

**TUOLUMNE COUNTY
GRAND JURY
12855 Justice Center Drive
Sonora, CA 95370**



**TUOLUMNE COUNTY LOCAL AGENCY
FORMATION COMMISSION (LAFCO),
JUNE 2024:**

**“LAFCO is the most important unknown
board in Tuolumne County”, LAFCO
commissioner at January 2024 meeting.**



SUMMARY

Local Agency Formation Commissions (LAFCOs) are valuable for overseeing the appropriate and efficient extension of municipal services within all 58 of California's counties. The 2024 Tuolumne County Grand Jury investigated Tuolumne County LAFCO. Our investigation focused on Tuolumne LAFCO's involvement with the County, City of Sonora, and special districts within the County and on LAFCO's adherence to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act). Interviews were conducted with LAFCO staff, current and former commissioners, and Directors and Board Members from special districts. The Tuolumne County LAFCO website and relevant documents related to the role, function and requirements of LAFCO were reviewed. Information from other LAFCOs in the state was also considered.

The Grand Jury found Tuolumne County LAFCO's provision of information for entities under its purview and general adherence to the requirements of the CKH Act is in need of improvement. Tuolumne County LAFCO did not have an updated Policy and Procedures Manual document, which includes requirements of the CKH Act and how these are fulfilled. The Policy and Procedures Manual was neither provided to former and current commissioners nor were they trained in its use.

Tuolumne County has a significantly higher number of agencies, particularly small special districts, subject to LAFCO regulation than most counties in the state with similar populations. All of these agencies are subject to periodic reviews and updates of documentation called Sphere of Influence, that must be accompanied by Municipal Service Reviews. It is the intent of state law that these reviews and updates are completed on a 5-year cycle, but Tuolumne County has many agencies that have not been considered since 2013.

LAFCOs are governmental agencies independent of state and local governments. LAFCOs decide who provides support for their operations, including the positions of Executive Officer and Legal Counsel. Currently, employees of Tuolumne County act as LAFCO support staff, but staff assignments have been changed by County officials without approval or consultation with the Commissioners. The relationship between Tuolumne County and Tuolumne County's LAFCO is not subject to a formal contract despite state law requiring a formal agreement.

Ultimately, the Grand Jury found that the County is no longer equipped to provide adequate support for LAFCO. The current move to find another agency or firm to provide that support is in the best interest of LAFCO, the special districts, and the public.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code, Section 929, requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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GLOSSARY

CALAFCO	California Association of Local Agency Formation Commissions
CDD	Community Development Department
CGJA	California Grand Jurors; Association
CGOPR	California Governor's Office of Planning and Research
CKH Act	Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
County Counsel	Primary legal advisor to the Board of Supervisors and other county departments, committees, and commissions
CSDA	California Special District Association
Ethical wall	A screening mechanism that protects a client from a conflict of interest by preventing one or more lawyers within an organization from participating in any matter involving that client
LAFCO	Local Agency Formation Commission
MSR	Municipal Service Review
Public Defender	Director of program providing legal counsel and representation to adult and juvenile indigents charged with criminal violations
SOI	Sphere of Influence
CSD	Community Services District
TCGJ	Tuolumne County Grand Jury

BACKGROUND

State law governs what agencies a Grand Jury can investigate. One such agency is the Local Agency Formation Commission (LAFCO). The Grand Jury in Tuolumne County has not investigated LAFCO for at least 12 years.

LAFCOs serve as the California State Legislature's watchdog over city and special district boundaries. There is one LAFCO in each county, and the cost of operations is divided among the county, the cities, and special districts represented on LAFCO. The primary goals of LAFCO include:

- Streamline governmental structure
- Preserve agricultural lands and open spaces
- Promote the efficient and effective delivery of agency services
- Encourage the logical formation of boundaries for city government agencies and special districts

Special districts are local government agencies that provide public infrastructure and essential services, including but not limited to, water, fire protection, recreation and parks, cemeteries, lighting, and sewage treatment. Since California became a state in 1850, voters have established over 2,000 independent special districts to meet their local needs. Special districts have corporate powers, so they can hire employees, enter contracts, and acquire property. Subject to constitutional limits, special districts can also issue bonds, impose special taxes, levy benefit assessments, and charge service fees. As public agencies, special districts are held accountable to their local voters. They must file independent audits with the county auditor and annual financial transaction and compensation reports with the state Controller's Office. Like cities and counties, every special district board must comply with Fair Political Practices Commission (FPPC) regulations, the Public Records Act, and all open meeting requirements in the Brown Act.

