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Title

Towards a Greater Eastside: California Political Boundary Law and Southeast Los Angeles County

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Journal

California Journal of Politics and Policy, 8(4)

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Publication Date

2016

DOI

10.5070/P2cjpp8432631

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**Towards a Greater Eastside: |
California Political Boundary Law and Southeast Los Angeles County**

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I. Exide Battery Plant

In March 2013, a South Coast Air Quality Management District report revealed that an Exide Technologies battery recycling plant in Vernon, California was emitting high levels of arsenic, exposing 110,000 nearby residents to an increased cancer risk.² In March 2015, after two years of investigations, inspections, and more shocking revelations of unimpeded arsenic and lead pollution, the US Attorney’s Office announced that Exide would permanently shut down, destroy its plant, clean up its 15-acre campus, and follow through on a previous agreement with state authorities to clean lead-tainted soil from surrounding communities.³ With as many as 10,000 homes contaminated with lead, the clean-up effort may be the largest in national history.⁴

The reach of the battery plant’s pollution extended well beyond the borders of Vernon, stretching over a group of six suburbs in Southeast Los Angeles County: Bell, Bell Gardens, Commerce, Cudahy, Huntington Park, and Maywood.⁵ While political boundaries slice the area into a patchwork of cities, the affected communities all share several key characteristics—they are working class, majority-Latino, and densely populated.⁶ By one estimate, three hundred thousand residents squeeze into the roughly 17-square-mile area, a population density that exceeds San Francisco, Chicago, or Boston.⁷

While community and media outrage have rightly focused on the California Department of Toxic Substances Control’s failure to prevent Exide’s unlawful pollution, the episode illustrates one of the many maladies of political fragmentation in Los Angeles County. Because it was lo-

¹ Third year law student at Columbia Law School. I would like to thank Professor Richard Briffault for his guidance on this project..

² Jessica Garrison, “Elected Leaders Pledge to Fight Battery Recycler,” *Los Angeles Times*, Sept. 9 2013.

³ Tony Barboza, “Exide’s Troubled History: Years of Pollution Violations But Few Penalties,” *Los Angeles Times*, Mar. 14, 2015.

⁴ Tony Barboza, “How a Battery Recycler Contaminated L.A.-Area Homes for Decades,” *Los Angeles Times*, Dec. 21, 2015.

⁵ *Id.* See map below at page 5.

⁶ Latino population—Bell: 93%, Bell Gardens: 96%, Commerce, 95%, Cudahy 96%, Huntington Park, 97%, Maywood 97%, South Gate, 95%, 2010 U.S. Census.

⁷ William Fulton, *The Reluctant Metropolis: The Politics of Urban Growth in Los Angeles*, Point Arena, CA: Solano Press Books, 1997, 71.

cated in Vernon, an industrial city with few residents, Exide was unfettered by any political accountability to residents of neighboring municipalities. The noxious plant, one of only two such facilities west of the Rockies, had operated with impunity in Vernon since 1922, but residents of surrounding communities had an extraordinary lack of notice of its presence.⁸

The monsignor of a nearby church explained the effect of Vernon's black box: "I've lived here 31 years and we were never advised, never given any health notice that we were so close to such a toxic situation."⁹ In 2013, when community outrage galvanized a movement to force the plant's closure, leaders from the nearby cities of Huntington Park, Maywood, and Bell had to band together to fight for the closure of the plant.¹⁰ In a remarkable show of community solidarity crossing city boundaries, their efforts pushed political leaders to act.¹¹

The Exide plant saga is a clear case of uncontrolled pollution encouraged by LA County's politically fragmented landscape, home to 88 cities and some 140 unincorporated communities.¹² A recent investigative video showing the effects of industrial pollution on the physiology of a Maywood family underlines the human cost of the inability of residents to exercise political control over hazardous land uses.¹³

In spite of catastrophes like Exide, California's constitutional and statutory laws on political boundary changes have not been responsive to the negative effects of political fragmentation on poor areas of the county. Designed to manage boundary changes that confront communities at all stages of the municipal life-cycle, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) and the county level Local Agency Formation Commissions (LAFCo) it created disproportionately focus on controlling municipal incorporation and annexation, rather than encouraging "late-stage" boundary changes like consolidation and disincorporation that would allow residents hurt by Exide's toxic emissions to exert political control over polluters.¹⁴

In addition to allowing uncontrolled pollution, fragmented governance negatively affects the six working-class cities surrounding Vernon by worsening socioeconomic conditions and encouraging political irresponsibility, as I describe below. Next, I describe how the California Constitution, CKH Act and the Los Angeles County LAFCo have been ineffective in remedying problematic municipal boundaries. Finally, I propose state constitutional and legislative solutions

⁸ Barboza, "Exide's Troubled History," *Los Angeles Times*, Mar. 14, 2015.

⁹ *Id.*

¹⁰ Garrison, "Elected Leaders Pledge," *Los Angeles Times*, Sept. 9 2013.

