

# CHAPTER 5

## SPECIFIC PROCEDURES FOR PROCESSING

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### 5.010 Background

As discussed in Chapter 4, procedural requirements for reviewing and approving a change of organization proposal may vary for each type of district and change of organization. These specific procedural requirements generally address such items as minimum petition signatures required to initiate a proposal, minimum written protest signatures required to terminate a proposal or require confirmation by the voters of the district, and the options available to the conducting authority in considering a change of organization. The following specific procedural requirements take precedence over and modify the general procedures identified in Chapter 4. In order to determine the correct procedural requirements for the change of organization proposal, these procedural requirements should be carefully reviewed as to the type of change of organization proposed and by the type of district involved.

### 5.020 Incorporation

The specific procedural requirements for an incorporation proposal are contained in Chapter 11.

### 5.030 Merger and Establishment of Subsidiary District

- A. Only districts of limited powers as defined by Section 56037 of the Reorganization Act may be merged or established as a subsidiary district. [REFERENCE: Secs. 56056, 56078 CGC]

**B. Petition Requirements for Registered Voter District:** The petition shall be signed by either of the following:

1. Not less than 10% of the registered voters of the district; or
2. Not less than 10% of the registered voters residing within the territory of the city located outside the boundaries of the district.

**C. Petition Requirements for Landowner Voter District:** The petition shall be signed by either of the following:

1. Not less than 10% of the number of landowners within the district who also own not less than 5% of the assessed value of land within the district; or
2. Not less than 10% of the registered voters residing within the territory of the city located outside the boundaries of the district.

**D. Commission Proceedings for Establishment of Subsidiary District:**

1. Within 10 days after receiving a proposal to form a subsidiary district, the Executive Officer shall notify by certified mail the district or districts that are the subject of the proposal.
2. Within 35 days after receiving notice from the Executive Officer, the board of directors of the affected district(s) may either:
  - (a) Adopt a resolution consenting to the subsidiary district proposal, with or without requesting additional terms and conditions; or
  - (b) Adopt a resolution of intention to file an alternative proposal to the subsidiary district proposal.
3. If a district files a resolution of intent to file an alternative proposal, the Executive Officer shall take no further action on the original proposal for 70 days. During this period the district shall prepare and submit a completed application for the alternative proposal.
4. A district which has filed a resolution of intention but has not filed a completed application within the prescribed time, shall be deemed to have consented to the original subsidiary district proposal.
5. After receiving an alternative proposal, the Executive Officer shall analyze and report on both the original and alternative proposal concurrently and schedule the proposals for a simultaneous public hearing.

6. Within 35 days following the conclusion of the hearing on an original and an alternative proposal to form a subsidiary district, the Commission shall adopt its resolution of determination, which shall do one of the following:
  - (a) Deny both the original proposal and the alternative proposal;
  - (b) Approve both the original proposal and the alternative proposal; or
  - (c) Approve one proposal and deny the other.
7. If the Commission approves both proposals, it shall adopt an order directing the Board of Supervisors, as conducting authority, to consider both proposals at a single hearing and to do one of the following:
  - (a) Deny both the original proposal and the alternative proposal;
  - (b) Approve both the original proposal and the alternative proposal; or
  - (c) Approve one proposal and deny the other.

**E. Conducting Authority Proceedings:** The conducting authority shall take one of the following actions:

1. Terminate or abandon proceedings if a majority protest exists.
2. Order the merger and/or establishment of the subsidiary district subject to confirmation of the voters. An election shall be held upon the question of merger or the establishment of a subsidiary district only within the district to be merged or established as a subsidiary district. An election shall be held upon the question of merger or the establishment of a subsidiary district if either of the following occurs:
  - a. The legislative body of the city or the board of directors of the district does not consent by resolution to the merger or the establishment of the subsidiary district.
  - b. The conducting authority certifies either of the following:
    1. In the case of a registered voter district, a petition requesting that the proposal be submitted to confirmation by the voters has been signed by not less than 10% of the registered voters of the district; or
    2. In the case of a landowner voter district, a petition requesting that the proposal be submitted to confirmation by the voters has been signed by not less than 10% of the number of landowners within the district who also own not less than 10% of the assessed value of land within the district.