LAFCOs were established by the state in 1963 as the local point of review and approval for formation or dissolution of governmental agencies and changes in organizations and boundaries of cities and special districts. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) and subsequent legislation resulted in major changes to LAFCO roles and responsibilities. LAFCO has always been required to map the portions of the County that are within the service areas for special districts and possible areas of expansion. This is known as a sphere of influence (SOI). As of 2001, LAFCOs became responsible for undertaking municipal service reviews (MSR) prior to, or in conjunction with, the establishment of an entity's SOI.

Although special districts are created at the local level, they are separate and distinct entities from county, city, and other government agencies in the area they serve. All special districts have an obligation to be transparent to their constituents and ensure the needs of the community are being met. An MSR can assist residents in determining how well services are being provided by special districts and the potential of special districts to serve the community in the future.

MSRs attempt to capture and analyze important information about the governance structures and efficiencies of special district service providers. MSRs also identify opportunities for greater coordination and cooperation between providers where possible. Specific information contained in a MSR may include analyses of city or special district growth and population projections, the present and planned capacity of public facilities, the adequacy of public services, and the agency's financial ability to provide services. To best serve the public, MSRs should be completed in a timely manner.

The organization responsible for ensuring SOI and MSRs are completed for special districts is LAFCO. Initially, a SOI for each special district was to be completed on or before January 1, 2008. Thereafter, state law requires that LAFCO review and update each sphere of influence as necessary. When reviewing a district's SOI, the MSR for that district is considered and updated as needed as part of that process.

As mentioned previously, the guidance for the composition of LAFCOs and their function are directed primarily by the CKH Act. At minimum, the board structure of LAFCO is comprised of two commissioners from the County Board of Supervisors, two commissioners from city councils of the incorporated cities within the County, and one at-large public member. From that minimum of five commissioners, two additional commissioners can be added to bring the total to seven. Those additional commissioners would be chosen from the directors of special districts. In addition, an alternate would be selected for the two Supervisors, for the two city council members, and for the special districts. Other than the at-large public member, who is chosen by vote of the rest of the commissioners, the commissioners are elected officials from their respective entities. However, state law is clear that the obligation of all of the commissioners is to consider issues and make decisions based on what would be the best for all of the residents of the County and to not just represent the interests of their respective entities.

LAFCO must exist as an independent agency with its own budget and staff support. In accordance with Section 56384 of the Government Code, support for LAFCO requires that an Executive Officer and Legal Counsel be selected, and other staff can be added as necessary. In most of the larger counties of the state with many incorporated cities and special districts, LAFCO hires their own dedicated staff. In many smaller counties, it is common and acceptable to contract with the County for services, and that can include the Executive Officer (EO) and Legal Counsel. However, if a LAFCO chooses to use County staff for support, that support must

be based on a formal contract between LAFCO and the County (Section 56375(k) of the Government Code). As described above, LAFCO commissioners are directed to consider issues and vote in the interests of the public and County as a whole rather than to only represent the specific interests of their Boards. LAFCO staff are under similar direction to provide LAFCO guidance and reports that reflect independence from their other roles as County government staff. The budget for LAFCO is based on a fiscal year as is common for California local governments. The fiscal year runs from July 1 to June 30 of the next calendar year.

Tuolumne County LAFCO came into existence after the state laws became effective in the 1960s. For most of its history, the Commission was composed of two County Supervisors, two City Councilmembers from the City of Sonora as Tuolumne County's only incorporated city, and one at-large public member.

Traditionally, Tuolumne LAFCO only met when there was a project to consider, such as creation or modification of a special district or one of a few annexations to expand the boundaries for the City of Sonora. When LAFCO is considering the boundary of the City or a special district, the map that defines the boundary must also define the SOI limits for that entity. The SOI defines what area adjacent to the current district's boundaries may be included within that district in the future.

