



# LAFCO 101

## Understanding & Applying the Basics

Santa Barbara LAFCO Orientation

May 5, 2022





# What's Ahead

- ❖ Why LAFCO was created?
- ❖ LAFCO's Legislative Mission, Scope, and Composition
- ❖ LAFCO's Planning and Regulatory Functions
- ❖ LAFCO's Legal foundation
- ❖ Q and A





# Why LAFCO was created

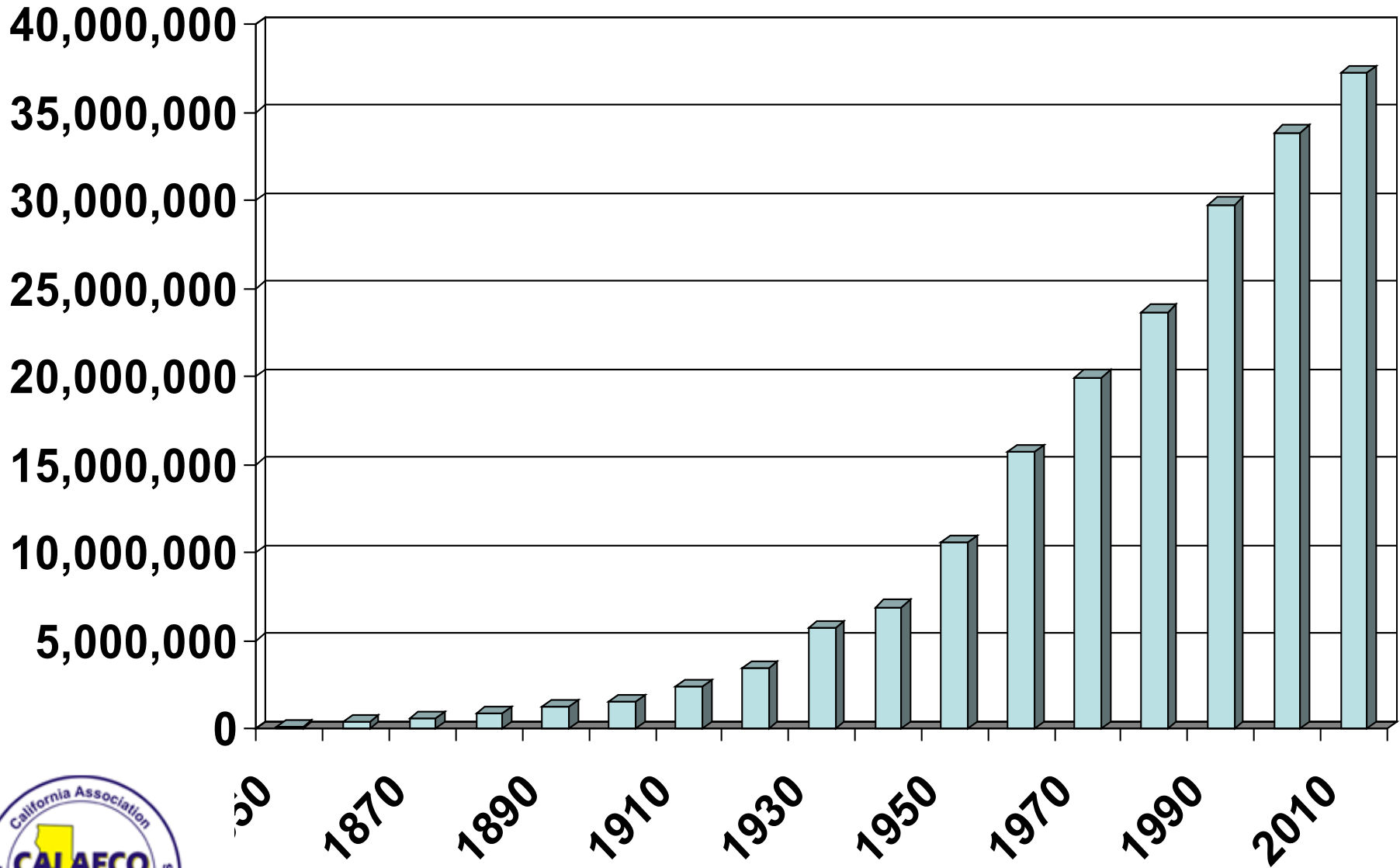
- ❖ **Post World War II population and housing boom in California**
- ❖ **Following street cars, there were suburbs and a scramble to finance and extend services**
- ❖ **City annexation "wars," proliferation of limited purpose special districts**
- ❖ **Governor Pat Brown's Commission on Urban Problems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



Census

Pop.

