

California Within Limits:

Research Notes for a History of California's Local Boundary Laws

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One history of California tells the story of its boom-and-bust cycles that accelerate land speculation and then crash into slack periods of economic despair. There is a parallel history which traces how the public sector responds to those market excesses, intervening after the fact and adjusting to new realities. The ways in which state, regional, and local officials react by creating new institutions and new procedures fascinated me during my nearly 40 years in public service. Some day someone should write the history of California's local boundary laws as one explanation of these parallel histories.

While I am not the person to write that sweeping history, I assembled these research notes for the 50th anniversary of the creation of local agency formation commissions (LAFCOs). What follows is my attempt to recognize the political events that led up to the 1963 bill and then to record the key legislative bills, court decisions, popular elections, and administrative actions that followed. Almost by definition, these research notes are incomplete. I have skipped events that others think important and I have highlighted moments that others may later ignore. My purpose, however, is to provoke a discussion about where California's local boundary laws came from and how they took their present shape.

One way to discover themes in public decisions is to look for policy, powers, procedures, and oversight. This approach to analysis helped me in my legislative staff career and I applied it to these notes as well.

- **Policy:** *What are the explicit (and implicit) commitments to public policy?*
- **Powers:** *What are governments' regulatory and fiscal powers?*
- **Procedures:** *How responsive are public agencies and their officials?*
- **Oversight:** *How do we know they did what we wanted them to do?*

Policies. Some statutes contain *explicit* policy statements. Specific findings and declarations of legislative intent are the most obvious ways for legislators to send signals to colleagues, constituents, and judges. A bill may enact a new section that overtly recites findings and declarations. Bill that create major programs often place these recitations immediately after the title of the new statutory division or chapter. For lesser measures, a legislator may relegate these statements to an uncodified section. On some occasions, bills declare that they incorporate recommendations from outside reports, even citing the studies by name.

More often legislative policy is implicit, to be detected and interpreted from the statute's context. The ways that a law arranges procedures, defines terms, limits authority, or raises revenues are clues to the author's intent. When a bill's intent is not plain from its own wording, the courts may look at secondary sources, such as committee bill analyses and reports from interim hearings.

The history of California's local boundary laws shows several deliberate attempts to declare the state's policies for decisions about city and district boundaries.

- The original legislation said that among LAFCO's purposes was discouraging urban sprawl and encouraging orderly formation of local agencies.
- Courts repeatedly call LAFCOs the state's boundary "watchdogs."
- Legislators added the concern for agricultural land and open space.
- The 2000 Hertzberg bill overhauled the statement of legislative intent.
- Later reformers told LAFCOs to consider regional housing needs, environmental justice, and sustainable communities strategies.
- There is an implicit policy preference for city annexations over the incorporation of new cities, shown by the petition thresholds (5% and 25%).

Powers. Responsible and effective public officials need enough --- but not too much --- power to carry out their statutory duties to implement public policies. Policies and powers must match. Government power can be both *regulatory* and *fiscal*. If the Legislature sets ambitious policies, but fails to provide sufficient power, then local officials can't deliver the results that legislators wanted. Conversely if the Legislature doesn't explain its policies, then public officials lack guidance on how to use government powers. But Californians and their legislators distrust powerful governments. Legislators search for balance between providing governmental powers that fulfill legitimate public policies and protecting their constituents' rights.

LAFCOs are quasi-legislative agencies, operating as the Legislature's agents. Using their delegated powers, LAFCOs can do what the Legislature itself could do: bring new cities and special districts into existence and control where and when cities and districts provide public facilities and deliver public services.

State law spells out LAFCOs' powers:

- A detailed list of 18 specific actions.
- Another detailed list of the 22 terms and conditions that LAFCOs can impose on decisions, including "any other matters necessary or incidental."
- The authority to initiate certain types of special district boundary changes.

- The power to plan for future actions, including reorganization plans, municipal service reviews, and spheres of influence.
- Independence from county government control with the appointment of independent executive officers and legal counsels, and shared funding from counties, cities, and special districts.

But it's important to note that state law also limits some of LAFCOs' powers:

- No discretion to deny city annexations within "urban service areas."
- No discretion to deny certain city annexations of unincorporated islands.
- No authority to directly regulate land use, development, or subdivisions.

Procedures. The reformist impulses of the Progressive Era and several waves of Populist movements still echo in California government and politics. Californians insist on fair access to decisions and to their decision-makers. State statutes that regulate procedures include the *Brown Act* (local officials' meetings must be open and public), the *Public Records Act* (ensuring access to government documents), the *Political Reform Act* (requiring officials to disclose their economic interests), and a myriad of statutory requirements for public notice, public hearings, protests, and elections.