Significant changes occurred in LAFCO law during the 2000s. One of which stated: "On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence." Tuolumne LAFCO did meet that requirement and completed updates for all existing districts in 2013. As required, accompanying the SOI maps prepared for each district was an MSR.

There are statutory requirements for what must be addressed in an MSR. These requirements are focused on a district's ability to provide efficient and adequate service to its constituents and include "present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies." The series of MSR's approved in 2013 were prepared by a County staff planner who was assigned to the role of Deputy Executive Officer for LAFCO for many years.

At the time of budget approval in June of 2019, LAFCO had oversight and regulatory responsibility for one city and 82 special districts as follows:

- City of Sonora
- 5 Fire Districts
- Groveland Community Services District and Twain Harte Community Services Districts
- Tuolumne Utility District (TUD)
- 5 Cemetery Districts

- Jamestown Sanitary District
- Tuolumne Sanitary District
- Tuolumne Parks and Recreation District
- Leland Meadows Water District
- 7 Lighting Districts
- 17 County Service Areas (for road maintenance of various subdivisions – a detailed study of CSA use in Tuolumne County is addressed in another report by this Grand Jury)

As mentioned previously, all of the districts and the City of Sonora had a SOI map and MSR approved in 2013. As of the budget approval of June 2019, updates of those studies had been accomplished for the City of Sonora and the five fire districts in 2018. The FY 2019-2020 budget document included a work plan for that fiscal year, calling for completing SOI and MSR studies for Groveland CSD, TUD, and the cemetery districts by the end of FY 2019-2020. The approved work plan also stated that SOI and MSR studies would be completed for Tuolumne Sanitary District, Jamestown Sanitary District, and Tuolumne Parks and Recreation District during FY 2020-2021. Leland Meadows Water District, the 7 Lighting Districts, and the road maintenance CSA's would be addressed by SOI and MSR updates during FY 2021-2022. As proposed, all of the districts would have been updated by the end of June of 2022. However, the majority of this proposed work was not done, and at the time of drafting of this report there remain a total of 35 districts that have not been addressed since 2013.

METHODOLOGY

Research began with a review of the website for Tuolumne County LAFCO, and a series of additional other County LAFCOs, including:

- Tuolumne County LAFCO tuolumnecounty.ca.gov/143/Local-Agency-Formation-Commission
- Calaveras County LAFCO calaveraslafco.org/
- Amador County LAFCO amadorgov.org/government/lafco
- El Dorado County LAFCO edlafco.us/

Although no investigation of Tuolumne LAFCO was found in the Tuolumne County Grand Jury records, reports by other Grand Juries were found and reviewed for El Dorado, Calaveras, and Tehama Counties, references for those reports are found in the Bibliography.

The California Association of Local Agency Formation Commissions (CALAFCO) is a state-wide organization that supports LAFCOs and serves as a main source of information about LAFCO responsibilities and mission. CALAFCO holds an annual conference and training session where member LAFCOs are invited to send commissioners and staff. The CALAFCO website is a central source of documents about LAFCO, and those were reviewed extensively. It is found at: <https://calafco.org/index.php>.

The Policy and Procedure Manual for Tuolumne County LAFCO, originally adopted in 2001 and last amended in 2011 was reviewed extensively, as were similar documents found for other county LAFCOs.

A series of Interviews were completed with several current and previous LAFCO commissioners, County Public Works representatives, LAFCO staff support personnel, Directors and management staff of Special Districts, and interested parties.

Confidentiality

Grand Jury members are sworn to secrecy regarding any matter brought before them. This assures all individuals that their testimony will be strictly confidential. Each Grand Juror must keep all evidence confidential. It is a misdemeanor to violate the confidentiality of any individual or evidence brought before the Grand Jury.

Recusal

The Grand Jury recognizes that a conflict of interest may arise during its investigations. In such instances the juror may ask to be recused from all aspects of an investigation. Those members do not investigate, attend interviews and deliberations, or assist in the making and acceptance of a final report that may result from an investigation.

Therefore, whenever the perception of a conflict of interest existed on the part of a member of the 2023-2024 Tuolumne County Grand Jury, that member abstained from any investigation involving such a conflict and from voting on the acceptance or rejections of any related subject.