%±



Population

**WATER**

FROM THE

**COLORADO  
RIVER**

**WATER**

FROM THE

**COLORADO  
RIVER**

**WE NEED IT**

*let's go*

AND

**GET IT!**

**WE NEED IT**

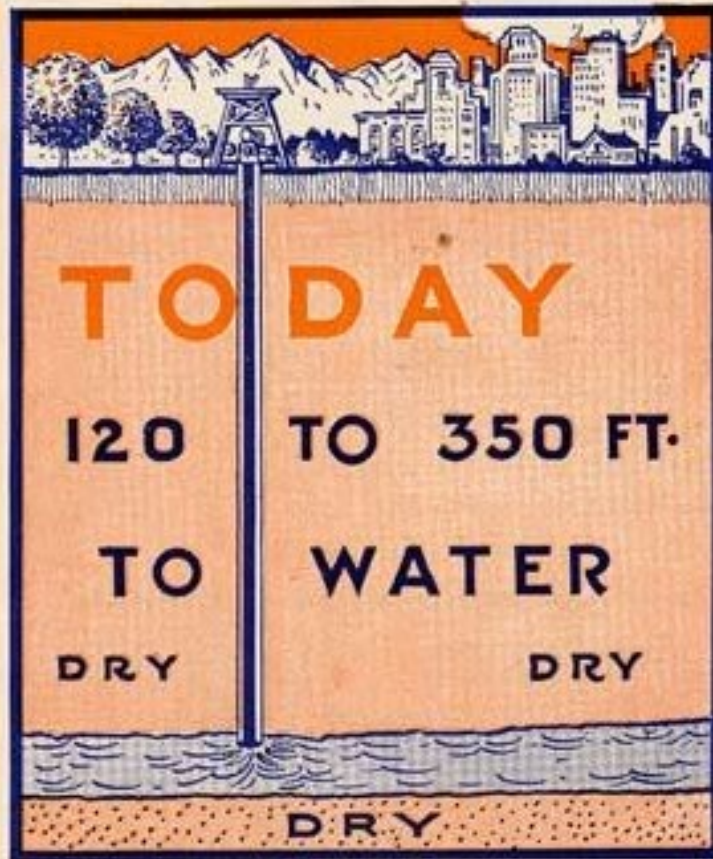
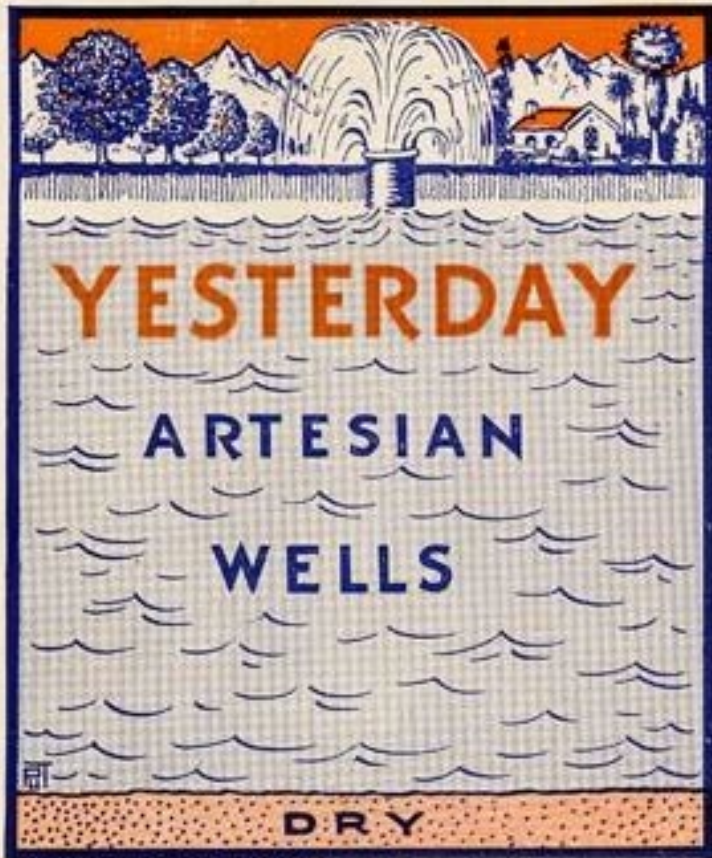
*let's go*

AND

**GET IT!**



# WHY WE NEED COLORADO RIVER WATER IN SOUTHERN CALIFORNIA



We need your help. Sign the enclosed card NOW—and thereby indicate your support of a project that means the very life of our Southern California.