Honoring the themes of political transparency and public accountability, the state statutes governing LAFCOs:

- Spell out detailed requirements for petitions, public notice, public hearings.
- Allow disappointed parties to openly appeal LAFCOs' decisions.
- Require LAFCOs to measure public protests before changing boundaries.
- Allow elections on boundary changes if there are significant protests.
- Require disclosure of political spending on petitions and campaigns.

Oversight. Responsive government is accountable government. Initially spawned in righteous enthusiasm, some public programs outlive their usefulness, but continue only because legislators forgot about them. Institutional inertia, changing social and political climates, and automatic budgeting can combine to allow archaic and ineffective programs to persist. One of the politically least attractive --- but potentially most powerful --- legislative duties is to oversee existing programs. Now that term limits (Proposition 140 in 1990) enforce legislative turnover, the legislators who originally authored new laws may not be around to monitor their implementation. Legislators can avoid creating perpetual programs by insisting that new programs contain oversight mechanisms: *regular records*, *periodic reports*, *special studies*, and *sunset clauses*.

An intricate web of public oversight web keeps tabs on LAFCOs' performance:

- Early reports by state councils and offices on how LAFCOs operated.
- Repeated legislative oversight hearings on LAFCO powers and performance.
- Statutory mandates for LAFCOs to review and update their municipal service reviews and sphere of influence every five years, "as necessary."
- Court cases, especially appellate decisions, that test LAFCOs' decisions against constitutional principles and protections.

Persistent challenges. A half-century after their creation, LAFCOs continue to frustrate and sometimes confound their critics. Some say that they haven't lived up to their potential to meet their two initial purposes: discourage urban sprawl and encourage orderly local boundaries. A clear-eyed look at the record shows that these controversies remain unsettled:

- **Governance.** Who gets to sit on LAFCO and whom do they really represent? Who speaks for affordable housing, job creation, environmental quality, natural resource protection? Is the mid-1960s formula for representation a political anachronism?
- **Political will.** LAFCOs have plenty of power to draw California's future, one annexation at a time. Why do public agencies still convert so much agricultural land and open space? Why are spheres of influence so big?
- **Proliferation.** LAFCOs were supposed to trim the thicket of local government. Why do ineffective cities and special districts persist? Why won't LAFCOs lead?
- **Islands.** Even with significant delegated powers to clean-up unincorporated islands within cities, too many remain. The Legislature repeatedly renews this authority, but what keeps some LAFCOs from fulfilling their potential?
- **Facilities and services.** Why do some poor neighborhoods lack public facilities and services while greenfield development continues? Why don't more LAFCOs embrace environmental justice?
- **Think regionally, act locally.** Linking regional transportation plans and regional housing needs was a political breakthrough in 2008. Five years later, are LAFCOs ready to implement this regional perspective?

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- 1849 Sacramento residents adopt a city charter, even before statehood.
- 1850 Governor Peter H. Burnett vetoes special incorporation bills for Los Angeles.
Governor Peter H. Burnett vetoes a special incorporation bill for Sacramento; overridden.
Sacramento incorporates as California's first city, February 27, 1850.
Legislature passes both the Cities Act and the Towns Act.
Original 27 counties formed.
- 1856 California Supreme Court says Towns Act unconstitutional; *People v. Town of Nevada*.
Legislature passes a revised Towns Act.
- 1872 Legislature enacts the first general annexation law for cities.
- 1883 Municipal Corporations Act.
- 1887 Legislature authorizes irrigation districts; Wright Act.
- 1889 Legislature extends the annexation statutes to charter cities.
- 1890 Coronado detaches from the City of San Diego & incorporates as a separate city.
- 1899 Uninhabited Annexation Act.
- 1907 U.S. Supreme Court says no right to vote on boundary changes; *Hunter v. Pittsburgh*.
Imperial County formed out of San Diego County as California's 58th county.
- 1909 Consolidation Act (city consolidations).
Legislature authorizes public cemetery districts; SB 524 (Roseberry, 1909).
- 1913 Annexation of Inhabited Territory Act of 1913 (absorbed into MORGA in 1977).
- 1915 Legislature authorizes mosquito abatement districts; AB 1565 (Assembly Health & Quarantine Committee, 1915).
- 1920 Montebello detaches from the City of Monterey Park and incorporates as a separate city.
- 1923 *California County Boundaries* authored by Owen Coy, California Historical Survey Commission.
- 1923 Legislature authorizes fire protection districts (revised in 1961 & 1987).