DISCUSSION

TRANSPARENCY AND PUBLIC INFORMATION

LAFCOs are independent governmental agencies that are required by state law, and subject to all of public meeting and notice requirements of the Brown Act and associated public meeting laws. Meetings must be open to the public to attend and for public comments. Before a meeting, an agenda must be posted that contains a brief general description of each item to be transacted or discussed at the meeting. LAFCOs are required to provide access to agendas, meeting notices, and other commission information for the public through a website.

The Tuolumne County LAFCO does have a website page as part of the greater Tuolumne County government website. A Google search for “Tuolumne County LAFCO” directs one to the main page tuolumnecounty.ca.gov/143/Local-Agency-Formation-Commission. However, when opening the main Tuolumne County web page, there are no links for direct link for LAFCO on that page nor are there links under the main headings: *Government*, *Community*, *Business*, or *Visitors*. There is a link under the government heading for “Commissions and Committees,” which opens to a sub-page referring to all those commissions and committees that include Supervisors. Such placement in the hierarchy of the main Tuolumne County website implied to the Grand Jury that LAFCO is regarded as a committee subsidiary to the Board of Supervisors. However, LAFCO is an independent commission and is not an “Advisory Committee.”

The information available on the Tuolumne County LAFCO webpage was reviewed along with other counties’ LAFCO pages. Those other LAFCO web pages included Calaveras, Amador, El Dorado and Mariposa counties, and others from around the state. Comparatively, the Tuolumne website has much less information and was not as well organized. For example, the other counties LAFCO webpages have rosters of current LAFCO commissioners identified by name, by role, and term expiration. Additionally, other counties’ LAFCO websites identify the names of those key staff members supporting LAFCO, including the Executive Officer and Legal Counsel with contact information. The Tuolumne LAFCO page lists two persons under the heading “Principal Staff” with email addresses but does not identify their positions. One of those people is the Executive Officer and one is a Support Technician (clerical). The Legal Counsel is not identified.

County LAFCO websites generally provide information regarding their budgets. Most other LAFCO websites include a current adopted budget and have several years of adopted budgets. Tuolumne County LAFCO has no budget information available on its website.

LAFCO websites provide a list of each district for which that LAFCO is responsible. Often that list includes a description and the status of SOI and MSR reviews. Tuolumne County LAFCO's website has a page with links to some MSR documents for the City of Sonoma and districts. Because not all SOI or MSR reviews are on the Tuolumne County LAFCO website, members of the public have no easily accessible way of researching all the districts subject to LAFCO review, the status of their SOI and MSR reviews, nor a map of the district.

A common reason someone would be using the Tuolumne County LAFCO website is to research agendas and minutes for past and future meetings. On the main page of the Tuolumne County LAFCO website is a link to an "Agenda Center for Agendas and Minutes." This link lists all meetings by calendar year, with options to open past years lists for the previous 3 years. There are no archives apparently available for previous years. The heading for minutes has nothing to open, and there are no approved minutes available for review.

Compared to LAFCO websites for other counties, the Tuolumne County LAFCO site is missing several key elements and does not make a breadth of information readily available. LAFCO and its mission are not easy for the general public to comprehend and the little information available on the website does not help. Not providing basic information like rosters, lists of agencies and districts affected, and meeting minutes does not meet the modern requirements for a public agency, and shows a lack of transparency.

STAFF SUPPORT

As explained in the Background section, LAFCO is required to select an Executive Officer and Legal Counsel, and other staff can be added as necessary. The staff support can be hired directly by LAFCO, contracted out to private individuals or firms, or provided by county staff under a contractual relationship. Tuolumne County has always used the County-staff support model, as do about half of the Counties in the state. However, the County has not been able to locate an actual contract between LAFCO and the County in this regard. Because it could not be produced during our investigation, the Grand Jury concluded that such a document does not exist. This

violates the requirement that any persons assigned to staff LAFCO be either hired directly by LAFCO or under contract to LAFCO.

The Policy and Procedures Manual for Tuolumne County LAFCO defines the County-staff support as an Executive Officer (EO), Assistant Executive Officer, Legal Counsel, and Department Support Technician. Other than the Legal Counsel, which has been from the County Counsel's staff, the other positions have always been staff assigned to the County's planning staff. Currently, county planners are supervised directly by the Community Development Director. Traditionally, the EO position was filled by the head of the planning staff or their direct supervisor. As such, the Tuolumne County LAFCO EO role has evolved as the planning function has been renamed and moved within the hierarchy. The EO was originally the County Planning Director, then restructured as the Director of the Community Resources Agency and is now the responsibility of the Director of the Community Development Department (CDD).

