

Mendocino LAFCo

FAQ – Conducting Protest Proceedings

Annexations, Detachments, and Activation of Latent Powers

LAFCo’s protest process gives registered voters and landowners in the affected territory a formal opportunity to oppose a boundary change or change in district powers after the Commission has approved it but before it takes effect. Protest levels can require an election or stop the proposal from moving forward.

The procedures described herein apply to agency- and individual-initiated applications, not LAFCo initiated proposals.

These Frequently Asked Questions (FAQ) summarize state law and LAFCo procedures and is not a substitute for the Cortese-Knox-Hertzberg Local Government Reorganization Act or for independent legal advice.

PROCEDURES

Q: What are protest proceedings?

A: Protest proceedings are conducted after LAFCo approves an annexation, detachment or activation of latent powers to provide opportunity for affected registered voters and/or landowners to oppose the proposal. (GOV §57000)

Q: Who conducts the protest proceedings?

A: LAFCo is required to conduct these proceedings as the “conducting authority.” (GOV §57000)

Q: When are protest proceedings required?

A: Protest proceedings are required after LAFCo approves a proposal for reorganization unless the Commission waives the proceedings under limited circumstances defined by state law. The information in this FAQ applies to applications for annexations, detachments, and activation of latent powers initiated by an agency or individual. (GOV §56663, §57002(a))

Q: How will I be notified of a protest hearing?

A: LAFCo provides notice of the protest hearing through published newspaper notice, posted notice, and mailed notice to landowners and registered voters in the affected area. The notice will include hearing date, time and location, contain a link to the official protest form, and explain the deadline and details for submitting written protests. (GOV §56150 et seq.)

Q: When and where is the protest hearing held?

A: The hearing is scheduled after LAFCo approval of the proposal. The notice will include the date, time, and location. A protest period (typically between 21 and 60 days) is established for submitting written protests. (GOV §57002(a), §57008)

Q: Who can file a protest?

A: A written protest may be filed by a registered voter in the affected area and/or a landowner in the affected area as defined by state law. (GOV §56707-§56710)

Q: How do I submit a protest?

A: Protests must be submitted in writing during the protest period. They may be filed by mail, in person, or at the protest hearing, as described in the notice. LAFCo provides an official protest form. All written protests must be submitted by the deadline, not merely postmarked by that date. (GOV §57000)

Q: Can I withdraw my protest?

A: Yes. A written protest may be withdrawn at any time before the close of the protest hearing. (GOV §57000)

Q: What happens at the protest hearing?

A: At the protest hearing, LAFCo, or its Executive Officer, summarizes the Commission’s resolution approving the annexation and oral and written protests, objections, and evidence, as well as requests to withdraw written protests. The protest hearing is limited in scope to receiving oral and written protests. The Commission cannot consider or respond to public testimony or new evidence regarding the substance of the Commission’s prior decision to approve the annexation/detachment/activation of latent powers because the reconsideration period has closed. (GOV §57050-57052)

Q: What happens after the protest hearing?

A: After the close of the protest hearing, LAFCo reviews all written protests submitted and not withdrawn within the protest period, and makes a formal determination of the number and percentage of valid protests and the resulting outcome (no election, election, or termination). Protests are validated using voter registration and county assessment rolls. The Commission has 30 days to approve a resolution determining the value of written protests received and not withdrawn. (GOV §57052, 57075)

Q: How does LAFCo determine the outcome?

A: Protest thresholds for annexations are based on registered voters and/or landowners within the affected area, depending on the type of territory and applicable law. LAFCo verifies protests using voter registration records and county assessment rolls for property ownership. (GOV §56707-56710)

The outcome depends on the level of written protest received. For annexations, detachments, and activation of latent powers affecting inhabited territory:

- Less than 25% protest: annexation is approved without an election.
- 25% to less than 50% protest: annexation must be approved by voters at an election.
- 50% or more protest: annexation is terminated.

(GOV §57075, §57091)

Q: How are protests measured?

A: Protests are measured based on:

- a) Number of registered voters, OR
 - b) Number of landowners and the assessed value of their property.
- The specific method depends on the type of proposal and whether the territory is inhabited or uninhabited. (GOV §56707-56710)

Q: Can I protest as both a voter and a landowner?

