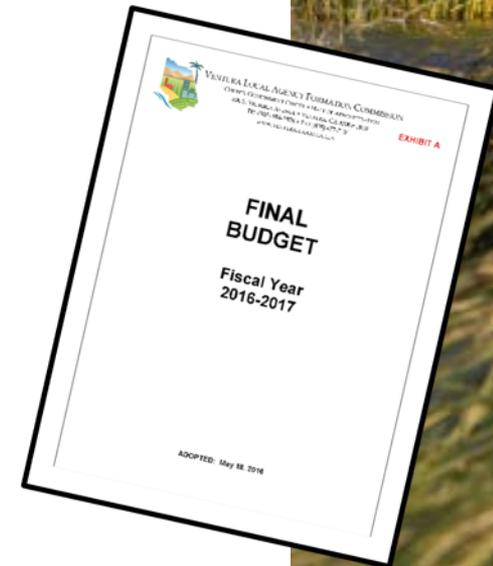
- ❖ Provides own office, equipment, personnel
- ❖ Appoints an Executive Officer
- ❖ Appoints a Legal Counsel
- ❖ Can contract for staff services





LAFCO is Funded Locally

- ❖ Must adopt a work program and budget for each fiscal year by June 15
- ❖ Budget process is outlined in CKH Act
- ❖ Funded by the county, cities, and special districts (usually in equal shares)
- ❖ County Auditor processes the invoices





LAFCO is Funded Locally (cont'd)

- ❖ Local funding formulas are allowed
- ❖ Processing fees help to offset expenses for proposals
- ❖ Adoption of fee schedule recommended





LAFCO Staff Serve the Public and Commission

- ❖ Provide accurate and comprehensive information
- ❖ Analyze and interpret CKH and other laws (CEQA, general plans, etc.)
- ❖ Process proposals consistently w/ CKH and local procedures and policies
- ❖ Prepare notices, staff reports, studies and recommendations
- ❖ Implement Commission decisions





Commissioner/Staff Engagement

- ❖ Seek out staff for additional information or questions before LAFCO meetings
- ❖ Use related professional background and experience to assist staff
- ❖ Make yourself available to staff – communication is a mutual exchange





Current Challenges

- ❖ Sphere of Influence updates and Municipal Service Reviews (56425(g))
- ❖ Disadvantaged Unincorporated Communities (56375(a)(8))
- ❖ Viability of smaller local agencies
- ❖ Water, water, water (SGMA implementation, etc.)





Current Legislative Issues

- ❖ New JPA – LAFCO statute (SB 1266)
- ❖ New disincorporation statute (AB 2032)
- ❖ Water systems, water supply planning (SB 552, SB 1262, SB 1318)
- ❖ Disadvantaged communities (SB 1318, died)





CALAFCO

- ❖ Professional education (annual conference, staff workshop, CALAFCO University)
- ❖ Technical resources (research reports/white papers, contact directory, library, list serves, *The Sphere*, etc.)
- ❖ Statewide coordination
- ❖ Resource to legislature and other organizations





Promote orderly growth
Prevent sprawl
Preserve agriculture and open space
Assure efficient, sustainable public services



Panel Discussion Questions and Answers





www.calafco.org

Information and resources on
LAFCO law and process