CITIZENS COLORADO RIVER WATER COMMITTEE

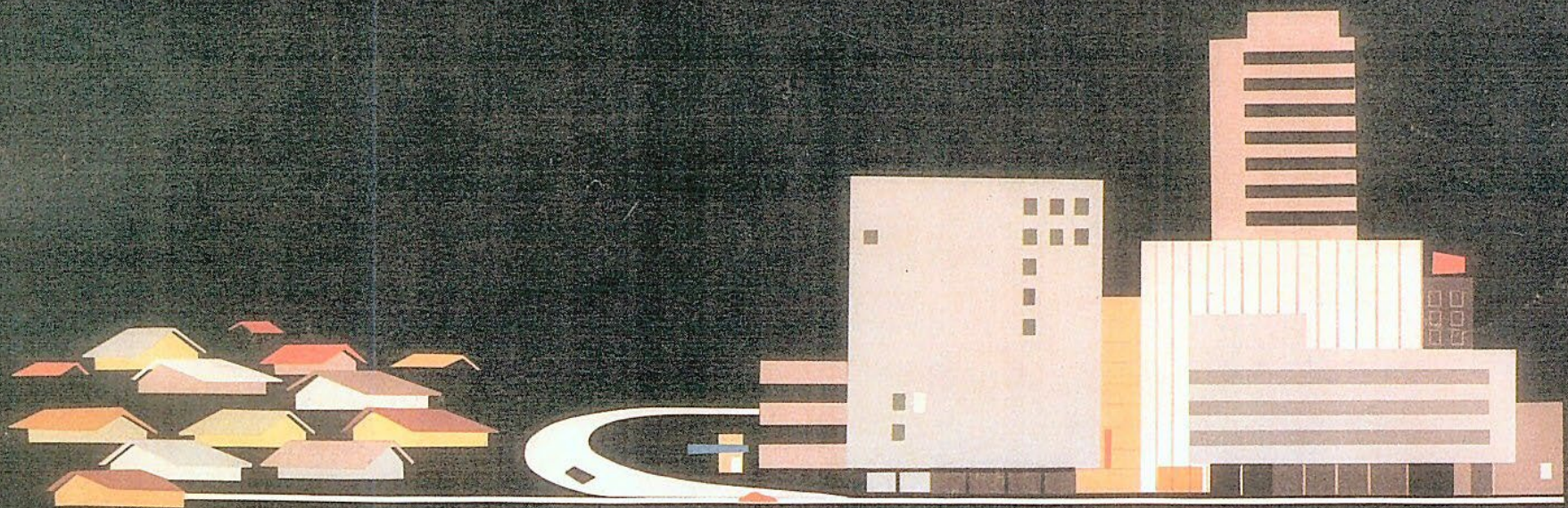
Central Headquarters: Ground Floor, Title Guarantee and Trust Bldg.

Fifth and Hill Streets, Los Angeles

July, 1931

*-we?  
-who paid  
the rent?*

# MEETING METROPOLITAN PROBLEMS



**REPORT OF THE GOVERNOR'S COMMISSION ON METROPOLITAN AREA PROBLEMS**  
STATE OF CALIFORNIA—Edmund G. Brown, Governor



# **LAFCO'S Purposes: Legislative**

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







# Legislative Compromise

- ❖ **No Statewide Commission or agency**
- ❖ **A LAFCO in each county**
- ❖ **Local Control; no State appointees**
- ❖ **LAFCO are independent; no administrative appeal**





# Legislative History

- ❖ **1963 - Knox-Nesbitt Act –LAFCOs created to regulate boundaries**
- ❖ **1965 - District Reorganization Act (DRA) to unify district procedures**
- ❖ **1971 - Spheres of influence – LAFCOs plan too**
- ❖ **1972 - Allow special district members**
- ❖ **1977 - Municipal Organization Act Clean up city procedures**