According to the LAFCO Policy and Procedures Manual, the Assistant Executive Officer assists by processing applications, prepares draft reports for proposals submitted to LAFCO for consideration, provides information to the public and attends LAFCO related meeting. The Assistant EO role for most of Tuolumne County LAFCO history was filled by a journeyman planner on the planning staff who stayed in that role for years and attended California Association of Local Agency Formation Commissions (CALAFCO) conferences and training opportunities. The Assistant EO drafted most of the agenda documents and managed the processing of applications and was the primary contact for most LAFCO-related questions or issues.

For most of the past 35 years, the Assistant EO role was filled by just two experienced Planners who provided primary support to LAFCO in a cost-effective manner. For example, in the 2019 LAFCO budget, a Planner provided over 60% of the total hours estimated. The LAFCO budget would be charged \$87 per hour for those hours worked by a Planner versus the EO whose billing rate was \$180 per hour. The Planning staff at the Community Development Department (CDD) has undergone a lot of transitions. Currently, there is no one in the Planning Manager position and no one is assigned to the Assistant EO role for LAFCO. The CDD Director, as EO, provides all the professional support for Tuolumne LAFCO by writing all documents and agenda reports and attends all meetings. Due to downsizing and personnel turnover, Tuolumne County no longer has capable personnel with time available to provide LAFCO the adequate and cost-effective support staff that it needs. The CKH Act and related state statutes for LAFCO are quite clear that LAFCO support staff – like the EO and Legal Counsel – are appointed by LAFCO. Government

Code Section 56384 states, “The commission shall appoint an executive officer who shall conduct and perform the day-to-day business of the commission.” It also states, “The commission shall appoint legal counsel to advise it.” LAFCO commissioners are to decide who would fill those appointments. However, the recent staffing assignments for LAFCO do not appear to follow that requirement. Multiple people have served as EO and the supporting planning staff have changed over the last 5 years, with no record found that LAFCO made those decisions. The Legal Counsel role for LAFCO is also subject to appointment by the commissioners, but that role moved from one Deputy Counsel to another Deputy Counsel in the last year. The incoming Legal Counsel for LAFCO had no previous experience, and the change in personnel was made without consultation or approval of the commissioners. These decisions by the County to change support staff without consulting the commissioners does not satisfy the need for LAFCO to be treated as an independent agency, nor does it honor the statutory right of LAFCO to appoint those providing support services.

LAFCO support staff provide educational opportunities to the commissioners, which typically serve four-year terms and may find themselves appointed to the Commission without a familiarity with LAFCO. Some commissioners only serve a single four-year term, and do not have the ability to avail themselves of educational opportunities and the knowledge that can be gained by participating for an extended time. The LAFCO Policy and Procedures Manual, which is required by state law for all LAFCOs, has not been consistently provided to new commissioners let alone made the subject of a training or orientation session. Some former and current commissioners were not even aware of the Policy and Procedures Manual existence at the time of their interviews.

LAFCO over the last several years has had more meetings canceled than held and has resulted in expressions of frustration by some LAFCO commissioners on the lack of progress. As a result, there have been several discussions during recent LAFCO meetings and at least one vote, indicating that a majority of the commissioners would like to pursue using an outside agency or private firm for LAFCO support. Since LAFCO has so many districts that need updated SOI maps and MSRs, it is likely that the annual budget costs for the LAFCO support will increase. Much of that increase will happen whether the staff support is provided by County staff or outside consultants.

COMPLIANCE WITH STATE AND LOCAL REQUIREMENTS

LAFCO exists as an independent regulatory agency within Tuolumne County, but is required to comply with applicable state laws, in particular the CKH Act. The CKH Act (Section 56300 of the Government Code) requires that LAFCOs have an approved Policy and Procedures document, as of the drafting of this report the currently approved Policy and Procedures Manual

was last updated in 2011. Significant changes, like the increase in the number of commissioners, are not reflected that Manual.