- 1931 Legislature authorizes recreation districts (revised in 1957 & 2001).
- 1933 District Investigation Act of 1933 (repealed in 1988).
- 1939 Uninhabited Annexation Act of 1939 (absorbed into MORGA in 1977).
- 1951 Legislature creates county boundary commissions (replaced by LAFCOs in 1963).
District Organization Act.
Legislature authorizes community services districts (revised in 1955 & 2005).
- 1952 *How the Cities Grew* authored by Richard Bigger & James D. Kitchen, Bureau of Governmental Research, UCLA.
- 1953 County Service Area Law (revised in 2008); AB 1841 (Stanley, 1953).
- 1954 City of Lakewood incorporates as the first contract city.
- 1955 Legislature revises the Community Services District Law (revised again in 2005).
Legislature repeals the city classification system.
- 1957 Recreation and Park District Law (revised in 2001); AB 3968 (Bradley, 1957).
- 1959 Appellate Court says city can't be in two counties; *County of San Mateo v. City Council*.
Governor Pat Brown appoints Governor's Commission on Metropolitan Area Problems.
- 1960 *Meeting Metropolitan Problems* published by Governor's Commission on Metropolitan Area Problems.
- 1961 Fire Protection District Law (revised in 1987).
- 1963 Legislature creates local agency formation commissions; AB 1662 (Knox, 1963).
Operations of Local Agency Formation Commissions published by the Assembly Interim Committee on Municipal and County Government.
- 1964 Assembly Committee on Municipal and County Government holds extensive hearings on special districts' boundaries and LAFCOs.
- 1965 District Reorganization Act consolidates districts' boundary laws; AB 592 (Knox, 1965).
Legislature tombstones the Knox-Nisbet Act.
- 1966 *Local Agency Formation Commissions* published by Intergovernmental Council on Urban Growth.
- 1970 Legislature allows special district representation on LAFCOs; AB 1155 (Knox, 1970).
California Environmental Quality Act.

- 1971 Legislature requires LAFCOs to adopt spheres of influence; AB 2870 (Knox, 1971).
Local Agency Formation Commissions published by the California Council on Inter-governmental Relations.
California Association of Local Agency Formation Commissions (CALAFCO) formed.
- 1972 California Supreme Court overturns majority landowner protests that block city incorporations; *Curtis v. Board of Supervisors*.
- 1974 Legislature revises county formation, consolidation, and boundary change procedures; AB 4270, AB 4271, & AB 4271 (Knox, 1974)
Appellate court overturns majority landowner protests that block inhabited city annexations; *Levinsohn v. City of San Rafael*.
Voters pass the Political Reform Act (Proposition 9), imposing conflict-of-interest rules.
- 1975 California Supreme Court says CEQA applies to LAFCO decisions; *Bozung v. LAFCO*.
- 1976 *LAFCO Reexamined* published by the Governor's Office of Planning and Research.
Voters reject Canyon County I (Los Angeles County).
- 1977 Municipal Organization Act (MORGA) consolidates cities' boundary laws; AB 1533 (Knox, 1977).
Attorney General says deadline for LAFCOs to adopt spheres of influence has passed.
- 1978 *Choices for the Unincorporated Community* authored by Sokolow, et al., Institute for Governmental Affairs, UC Davis.
Appellate court says LAFCO is the Legislature's watchdog over boundaries; *Timberlake Enterprises v. City of Santa Rosa*.
Voters pass Proposition 13, limiting property tax base and rate.
Voters reject Canyon County II (Los Angeles County).
Voters reject South Bay County (Los Angeles County).
Voters reject Peninsula County (Los Angeles County).
Voters reject Los Padres County (Santa Barbara County).
- 1979 Legislature authorizes geologic hazard abatement districts.
- 1982 Voters reject Ponderosa County (Fresno County).
- 1983 Appellate court says that charter cities can't referend LAFCO boundary changes; *Ferrini v. City of San Luis Obispo*.
Appellate court says the deadline has passed for LAFCOs to adopt spheres of influence; *Resource Defense Fund v. LAFCO*.
Legislature sets 1985 as the statutory deadline for LAFCOs to adopt spheres of influence and requires boundary decisions to be consistent with spheres; SB 1319 (Marks, 1983).
- 1984 Appellate courts uphold island annexation statutes; *Fig Garden Park No. 2 Association v. LAFCO*, *Schaeffer v. County of Santa Clara*, *Beck v. County of San Mateo*, *Citizens*