3. Order the merger or establishment of the subsidiary district without election if the legislative body of the city and the board of directors of the district have by resolution consented to the merger or the establishment of the subsidiary district.

[REFERENCE: Secs. 57077, 57087, 57087.5 CGC]

- F. Election:** After declaring the total number of votes cast in the election for and against the question of merger or establishment of a subsidiary district, the conducting authority shall adopt a resolution taking one of the following actions:
1. Confirm the merger or establishment of a subsidiary district in accordance with the criteria set forth in Section 57177 of the Reorganization Act if the majority of the votes cast upon the question are in favor; or
  2. Terminate proceedings in accordance with the criteria set forth in Section 57177 of the Reorganization Act if the majority of the votes cast upon the question are against.

[REFERENCE: Secs. 57141, 57143, 57177 CGC]

### **5.040 District Formation**

- A. Petition Requirements:** Signature requirements and the content of the petition shall be as set forth in the principal district act.
- B. Commission Proceedings:** If the formation is part of a reorganization to consolidate all or any part of two or more districts into a single local agency and a majority of the members of each of the legislative bodies of the affected districts adopt substantially similar resolutions of application for the consolidation, the Commission shall approve or conditionally approve the formation.
- C. Commission Proceedings for County Service Area:**
1. The Commission may approve or disapprove the formation without notice and a hearing if a petition for the formation of a County Service Area is signed by all landowners within the territory to be included in the district or a resolution of application is accompanied by satisfactory proof that all landowners within the affected territory have given their written consent to the formation.
  2. In those cases where the proposal is approved by the Commission without notice and a hearing, the Commission may also approve and authorize the conducting authority to conduct proceedings for the formation without notice and a hearing; without an election; or without notice, hearing, or an election.

**D. Conducting Authority Proceedings:** Except when a district formation is part of a reorganization, formation proceedings for the conducting authority shall be as set forth in the principal district act and the provisions of Section 4.040 shall not apply. When a district formation is part of a reorganization, formation proceedings for the conducting authority shall be in accordance with these policies, procedures, and standards. If the formation is part of a reorganization to consolidate two or more districts into a single local agency, the conducting authority shall act in accordance with Section 57081 of the Reorganization Act.

**E. Conducting Authority Written Protest Provisions and Actions for County Service Area:** The conducting authority shall take one of the following actions:

1. For inhabited territory, terminate proceedings if a majority protest exists.
2. For inhabited territory, order the formation subject to confirmation by the registered voters within the affected territory if written protests have been filed and not withdrawn by (1) at least 25%, but less than 50%, of the registered voters residing in the affected territory, OR (2) at least 25% of the number of landowners who also own at least 25% of the assessed value of land within the affected territory.
3. For inhabited territory, order the formation without an election if written protests have been filed and not withdrawn by (1) less than 25% of the registered voters residing in the affected territory, and (2) less than 25% of the number of landowners who own less than 25% of the assessed value of land within the affected territory.
4. For uninhabited territory, terminate proceedings if a majority protest exists.
5. For uninhabited territory, order the formation if written protests have been filed and not withdrawn by landowners who own less than 50% of the total assessed value of land within the affected territory.

[REFERENCE: Sec. 57075 CGC]

### **5.050 District Dissolution**

**A. Petition Requirements for Registered Voter District:** The petition shall be signed by either of the following:

1. Not less than 5% of the registered voters within the district; or

2. Not less than 5% of the number of landowners within the district who also own not less than 5% of the assessed value of land within the district.

**B. Petition Requirements for Landowner Voter District:** The petition shall be signed by not less than 5% of the number of landowners within the district who also own not less than 5% of the assessed value of land within the district.