In 2019, Tuolumne County LAFCO passed resolutions to increase the Commission to include two additional commissioners from the special districts. Since there are some significant differences in scale and mission among the special districts, it was decided to separate those two seats in two categories. One seat would be rotated every four years between the three largest districts: Tuolumne Utilities District (TUD), Groveland Community Services District (GCSD), and Twain Harte Community Services District (THCSD). The other seat would be shared by the remaining 15 special districts eligible to participate in this process. Per the CKH Act, each district has one vote as part of the Special District Selection Committee to determine the commissioner who represents those districts. To create a seven commissioner LAFCO, the Resolution predetermined a special district board member to occupy that seat for two years, then the Special District Selection Committee election process would be used to select a commissioner every four years moving forward. The Special District Selection Committee election process is addressed by state law with Section 56332 of the Government Code. That Section requires the Executive Office to conduct the election following a clearly defined process. In 2023, a meeting was held by an association of special districts identifying itself as the Special District Selection Committee, but did not include the EO, did not follow the prescribed process and only 4 of the 15 eligible smaller special districts participated. However, LAFCO accepted the results as valid and the representative seated will remain on the commission until 2026.

The CKH Act includes a provision under Section 56425 of the Government Code that LAFCOs “shall, as necessary, review and update each sphere of influence” every five years. As part of that process, Section 56430 also states that “in order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services.” The Grand Jury could find no definitive interpretation of “as necessary” in the laws, and interpretation has varied by LAFCOs around the state. Some view that the 5-year cycle of reviewing and updating the SOI and MSR for each special district is hard and fast and abide to a schedule to maintain that cycle and keep those documents current within 5 years. Other LAFCOs take the 5-year cycle as more of a guideline rather than a requirement, and the “as necessary”

clause means holding to a 5-year cycle is not required. The current Tuolumne County staff support have made statements reflecting the latter view.

Previous documents prepared by LAFCO staff indicate a view that the 5-year cycle is more of a requirement than a guideline. For example, the final budget for FY 2019-2020 was submitted and approved by LAFCO at its June 10, 2019, meeting. The agenda report from staff stated, “The City, each Special District, Lighting Districts, and County Service Areas must have their Sphere of Influence evaluated every five years, pursuant to Section 56425(g) of the Government Code. There are approximately 83 Municipal Service Reviews which must be completed; however, this number could increase if new CSAs are created.”

The FY 2019-2020 budget document describes the work plan that LAFCO staff was proposing to accomplish during the 2019-2020 fiscal year (July 1, 2019, to June 30, 2020). A table in that document shows which MSR’s were being completed during the concluding FY 2018-2019, the FY 2019-2020 which was subject to the budget under review, as well as those reports to be completed over the following two fiscal years. According to that budget report, the MSR’s to be completed in FY 2018-2019 included Groveland Community Services District and Twain Harte Community Services District. During FY 2019-2020, those MSR’s to be completed included Tuolumne Utilities District (TUD) and five Cemetery Districts. During FY 2020-2021, staff would complete MSR’s for Jamestown Sanitary District, Tuolumne Sanitary District and Tuolumne Parks and Recreation District. During FY 2021-2022, LAFCO staff would complete MSR’s for Leland Meadows Water District, seven Lighting Districts, and 58 County Service Areas (the CSAs were combined into one consolidated MSR in 2013 and likely would be again for the update). However, the only SOI and MSR review and update completed since that work plan was approved in 2019 has been for the Groveland Community Services District. That was finished in 2020 so GCSD could expand its boundaries to allow annexation of a new subdivision. Other than that, the other districts have not been reviewed or updated for what is now 11 years.

According to Section 56334 of the Government Code, the standard term of office of each commissioner is four years. However, that same section does allow for an agency that appoints a commissioner to remove that commissioner for any reason. In the case of the Tuolumne County Board of Supervisors, the appointments of the three Supervisors to LAFCO (two commissioners and one alternate) are subject to the annual appointment process done at the beginning of each calendar year. The incoming Board of Supervisors Chair nominates all the committee and commission assignments, subject to vote of the Board. As a result, over the last four years, four of the current Board members have served as a commissioner or alternate, but those assignments

have changed in some regard every year. Understanding the role of a LAFCO commissioner takes time to learn and gain experience, and a rotating cast of different commissioners does not provide continuity. A policy of the Board of Supervisors to consider this when distributing annual assignments and prioritize keeping the same commissioners for longer than year or two, is in the best interest of LAFCO and the citizens LAFCO represents.