- Against Forced Annexation v. County of Santa Clara.*
Voters reject South Lake Tahoe County (El Dorado County).
Over the Line authored by Chris Laugenaur & Peter Detwiler, Senate Local Government Committee.
- 1985 Cortese-Knox Local Government Reorganization Act consolidates Knox-Nisbet Act, District Reorganization Act, Municipal Organization Act; AB 115 & AB 558 (Cortese, 1985).
Statutory deadline for LAFCOs to adopt spheres of influence.
Legislature liberalizes the statutory procedures to adjust county boundaries.
- 1987 Fire Protection District Law; SB 515 (Bergeson, 1987).
- 1988 Voters reject Mojave County (San Bernardino County).
District Investigation Law of 1933 repealed.
- 1989 Appellate court says LAFCO can redefine reorganizations; *Fallbrook Sanitary District v. San Diego LAFCO*.
- 1991 *LAFCO Spheres of Influence After 20 Years* published by the Senate Local Government Committee.
- 1992 California Supreme Court upholds Cortese-Knox Act against equal protection challenge and U.S. Supreme Court declines to review; *Board of Supervisors v. LAFCO*.
Legislature requires revenue neutrality for city incorporations; SB 1559 (Maddy, 1992).
- 1993 Legislature allows LAFCOs to initiate some special district boundary changes & requires LAFCO approval for extraterritorial services; AB 1335 (Gotch, 1993).
- 1995 Appellate Court says Cortese-Knox Act doesn't apply to geologic hazard abatement districts, except for dissolutions; *Las Tunas Beach GHAD v. Superior Court*.
- 1996 *It's Time to Draw the Line* authored by Bill Ihrke, Senate Local Government Committee.
- 1997 Legislature creates the Commission on Local Governance for the 21st Century.
Implementing AB 1335: Do LAFCOs Need a Nudge to Reorganize Special Districts? published by the Senate Local Government Committee.
- 2000 *Growth Within Bounds* published by the Commission on Local Governance for the 21st Century.
Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; AB 2838 (Hertzberg, 2000).
San Francisco LAFCO meets for the first time; finally there are 58 LAFCOs.
- 2001 Recreation and Park District Law; SB 707 (Senate Local Government Committee, 2001).

- 2002 Legislature bans LAFCOs from annexing Williamson Act land to cities; AB 2370 (Thomson, 2002).
Mosquito Abatement and Vector Control District Law; SB 1588 (Senate Local Government Committee, 2003).
Taking Their Pulse published by the Senate Local Government Committee.
Voters reject detachment of San Fernando Valley and Hollywood from Los Angeles.
- 2003 Legislature tells LAFCOs to consider regional housing needs; AB 518 (Salinas, 2003).
Public Cemetery District Law; SB 341 (Senate Local Government Committee, 2003).
Office of Planning & Research publishes *Municipal Service Review Guidelines*.
Office of Planning & Research publishes *A Guide to the LAFCO Process for Incorporations*.
It's Time to Draw the Line (2nd edition) authored by Tami Bui & Bill Ihrke, Senate Local Government Committee.
- 2004 Legislature increases size of unincorporated islands for expedited city annexations from 75 acres to 150 acres; SB 1266 (Torlakson, 2004).
Legislature bans LAFCOs from annexing land in the Delta Protection Commission's primary zone; SB 1607 (Machado, 2004).
- 2005 Community Services District Law; SB 135 (Kehoe, 2005).
- 2006 Voters reject Mission County (Santa Barbara County).
- 2007 Legislature tells LAFCOs to consider environmental justice; SB 162 (Negrete McLeod, 2007).
Statutory deadline for LAFCOs to prepare municipal service reviews; AB 1746 (Assembly Local Government Committee, 2005).
- 2008 Statutory deadline for LAFCOs to revise spheres of influence AB 1746 (Assembly Local Government Committee, 2005).
County Service Area Law; SB 1458 (Senate Local Government Committee, 2008).
- 2009 Legislature tells LAFCOs to consider regional transportation plans & sustainable communities strategies; SB 215 (Wiggins, 2009).
- 2011 Legislature encourages annexation of disadvantaged communities; SB 244 (Wolk, 2011).
Legislature fails to disincorporate the City of Vernon; AB 46 (John A. Pérez, 2011).
- 2012 Appellate court confirms LAFCOs' power to impose conditions; *Voices for Rural Living v. El Dorado Irrigation District*.
Office of Planning & Research publishes *LAFCOs, General Plans, and City Annexations*.

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A Background Note

The early work on these research notes came from an informal research memo, "Milestones In California's Boundary Laws," that I wrote in 2003 while working for the Senate Local Government Committee. I revised and supplemented that work for this version, prepared for the annual CALAFCO conference in August 2013. I encourage readers to forward their corrections, improvements, and additions to me.

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