**C. Petition for Non-Use of Corporate Powers:** A change of organization proposing the dissolution of a district for the "non-use of corporate powers" may be initiated by a petition signed by three or more registered voters within the district for a registered voter district or three or more landowners for a landowner district provided the corporation powers of the district have not been used and one or more of the following conditions have existed or now exist:

1. That during the three-year period preceding the date of the first signature on the petition, one or more of the following events has not occurred:
  - (a) There has not been a duly selected and acting quorum of the board of directors of the district;
  - (b) The board of directors has not furnished or provided services or facilities of substantial benefits to residents, landowners, or property within the district; or
  - (c) The board of directors has not levied or fixed and collected any taxes, assessments, service to residents, landowners, or property within the district.
2. That during the one-year period preceding the date of the first signature upon the petition, a quorum of the duly selected and acting board of directors has not met for the purpose of transacting business.
3. That upon the date of the first signature upon the petition, the district had no assets, other than money in the form of cash, investments, or deposits.

**[REFERENCE: Sec. 56759 CGC]**

**D. Commission Actions:** In addition to other actions required by the Reorganization Act and these policies, procedures, and standards, the Commission shall designate a successor agency that shall be responsible for finishing and completing the affairs of the district upon its dissolution. The successor agency shall have the powers and duties set forth in Sections 57450 to 57463 of the Reorganization Act. **[REFERENCE: Sec. 57451 CGC]**

**E. Conducting Authority Actions:** The conducting authority shall take one of the following actions:

1. Terminate proceedings if a majority protest exists.
2. Order the dissolution subject to confirmation of the voters, or in the case of a landowner voter district, subject to confirmation by the landowners, unless other provisions are stated in the principal district act.
3. Order the dissolution without election except for the dissolution of hospital districts which require an election.

[REFERENCE: Secs. 57077 CGC]

- F. Conducting Authority Findings:** In any resolution ordering a dissolution, the conducting authority shall make findings on one or more of the conditions specified in Section 5.050(C). [REFERENCE: Sec. 57077 CGC]

### **5.060 Consolidation of Districts**

- A.** All of the districts to be consolidated shall have been formed pursuant to the same principal district act. [REFERENCE: Sec. 56030 CGC]
- B. Petition Requirements for Registered Voter District:** The petition shall be signed by not less than 5% of the registered voters within each district.
- C. Petition Requirements for Landowner Voter District:** The petition shall be signed by not less than 5% of the number of landowners within each district who also own not less than 5% of the assessed value of land within each district.
- D. Commission Proceedings:** If the consolidation is part of a reorganization to consolidate all or any part of two or more districts into a single local agency and a majority of the members of each of the legislative bodies of the affected districts adopt substantially similar resolutions of application for the consolidation, the Commission shall approve or conditionally approve the consolidation.
- E. Conducting Authority Actions:** The conducting authority shall take one of the following actions:
1. Terminate proceedings if a majority protest exists.
  2. Order the consolidation subject to confirmation of the voters, or in the case of a landowner voter district, subject to confirmation by the landowners, unless other provisions are stated in the principal district act. An election shall be held only if the conducting authority finds either of the following:

- (a) For inhabited territory, a petition requesting that the proposal be submitted to confirmation by the voters has been signed by (1) at least 25% of the number of landowners within the territory subject to the consolidation or reorganization who own at least 25% of the assessed value of land within the territory, OR (2) at least 25% of the voters entitled to vote as a result of residing within, or owning land within, the territory.
- (b) For a landowner voter district, the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25% of the number of landowners within the territory subject to the consolidation or reorganization, owning at least 25% of the assessed value of land within the territory.

3. Order the consolidation without election.

**F. Election:** After declaring the total number of votes cast in the election for and against the consolidation or reorganization, the conducting authority shall adopt a resolution taking one of the following actions:

1. Confirm the consolidation if, within the territory of each district ordered to be consolidated, a majority of the votes cast on the question favored the consolidation; or
2. Terminate proceedings if, in one of the districts ordered to be consolidated, the votes cast in favor of consolidation did not constitute a majority.

[REFERENCE: Sec. 57177.5 CGC]

### **5.070 Annexation and Detachment**

**A. Petition Requirements for Registered Voter District:** The petition shall be signed by either of the following:

1. Not less than 5% of the registered voters within the territory proposed for annexation or detachment; or
2. Not less than 5% of the number of landowners within the territory proposed for annexation or detachment who own not less than 5% of the assessed value of land within the territory.