LAFCO BUDGET

LAFCOs are required to prepare a draft budget and submit it to the commissioners in advance of each fiscal year (which commences on July 1 of each year). There are requirements that the proposed budget be adopted by May 1, and the final budget by June 15. The process is to take place after the County, City, and districts are all fully notified, and with public notice and hearings. Tuolumne County LAFCO has a recent history of missing budget deadlines. In 2022, the proposed budget was presented in May and the final budget in July (after the fiscal year had started). In 2023, the proposed budget wasn't presented until June and the final budget again in July. This year, as of May 1 a proposed budget had not yet been heard by the Tuolumne County LAFCO.

It is common practice among other county LAFCOs to include in their budget an allowance for a reserve fund. The purpose of the fund is to build savings during years between major efforts to update SOI maps and MSRs, as those types of expenditures may not be able to be consistently spread evenly among the fiscal years. For example, Calaveras County LAFCO presently attempts to maintain a reserve fund of approximately \$100,000. The intention is to even out the need for funding coming from the County, City, and special districts to make those budget demands as consistent as possible.

However, Tuolumne County LAFCO has no reserve fund. The present practice of the County is to request payment from the City and districts at the end of the fiscal year, based on the actual expenses of LAFCO, not the budgeted amount. For the fiscal year 2022-2023 the contributions were less than the approved budget. If there had been a policy for building a reserve fund, the contributions from the member agencies could have helped build the reserve fund to use another fiscal year when expenditures are higher.

FINDINGS, RECOMMENDATIONS, AND COMMENDATIONS

Findings

- F1.** The Tuolumne County LAFCO website fails to provide information that is commonly provided by other county LAFCO websites, which includes the following deficiencies:
- No adopted budget summaries are available
 - No roster of LAFCO commissioners including some form of contact information and when current term expires.
 - No identification of key support personnel including Executive Officer and Legal Counsel
 - No Approved Minutes documents available for review
 - No list, description, or map of special districts subject to LAFCO review and authority.
- F2.** Tuolumne County LAFCO commissioners are not given adequate preparation or orientation when assuming role as commissioners. For example, Commissioners have served without being provided with the Policy and Procedures Manual. Some did not know such a Manual existed or was statutorily required.
- F3.** LAFCO has no reserve fund as contributions for each fiscal year are based on actual expenditures with no carry over for the next fiscal year.
- F4.** While Sphere of Influence maps and Municipal Service Review updates were proposed in the FY 2019-2020 budget work plan, to catch-up to the standard 5-year review cycle, most of the updates have not been completed. As such, there are a total of 35 districts that have had no SOI or MSR updates in over 11 years.
- F5.** LAFCO staff support can be provided by County staff; however, it must be under a contractual agreement. There is no contract between Tuolumne County LAFCO and Tuolumne County, which is a violation of state law requirements.

- F6.** LAFCOs have the right to appoint and assign staff to support their activities. However, Tuolumne County has made personnel assignments to LAFCO staff without consulting commissioners. These assignments have not always been in the interest in maintaining continuity or accomplishing LAFCO goals.
- F7.** One of the special district seats on LAFCO is to be available to multiple different special districts who provide funding for LAFCO, and that seat is subject to vote of the special districts every four years through a Special District Selection Committee. A vote took place that was not in compliance with the state requirements and only a small number of eligible districts participated. However, that decision was accepted by LAFCO, and that commissioner will have that seat until 2026. The majority of eligible special districts lost their opportunity to decide who represents them on LAFCO.
- F8.** Present staffing levels and expertise of Tuolumne County employees are inadequate to provide necessary and cost-effective support for LAFCO.
- F9.** Annual assignments of Tuolumne County Board of Supervisors to the LAFCO commissioner and alternate commissioner roles have fluctuated among different Supervisors every year and does not provide continuity based on experience in the role of commissioner.