¹¹ Jessica Garrison and Abby Sewell, "L.A. County to Create Toxic Pollution 'Strike Team,'" *Los Angeles Times*, March 11, 2014; Jessica Garrison, "State Senate Panel to Hold Hearing on Toxic Substances Regulator," *Los Angeles Times*, Jan. 7, 2014.

¹² "Unincorporated Areas within the County of Los Angeles," LA County Website, <<http://ceo.lacounty.gov/forms/unincorp%20alpha%20web.pdf>> (<<http://perma.cc/39RB-R5X2>>).

¹³ The Center for Investigative Reporting, "California Lost: Maywood," <<https://www.youtube.com/watch?v=soZFZ7CkWZQ>> (<<https://perma.cc/88FP-W2W4>>).

¹⁴ Cal. Gov't. Code §§ 56034, 56030, 56074, 45 Cal Jr. 3d Municipalities, §25. Incorporation is the process by which a city is formed from previously unincorporated land and its boundaries are set. Annexation is the process by which an existing incorporated municipality adds unincorporated territory, expanding its boundaries. Consolidation is the process by which two incorporated cities combine into one larger incorporated city. Disincorporation is the process by which a previously incorporated city dissolves and reverts to unincorporated territory.

to help address the inequities that are associated with political fragmentation in southeast LA County.

II: The Ills of Political Fragmentation in Bell, Bell Gardens, Commerce, Cudahy, Huntington Park, Maywood, and Vernon

I chose to analyze this group of seven cities in southeast LA County because of their geographic proximity, close economic ties, and unfortunate involvement in the Exide battery plant scandal (see figures below). Despite their similarities, an important difference within the group exists: Commerce and Vernon are cities with few residents and many commercial and industrial employers, while Bell, Bell Gardens, Cudahy, Huntington Park, and Maywood are primarily residential.

There are two unfortunate results of this imbalance of land uses across municipal boundaries. First, the latter group of cities suffers from a lack of valuable tax-producing land, and struggles to fund services for its many residents. Second, residents of the latter group of cities have no say over the externalities that businesses within Vernon and Commerce produce, like traffic, noise, aesthetic blight, and pollution. There are valid economic arguments for the existence of cities like Vernon and Commerce that provide thousands of jobs to nearby residents and help maintain LA County's place as the national leader in manufacturing.¹⁵ While such arguments may be helpful in the debate over the modification of statewide and nationwide regulation of manufacturing, it does not justify the circumvention of current regulations and public accountability that I describe below.

By discussing the recent attempt to disincorporate Vernon, the socioeconomic travails of its neighbors Bell, Bell Gardens, Cudahy, Maywood, and Huntington Park, the political corruption rampant throughout all seven cities, and some failed projects for regional coordination, I hope to illustrate the terrible results of fragmented municipal governance in southeast Los Angeles County.

Municipality or Holding Company: The Vernon Disincorporation Attempt

In 2011, before anyone had heard of the Exide battery recycling plant, California Assembly Speaker John A. Pérez introduced a bill (AB 46) to disincorporate the city of Vernon. It was a long delayed, and ultimately ill-fated, response to a century of flagrant abuses of municipal boundaries. A short discussion of the history of Vernon and failure of AB 46 serve to illustrate the many ways that municipal boundaries can be abused to the detriment of those living on the other side, as was seen with the Exide battery plant.

A self-described “lovable sewer” whose city crest reads “Exclusively Industrial,” since its 1905 founding, Vernon has embraced unsavory businesses outlawed from neighboring Los An-

¹⁵ Tiffany Hsu, “Los Angeles Is the Largest Manufacturing Center in the U.S., Government Says,” *Los Angeles Times*, Sept. 1, 2014. There are approximately 1,800 businesses and 55,000 people who work in Vernon. Ruben Vives, “Vernon’s Population to Double,” *Los Angeles Times*, June 19, 2015. There are approximately 1,800 businesses and 44,886 jobs in the city of Commerce. “General Facts,” City of Commerce website, <<http://www.ci.commerce.ca.us/index.aspx?nid=307>> (<<https://perma.cc/3YJW-5WVM>>).

Figure 1. Map of Southern Los Angeles County (with color coded municipalities and unincorporated areas)



Vernon and its neighbors lie just above the center point of the map. Image courtesy of Los Angeles Almanac, www.laalmanac.com.

geles.¹⁶ This has lent it the reputation of a “mini-Tijuana,” the home of casinos, dog racing tracks, boxing rings, drinking establishments, and other nuisance industries.¹⁷ In the 1990s, Mike Davis counted 365 hazardous material use and storage sites within the five-square-mile city.¹⁸ Twenty-seven million pounds of toxic materials were stored, used, or emitted there, three times the amount of the city of Los Angeles, which has a population 35,000 times greater than Vernon.¹⁹