# Legislative History

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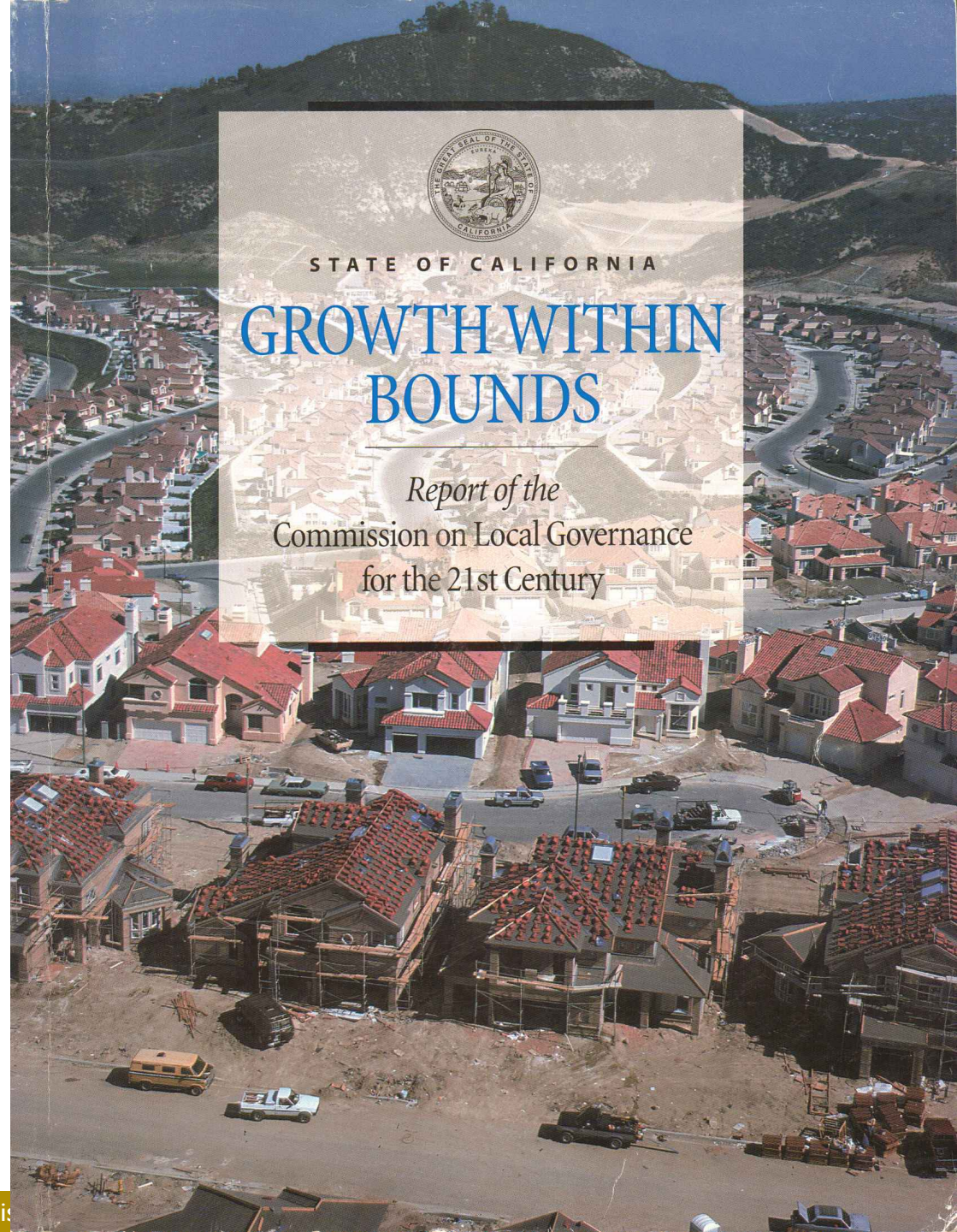
- ❖ **1983 - Deadlines to prepare spheres**
- ❖ **1985 - Cortese-Knox Local Government Reorganization Act – Recodify**
- ❖ **1993 - AB 1335 (Gotch) – Improve procedures**
- ❖ **2000 - AB 2838 (Hertzberg) – Major reforms**
  - ◆ **Broaden LAFCO funding formula**
  - ◆ **Make LAFCO the conducting authority**
  - ◆ **Require Municipal Service Reviews and periodic Sphere of Influence update**
  - ◆ **Add new factors – water supply, regional housing, Disadvantaged Unincorp. Comm.**





## Recommendations:

- ❖ 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.





# Commissioners' Role

- ❖ Why LAFCOs matter?
- ❖ What decisions will you make?
- ❖ What are your responsibilities?
- ❖ Make decisions supported by statute, local policies, and sound and comprehensive analysis