**B. Petition Requirements for Landowner Voter District:** The petition shall be signed by not less than 5% of the number of landowners within the territory proposed for annexation or detachment who own not less than 5% of the assessed value of land within the territory.

**C. Commission Proceedings:**

1. The Commission may approve or disapprove the annexation or detachment without notice and a hearing if (a) a petition for an annexation or detachment is signed by all landowners within the territory to be annexed or detached, or a resolution of application is accompanied by satisfactory proof that all landowners within the affected territory have given their written consent to the annexation or detachment, AND (b) the affected district has not made a written demand for notice and/or a hearing of the proposal. The affected district shall be notified of the proposal by the Executive Officer and given the opportunity to respond in accordance with Section 56837(b) of the Reorganization Act.
2. In those cases where a proposal is approved by the Commission without notice and a hearing, the Commission may also authorize the conducting authority to conduct proceedings for the annexation or detachment without notice and a hearing; without an election; or without notice, hearing, or an election.
3. The Commission may waive the conducting authority proceedings entirely if the subject area is uninhabited, all landowners have consented in writing to the change of organization or reorganization, and all affected agencies have consented in writing to a waiver of conducting authority proceedings.

**D. Conducting Authority Written Protest Provisions and Actions for Registered Voter District:** The conducting authority shall take one of the following actions:

1. In cases of district annexations only (inhabited or uninhabited territory), disapprove the proposed annexation or order the proposed annexation subject to an election.
2. For inhabited territory, terminate proceedings if a majority protest exists.
3. For inhabited territory, order the annexation or detachment subject to confirmation by the registered voters within the affected territory if written protests have been filed and not withdrawn by (1) at least 25%, but less than 50%, of the registered voters residing in the affected territory, OR (2) at least 25% of the number of landowners who also own at least 25% of the assessed value of land within the affected territory.
4. For inhabited territory, order the annexation or detachment without an election if written protests have been filed and not withdrawn by (1) less than 25% of the registered voters residing in the affected territory, AND (2) less than 25% of the number of landowners owning less than 25% of the assessed value of land within the affected territory.

5. For uninhabited territory, terminate proceedings if a majority protest exists.
6. For uninhabited territory, order the annexation or detachment without an election if written protests have been filed and not withdrawn by landowners who own less than 50% of the total assessed value of land within the affected territory.

[REFERENCE: Sec. 57075, 57076 CGC]

**E. Conducting Authority Written Protest Provisions and Actions for Landowner Voter District:** The conducting authority shall take one of the following actions:

1. In cases of district annexations only (inhabited or uninhabited territory), disapprove the proposed annexation.
2. Terminate proceedings if a majority protest exists.
3. Order the annexation or detachment subject to an election within the affected territory if written protests have been filed and not withdrawn by (1) at least 25% or more of the landowners who also own at least 25% of the assessed value of land within the territory, OR (2) not less than 25% of the voting power of landowner voters entitled to vote as a result of owning property within the affected territory.
4. Order the annexation or detachment without an election if written protests have been filed and not withdrawn by less than 25% of the number of landowners who own less than 25% of the assessed value of land within the affected territory.

[REFERENCE: Sec. 57075, 57076 CGC]

## **5.080 Reorganization**

**A. Petition Requirements:**

1. The petition shall be signed so as to comply with the applicable signature requirements for each of the various changes of organization proposed in the petition.
2. If the reorganization proposal includes a proposal for the formation of a district, the petition shall comply with the signature requirements, if any, for a petition for the formation of the district designated in the petition as set forth in the principal district act. If there are no such requirements, the petition shall comply with the signature requirements pertaining to dissolution as set forth in Sections 5.050(A) and 5.050(B).

3. If the reorganization proposal includes a proposal for the incorporation of a city, the petition shall comply with the signature requirements for incorporation as set forth in Section 11.010(A).

**B. Conducting Authority Written Protest Provisions and Proceedings:** If the component changes of organization for a reorganization proposal would not individually require a confirmation election, a confirmation election shall not be required to approve the reorganization. The proceedings of the conducting authority shall be conducted pursuant to Sections 57000 et seq. of the Reorganization Act. The conducting authority shall conduct and complete proceedings in compliance with the Commission resolution of approval.