Recommendations

- R1.** Tuolumne County LAFCO commissioners and Tuolumne County leadership and staff should fully assist and expedite the proposed move from County-staff provided support to a contract with an outside agency or firm. Any support staffing continuing to remain provided by County-staff should be subject to a formal contract between LAFCO and Tuolumne County. (Findings 8, 6, 5.)
- R2.** Tuolumne County LAFCO website needs improvements in order to make it easier to locate and find minutes, identify commissioners, list and status of all districts subject to LAFCO, current and previous budgets, and any other information necessary to make LAFCO more transparent and accountable (Finding 1.)
- R3.** Tuolumne County LAFCO staff should prepare a realistic schedule to review and update all Sphere of Influence (SOI) and Municipal Service Reviews (MSR) for all districts that have not been so updated within the last 5 years. Once approved by LAFCO, that schedule of progress should be available for all to view on the LAFCO website and updated at least twice per year. (Finding 4.)

- R4.** All decisions regarding personnel responsible for staff support for LAFCO, including but not limited to Executive Officer, Assistant Executive Officer, and Legal Counsel, should be at the discretion of LAFCO commissioners after careful consideration of experience, cost-effectiveness, and subject to at least one interview with LAFCO or an ad-hoc committee determined by LAFCO. (Finding 6.)
- R5.** Tuolumne County LAFCO should budget for participation by commissioners and staff in formal education opportunities such as CALAFCO conferences. LAFCO staff should provide local workshops for new commissioners to attend to introduce them to LAFCO laws and practices. These should also be advertised on the website and open to the public to attend at no cost. (Findings 2, 8.)
- R6.** Tuolumne County LAFCO annual budgets should include a contribution to a reserve fund to be carried over from year to year. In a year when the estimated budget contributions are not fully expended, those remaining contributions should roll to the reserve fund. (Finding 3.)
- R7.** Tuolumne County LAFCO should complete an update of Policy and Procedures Manual as soon as possible. Any detail necessary to remove ambiguities about how and when the Special Districts Selection Committee determines the succession of representatives from the special districts to the two Commission seats should be addressed in that update. Orientation for new commissioners should take place immediately after their appointment, and understanding the Policy and Procedures Manual should be a point of emphasis during all orientation and subsequent training. (Findings 2, 7.)
- R8.** Tuolumne County Board of Supervisors should encourage multiple year assignments of the Supervisors to the role of LAFCO commissioner, in the interest of providing more knowledgeable and experienced members of the Commission. (Finding 9.)

REQUEST FOR RESPONSES

Required Responses

Pursuant to Penal Code Sections 933 and 933(c), responses are required from the following governing body within 90 days:

- Tuolumne County Local Agency Formation Commission (LAFCO): Findings F1-F9 and Recommendations R1-R7.
- Tuolumne County Board of Supervisors: Finding F10 and Recommendation R4 and R8.

BIBLIOGRAPHY

California Association of Local Agency Formation Commissions(CALAFCO). Reinventing LAFCO - Changes Made by the Cortese-Knox-Hertzberg Act. A Primer for Commissioners. March 2001.

California Grand Jurors' Association. 2023-2024 Grand Jurors' Training Manual. Revised March 2023.

California Governor's Office of Planning and Research. LAFCO Municipal Service Review (MSR) Guidelines. August 2003.

The Brown Act: Open Meetings for Local Legislative Bodies. California Attorney General's Office. 2003.

California Special Districts Association. Special District Laws Reference Guide. 2020

Guide to the Cortese–Knox–Hertzberg Local Government Reorganization Act of 2000. California Assembly Committee on Local Government, Honorable Juan Carrillo, Chair. Revised July 2023.

The Sacramento LAFCOs Municipal Review Process: A Study in Complacency. Sacramento County Grand Jury 2016-2017 Final Report. June 20, 2017.

50 years of LAFCOs. A Guide to California's Local Agency Formation Commissions. 3rd Edition. December 2013.

2022 Tehama County Grand Jury Final Consolidated Report. November 2, 2022.

Timeliness of Municipal Service Reviews. El Dorado County 2021-2022 Grand Jury. Case #21-10 – June 27, 2022

It's Time to Draw the Line: A Citizen's Guide to LAFCOs California's Local Agency Formation Commissions. Second Edition. Tami Bui & Bill Ihrke. May 2003.

Policy and Procedure Manual. Tuolumne County Local Agency Formation Commission. Originally adopted Nov 16, 2001; last amended March 14, 2011.