# Commissioners are Independent, too

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





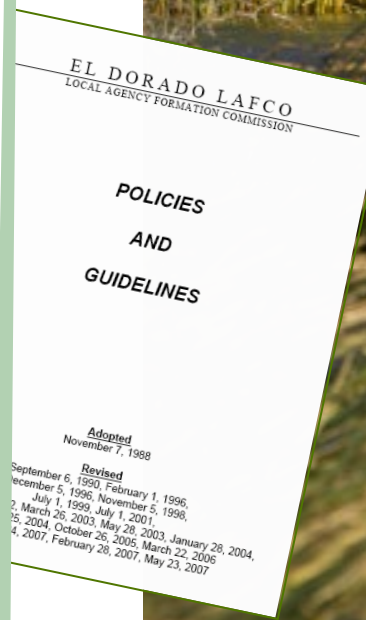
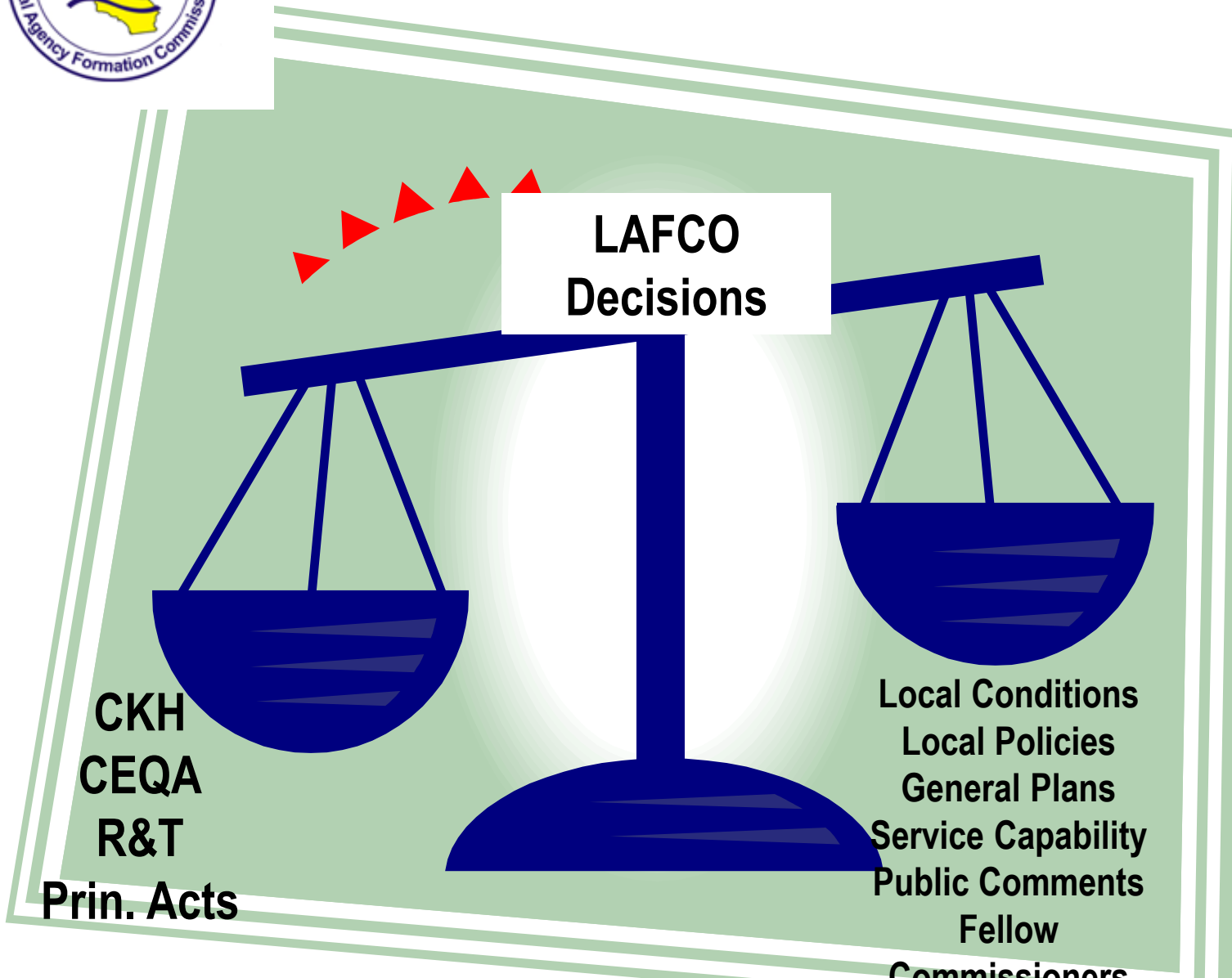
# Commissioners

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





# LAFCO Balancing Act







# LAFCO Composition

Basic composition – Diverse!

- ❖ 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”
- ❖ Counties with no cities





# Commissions a Unique Mix

30 LAFCOs with Special District Members





# What decisions do you make?

- ❖ **City Incorporation and Disincorporation**
- ❖ **District Formations and Dissolutions**
- ❖ **Annexations & Detachments**
- ❖ **Consolidations-2 or more Cities or Districts**
- ❖ **Service Extensions outside a District or City**
- ❖ **Spheres of Influence/MSRs**
- ❖ **Activate Latent Powers**
- ❖ **Review Fire Contracts**





# Local Agencies Regulated by LAFCO

## ❖ Includes:

- ◆ Counties, cities, most special districts

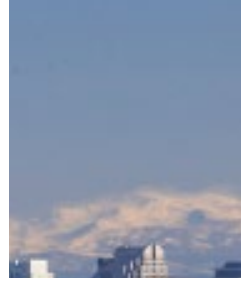
## ❖ Does NOT include:

- ◆ JPAs –(Must submit Agreements to LAFCO)
- ◆ Community facilities or Mello-Roos districts
- ◆ School or college districts
- ◆ County boundary lines
- ◆ Bridge and highway districts
- ◆ Improvement districts
- ◆ Zones of benefit
- ◆ Air Pollution/Quality Districts
- ◆ Councils of Governments

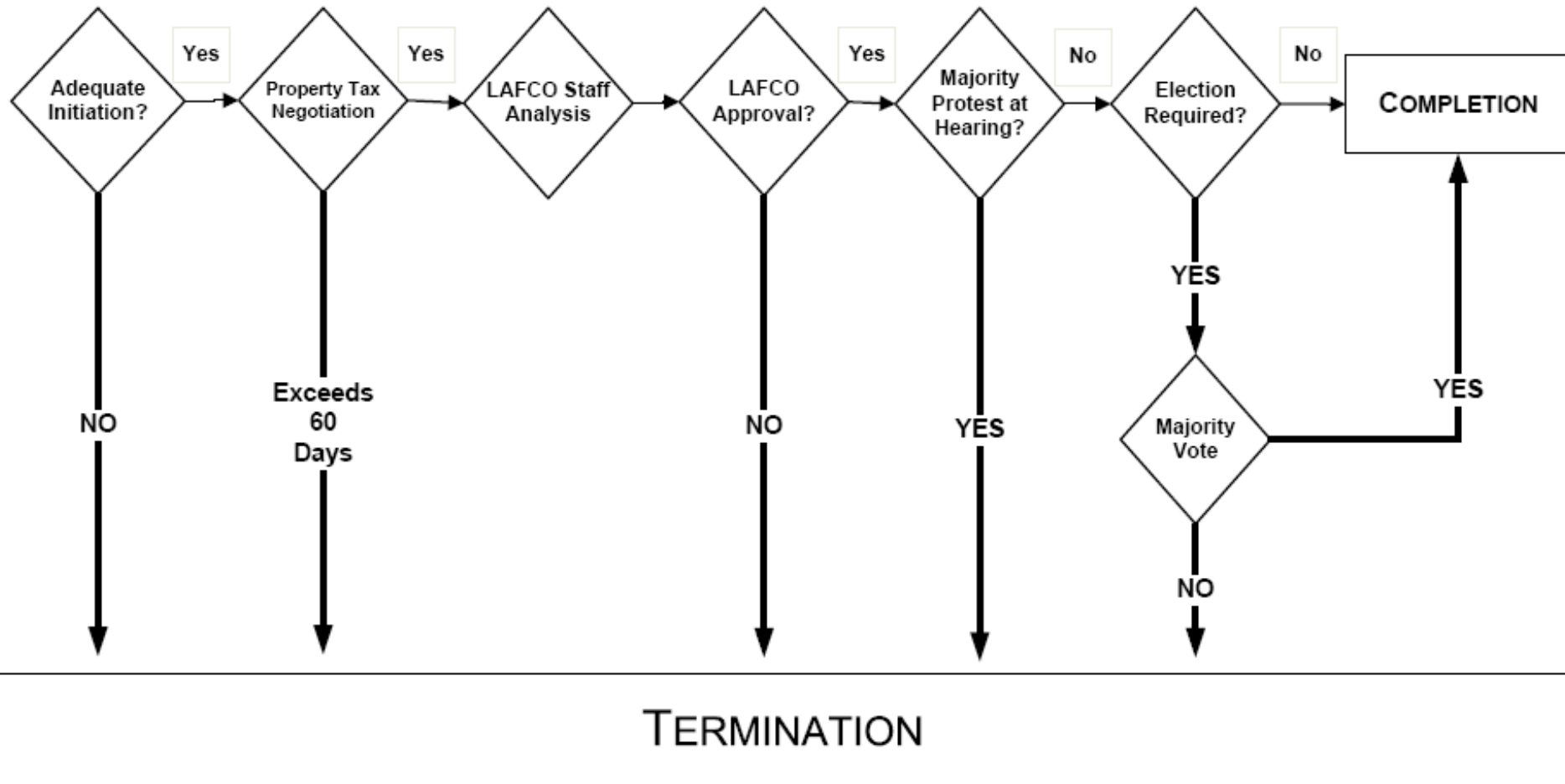




# “Normal” LAFCO Process

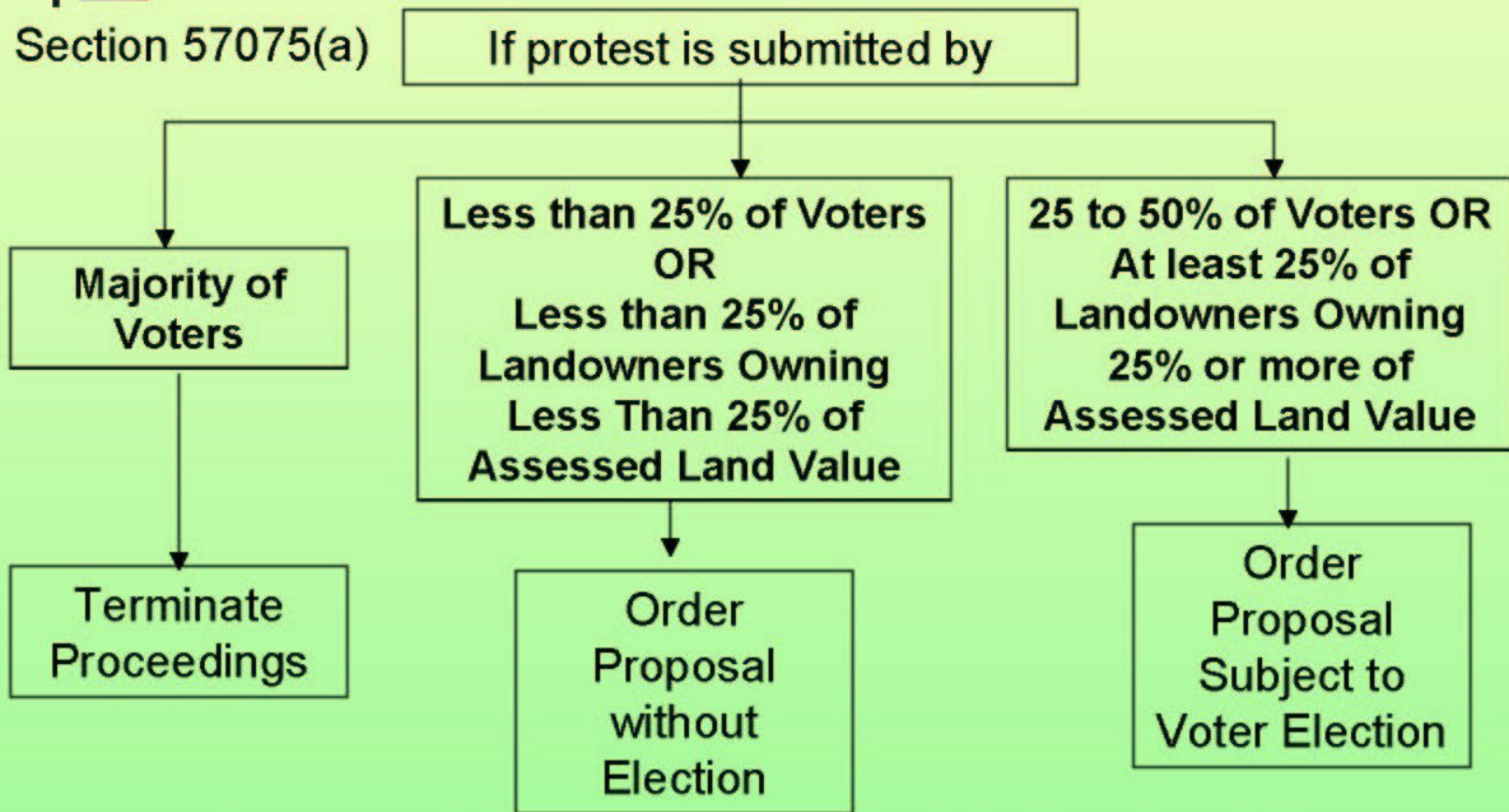


## Simple LAFCO Procedure





## Protest Thresholds: Inhabited Areas\*



\* Areas with 12 or more registered voters (Section 56046)



# LAFCO's PLANNING Function

- ❖ 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 Function

- ❖ Administers modification of existing agencies and creation of new ones
- ❖ Considers boundary changes
- ❖ Controls extension of public services
- ❖ Is prohibited from directly regulating land use







# 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





# LAFCOs Legal Role

- ❖ While powers are broad, LAFCO jurisdiction is limited to certain actions and are limited to those powers granted by statute
- ❖ Must consider land use issues but not regulate them directly. Legislature has given LAFCOs authority over boundary decisions and other government organization issues
- ❖ LAFCO is the Legislature's "watchdog" for local governments – one job is to monitor local government actions





# Subject to State Laws

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





# LAFCOs' Key Legal Concerns

- ❖ Must Act in accordance with state law and locally adopted policies
- ❖ Comply with CEQA as lead or responsible agency
- ❖ Must Adopt determinations to support decision (McBail)
- ❖ Terms and Conditions





