

**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT**

AGENDA ITEM No. 6

DATE: February 14, 2015

TO: Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

SUBJECT: Amendment to Section 502 of the Commission's Policies, Standards, and Procedures regarding the election of Chairman and Chairman Pro Tempore

RECOMMENDATION: Conduct policy discussion; Amend Section 502 as necessary; or direct staff as necessary

Background

At its January 14, 2015 meeting, the Commission directed staff to review section 502 of the Commissions' Policies, Standards, and Procedures and inquire with other LAFCos about their policies regarding this matter.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH), Government Code (GC) section 56325 describes the membership of the Commission as two members and an alternate appointed by the board of supervisors from their own membership; two members and an alternate selected by the cities in the county, each of whom shall be a mayor or council member, appointed by the city selection committee; and one member and an alternate representing the general public appointed by the other members of the Commission. Though provided for by the CKH, Fresno LAFCo does not have special district representation on the Commission.

The CKH provides special exceptions to the composition of commissions for Los Angeles, Sacramento, Santa Clara, San Diego, and Kern Counties, as well as for counties with no cities. These special exceptions generally provide for certain identified cities to have seats on the commissions.

GC §56335 describes the process for city selection committee appointments pursuant to GC §50270. Commission comments were made at the January 2015 hearing, to the effect that the Fresno Council of Governments appointed city members and provided them with direction regarding the Commission leadership. Though the City Selection Committee (CSC) is composed of the COG Policy Board, absent the County representative, the CSC convenes under the authority of GC §50270, with the Clerk of the Fresno County Board of Supervisors acting as clerk of the committee, to appoint city representatives to boards, commissions, and agencies as required by law.

Commission comments that the CSC sought appointments to balance eastside and west side cities' interests is supported by the CKH GC §56325(b), "The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography."

Neither GC §50270 nor the CKH bind the Commission to any direction given by the CSC to its appointees.

Given the diversity of commission membership the CKH advises,

"While serving on the commission, all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person" (GC §56325.1).

Attachment A is the current policy.

Summary

- Chair and Chairman Pro Tempore serve two-year terms.
- No provision for succession of Chair by Chairman Pro Tempore, no provision for rotation of leadership.
- No reference made to alternate commissioner serving as Chair/Chairman Pro Tempore.

Attachment B is a summary of responses from other LAFCos.

Summary

- 21 of 58 LAFCos responded to survey (36% of all LAFCos).
- 16 (80%) of responding LAFCos have a rotation policy or practice.
- 4 (20%) of responding LAFCos have policies where Chairman Pro Tempore succeeds Chair.
- 4 (20%) of responding LAFCos have city selection committees that rotate LAFCo appointments.

Policy Options Available to the Commission

1. Status quo, no change to policy. No further action necessary.
2. Alternatives:
 - a) Amend terms of Chair and Chairman Pro Tempore to serve one, two, or four-year terms.
 - b) Amend policy that Commission leadership shall rotate among city, county and public member, such as City1/County1/Public/City2/County2/Public.
 - c) Establish orderly succession of Chairman Pro Tempore to Chair.
 - d) Clarify the regular effective date of the terms of the Chair and Chairman Pro Tempore

Though not under LAFCo authority, the Commission may consider a recommendation to the City Selection Committee that it consider rotation of LAFCo appointments.

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Attachment A

Current Policy

502 CHAIRMAN

- 01 Election. The Chairman of the Commission shall be elected by the members thereof by a majority vote of all the members.
- 02 Term. The term of office of the Chairman shall be two years and until the election of his successor.
- 03 Duties. The Chairman shall be the presiding officer of the Commission. He shall preserve strict order and decorum at all meetings of the Commission, state questions coming before the Commission, announce the Commission's decision on all subjects, and decide all questions of order subject, however, to an appeal to the Commission as a whole, in which event a majority vote shall govern and conclusively determine such questions of order. He shall vote on all questions, and on roll call his name shall be called last. He shall sign all directives and contracts approved by the Commission, and may sign Commission resolutions in the absence of the executive officer.

503 CHAIRMAN PRO TEMPORE

- 01 Term and Duties. There shall be a Chairman Pro Tempore, whose term of office shall coincide with that of the Chairman and who shall, in the absence of the Chairman, perform all of the functions and duties of the Chairman.
- 02 Election. The Chairman Pro Tempore of the Commission shall be elected by the members thereof by a majority vote of all the members.