A: Yes. If a person is both a registered voter and a landowner in the affected territory, that person may complete a single protest form that includes voter information and ownership information for one or more properties in the affected territory. Protests are tallied separately under the voter and landowner categories, but each person’s protest is counted only once in determining whether protest thresholds are met. (GOV §56707-56710)

As an exception, if multiple properties are owned under different ownership configurations, separate protest forms should be submitted for each distinct ownership. Each form should certify that the signer or signers represent the full ownership interest being claimed for the listed property or properties.

Q: How will my protest be counted if I qualify as both?

A: LAFCo will count your protest once, under the applicable category (voter or landowner), as part of determining whether protest thresholds are met.

Q: Why is only one protest counted?

A: Protest proceedings are designed so that each eligible individual’s participation is counted once, to avoid double-counting. LAFCo verifies protests and ensures that duplicate submissions by the same person are not counted twice. Voter verification is based on the official voter registration records. Landowner verification is based on the county assessment roll. (GOV §56707, §56708-§56710)

Q: What happens if I submit two forms?

A: If duplicate protests are submitted by the same person, only one protest will be counted and the duplicate will be disregarded during verification. If separate forms are submitted for different ownership interests, LAFCo will review and validate those forms based on applicable law.

Q: What happens if an election is required?

A: If protest levels are sufficient to require voter approval, LAFCo will request that the appropriate local elections official conduct an election (GOV §57000(d))

Q: How long does the process take?

A: The protest period is typically between 21 and 60 days. A determination of the protest results is made within 30 days after the protest hearing. (GOV §57002(a), §57075)

Q: Can the protest hearing be continued?

A: Yes, the hearing may be continued, but not beyond 60 days from the original protest hearing date. (GOV §57000)

Landowner Protests

Q: How are landowner votes counted?

A: Each parcel is allowed one landowner protest. (GOV §56046)

Q: How is ownership verified?

A: Ownership is verified using the most recent county assessment roll. (§GOV 56708)

Q: If more than one person owns a property, does each owner get a separate vote?

A: No. A property with multiple owners is counted as one landowner for protest purposes. A protest for that parcel must be signed by owners representing at least a majority interest in the property for the protest to be counted as a valid landowner protest. (GOV §56046, §56708)

Q: What is required for a protest to count when there are multiple owners?

A: A protest must be signed by a majority of the record owners, or by owners representing a majority ownership interest in the property. If fewer than a majority sign, the protest may not be counted as a valid landowner protest. (GOV §56704, §56708-§56710)

Note: Because LAFCo and the Assessor may not have records showing every beneficial owner, such as for trusts, LLCs, or partnerships, the protest form should include a certification that the signers represent a majority of the ownership interest in the property.

Q: How is the property's value counted?

A: Where assessed value is relevant to protest thresholds, the full assessed land value of the parcel, as shown on the county assessment roll, is counted once for that parcel, regardless of how many owners are on title. (GOV §56710)

Q: How does this affect protest thresholds?

A: If a valid landowner protest is submitted, the parcel counts as one landowner, and the full assessed value of that parcel is included when calculating the percentage of landowner protests and any applicable assessed-value threshold. (GOV §57075, §57091)

Example: A parcel owned by three individuals will count as one landowner protest only if owners representing at least a majority interest, for example two out of three equal co-owners, sign the protest form. If valid, the entire assessed value of the parcel is included.

Registered Voter Protests

Q: How does LAFCo verify who is a registered voter?

A: LAFCo verifies voter status by comparing protests with the official voter registration records maintained by the County Registrar of Voters. (GOV §56707)

Q: What records are used to confirm voter eligibility?

A: The voter registration list (voter roll) on file with the Registrar of Voters is used to confirm whether the person is registered, and whether the registration address is within the affected territory. (GOV §56707)

Q: What information must match for a protest to count?

A: The voter name and voter address (not a PO Box) on the protest must match the voter registration record. LAFCo confirms the address is located within the affected area. (GOV §56707)

Q: What if a person is not registered to vote?

A: If a person is not a registered voter in the affected territory, their protest will not be counted as a valid voter protest. However, they may still qualify to protest as a landowner, if applicable. (GOV §56707-§56708)

Q: When is voter eligibility determined?

A: Voter eligibility is determined at the time protests are reviewed and validated, following the protest hearing, and are based on the official voter registration records at the time the resolution of application is adopted. (GOV §57075, §56707)

Q: Who performs the verification?

A: The LAFCo Executive Officer performs the verification using official voter registration records, and then makes a formal determination of valid protests after the hearing. (GOV 57075)