# Limited Legal Challenge

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





# 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

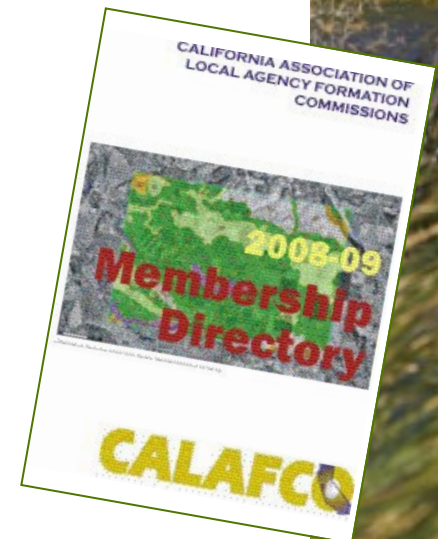
- ❖ What Claims are Most Common?
  - ◆ CEQA
  - ◆ Cortese-Knox-Hertzberg
  - ◆ Civil Rights Claims
  - ◆ Public Records Act
  - ◆ Brown Act
  - ◆ Political Reform Act and Other Conflict Laws





# Each LAFCO Independent

- ❖ Provides own office, equipment, personnel
- ❖ Appoints an Executive Officer
- ❖ Appoints a Legal Counsel
- ❖ Can contract for staff services
- ❖ Administrative authority as an independent public agency

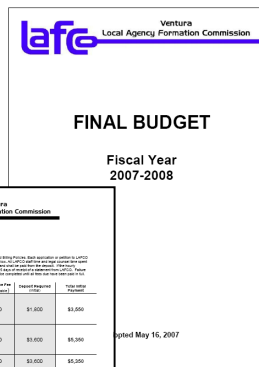






# LAFCO is Funded Locally

- ❖ Must adopt a budget for each fiscal year by June 15
- ❖ Many LAFCOs approve a work plan too
- ❖ Budget process is outlined in CKH Act
- ❖ Minimum funding level is defined
- ❖ Net cost funded by the county, cities, and special districts (usually in equal shares)
- ❖ County Auditor calculates charges and processes the invoices



TITLE OF ACTION	Initiation Fee	Assessment Fee	Final Fee
Response to Change of Organization of Designated Public Agency involving authority to provide services, laws, ordinances and resolutions and subject agencies consent to the change.	\$1,750	\$1,000	\$3,000
Response to Change of Organization of Designated Public Agency involving authority to provide services, laws, ordinances and resolutions and subject agencies do not consent to the change.	\$1,750	\$1,000	\$5,000
Special District Agreements - Sole District	\$1,750	\$1,000	\$5,000
Special District Agreements - Multi-District	\$1,750	\$1,000	\$5,000
Special District Agreements - Joint District	\$1,750	\$1,000	\$5,000
Special District Agreements - Consolidated, Merged, Dissolution or Formation of a Special District	\$1,750	\$4,000	\$4,000
Special District Agreements - Expansion of Special District Powers	\$1,750	\$1,000	\$3,000
Expansion of Fire Protection Services	\$1,750	\$800	\$2,000
Expansion of Police Services	\$1,750	\$800	\$2,000
Expansion of Public Works Services	\$1,750	\$800	\$2,000
Expansion of Other Services	\$1,750	\$800	\$2,000
Expansion of Other Services (Other than Fire, Police, Public Works, or Other Services)	\$1,750	\$800	\$2,000
Expansion of Other Services (Other than Fire, Police, Public Works, or Other Services) - Fee Waiver or Reduction of Fee Payment	\$1,750	\$800	\$2,000
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# **LAFCO Staff serves Public/Commission**

- ❖ Serve the Commission by providing accurate and comprehensive information
- ❖ Analyze and Interpret CKH and other laws (CEQA, General Plans, etc.)
- ❖ Process proposals consistent with CKH and local procedures and policies
- ❖ Prepare staff reports, studies and make recommendations
- ❖ Implement Commission decisions





# Current Challenges

- ❖ Sphere Updates (56425(g))
- ❖ Service Extensions (56133)
- ❖ Authority to impose conditions (56886)
- ❖ Special requirements for Ag Land Conversion (56377)
- ❖ DUCs –Disadvantaged Unincorporated Communities (56375(a)(8))



# LAFCO Resources to Use

- ❖ [www.leginfo.ca.gov](http://www.leginfo.ca.gov)
- ❖ [www.calafco.org](http://www.calafco.org)
- ❖ [www.lao.ca.gov](http://www.lao.ca.gov)
- ❖ [www.csda.net](http://www.csda.net)
- ❖ [www.cacities.org](http://www.cacities.org)
- ❖ [www.dof.ca.gov/research](http://www.dof.ca.gov/research)
- ❖ [www.csac.counties.org](http://www.csac.counties.org)