Attachment B

Responses from other LAFcos to the question *"Whether your policies and procedures require or encourage rotation of city and county appointees through commission leadership?"*

Nevada	<p>Yes. By-laws specify rotation of the Commission leadership; have had the same chair now for nearly 10 years.</p> <p>Note: The City Selection Committee practice for LAFCo appointments provides for an annual rotation of the two regular and one alternate city members. Since Nevada County only has 3 cities, it ensures that no City's appointee will be an alternate for more than one year.</p>
Napa	<p>Yes. Chair/vice-chair rotation is mandatory.</p>
SLO	<p>No, but it is a long-standing informal procedure to do so.</p>
Stanislaus	<p>Yes. Commission policy establishes terms and rotation schedule for annual election of leadership to include city, county, and public member.</p>
Solano	<p>Yes. Though by practice the chair has been the public member and the vice-chair rotates between city and county member.</p>
Tulare	<p>Yes. Policy to annually rotate the leadership so that all members of the Commission will have an equal opportunity to serve as an officer of the Commission. In practice, leadership rotates City/County/Public and back again with the vice-chair succeeding the chair.</p>
Ventura	<p>Yes. Chair and vice-chair are rotated so that a member of each of the four represented groups of LAFCo serves one full year in every four-year period: County/Public/City/Special District member.</p>
San Mateo	<p>No, but as a matter of practice leadership rotates chair and vice-chair through County/City/District/ Public.</p>
El Dorado	<p>Yes. Policies state that a chair can serve no more than two consecutive one-year terms.</p>
San Fran	<p>City and County are the same, effectively nullifying this question.</p>
Santa Cruz	<p>No, but as a matter of practice, the leadership changes every January and the Commissioners try to mix up the chair and vice-chair positions.</p>
Shasta	<p>No, but as a matter of practice, the vice-chair becomes the chair</p> <p>Note: The City Selection Committee appoints those members each January rotating city positions each year (with city consent), so that a member serves for two years on and one year as alternate. Thus, a particular city's representation changes every year.</p>

San Benito	Yes. Policy states that the members of the Commission shall elect a Chair and Vice-Chair at the first meeting of the calendar year. The positions of Chair and Vice-Chair shall be rotated unless a Commissioner declines a nomination.
Monterey	Yes. Chair/vice-chair rotates annually City/County/District/Public Member.
Sonoma	No, but the Commission is considering a rotation policy in February, 2015.
Placer	Yes. The rotation "schedule" is a one-year rotation; the vice-chair becomes the next year's chair. Note: The City Selection Committee also has a rotation policy for appointing the city members where all six cities are rotated in and eventually they come on the Commission as the city alternate member for two years, then rotation to a seated member for four years.
Yolo	No. Yolo has no rotation policy, and re-nominates the same Chair every year.
Contra Costa	Yes. Chair and Vice Chair are elected at the first meeting in January of each year to serve one-year terms, or until their successors are elected, whichever occurs later. Officers are selected in the following order: County Member 1/Public Member/Special District Member 1/City Member 1, then County Member 2/Special District Member 2/City Member 2.
Butte	No, but Butte LAFCo has had the same public member chair for 30+ years. Our policy is simply that the Commission chooses chair/vice chair each year at their discretion with no other constraints.
Alameda	Yes. Regular members of the Commission elect a Commission Chair and Vice-Chair each May and newly-elected officers assume office at the next meeting. Unless otherwise determined by the Commission, the Chair and Vice Chair will each serve one two-year term, and rotation of Officers shall be as follows: Special District, County, Public, and City. However, if the Chair becomes vacant mid-term, the Vice Chair shall be given the opportunity to serve as Chair for the remainder of the term. If the Vice Chair declines, the vacancy shall be filled for the remainder of the term by election at the next regular meeting following occurrence of the vacancy.
Merced	No. Policy is to have a vote on appointments each May, but no requirement to rotate. While no formal policy exists, there has never been a case where both officers were Commissioners representing cities or the county, and the public member has been appointed as Chair or Vice Chair on a regular basis as well. Note: City Selection Committee adopted a rotation formula for the six cities within our County which includes having one city rep. from the west side of the County and one from the eastside (with the San Joaquin River as the dividing line). This ensures each city gets their turn and avoids the old pattern where the bigger cities dominated representation on the Commission.