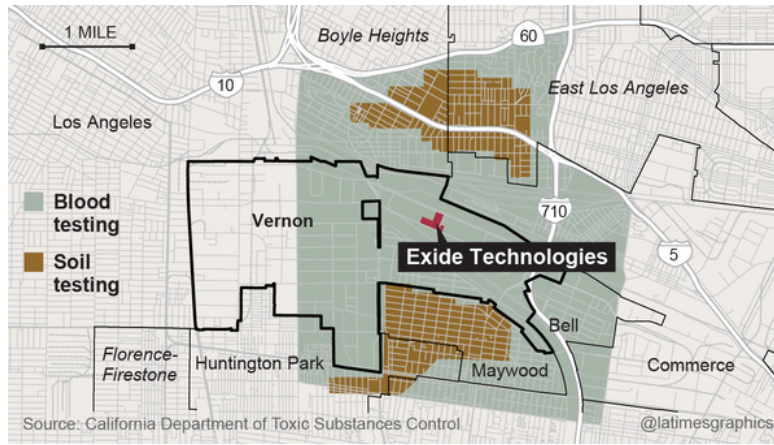
¹⁶ Charles Hoch, “City Limits: Municipal Boundary Formation and Class Segregation,” in *Marxism and the Metropolis*, ed. William K. Tabb, Larry Sawers (New York: Oxford University Press, 1984), 101; City of Vernon, <www.cityofvernon.org (<http://perma.cc/5FUB-764Z>)>.

¹⁷ Victor Valle, *City of Industry* (New Brunswick, NJ: Rutgers University Press, 2009), 21.

¹⁸ Mike Davis, “The Empty Quarter,” in *Sex, God, and Death in L.A.* ed. David Reid (Berkeley, CA: UC Press, 1992), 60.

¹⁹ *Id.*, 60.

Figure 2. Map Showing the Location of the Exide Plant and Estimate of the Geographic Spread of Its Emissions.



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Table 1. Population, Area, and Ethnicities of Vernon and Its Neighbors

City	2010 Census Population	Area (Sq. Miles)	% Latino (2010)
Bell	35,477	2.62	93.1
Bell Gardens	42,072	2.463	95.7
Commerce	12,823	6.538	94.5
Cudahy	23,805	1.226	96.0
Huntington Park	58,114	3.016	97.1
Maywood	27,395	1.178	97.4
Vernon	112	5.157	42.9

Source: 2010 U.S. Census.

Run exclusively by the Leonis family throughout its history, the city achieved its uniformly industrial nature by condemning the residences of pre-existing residents in the area.²⁰ By 1980, the population was limited to 100 live-in city employees (though the Leonis family notoriously lived in tony Hancock Park, flouting California residency requirements for public office).²¹ From 1984 to 2006, there were no elections held in the city of Vernon.²²

²⁰ Valle, 68.

²¹ Jack Leonard and Hector Becerra, “Vernon’s Ex-Mayor and His Wife Are Convicted of Voter Fraud,” *Los Angeles Times*, Dec. 5, 2009.

²² John Pérez speech, 4/28/2011—on the floor of the Assembly, <<https://www.youtube.com/watch?v=eJ4z5jJDk0s>> (<<https://perma.cc/HC9S-RV3U>>).

In the 2010 U.S. Census, there were 112 residents in Vernon. The few residents who lived there were hand-picked by the city council and benefited from subsidized housing in city-owned apartments.²³ It was made clear to them that their political support was a condition of tenancy.²⁴ Like neighboring Commerce, described below, Vernon was organized by and for the business interests that operated within its boundaries, winning the Los Angeles Economic Development Corporation's "Most Business Friendly City" Award in 2008 and finishing as a finalist 2014.²⁵ With barely any residents to provide for, it is a tax-light environment with subsidized utilities (electric rates are 40 percent less than neighbors).²⁶

As Raphael Sonenshein, director of the Edmund "Pat" Brown Institute for Public Policy described it, Vernon is "nothing we would recognize as a city government, providing basic services to thousands of people. Basically it's kind of a holding company for the local businesses."²⁷ Pérez's attempt to disincorporate Vernon came after several city leaders were convicted for voter fraud and misappropriation of public funds, including one who had been in office for over 50 years (the grandson of the city's founder).²⁸ City administrators had awarded themselves obscene pensions that paid over \$500,000 annually.²⁹

AB 46 passed the Assembly with unanimous support over intense opposition from labor unions representing Vernon's workers and the Vernon Property Owners' Association.³⁰ Neighboring communities uniformly supported the bill, as did Los Angeles.³¹ Kevin de León, who represented Vernon at the time, killed the bill in the Senate. De León proposed a "less drastic" solution that required the city to undergo governance reforms.³²

Subsequent reports on the progress of Vernon's reform note that the construction of 45 new units of housing opened in August 2015, doubling the number of residents in the city to 225.³³ However, as of July 2015, Vernon has yet to reform its uniquely staggered system of city council

²³ Hector Becerra, Sam Allen, and Kim Christensen, "Vernon a Tightly Controlled Fortress," *Los Angeles Times*, Sept. 18, 2010.

²⁴ *Id.*

²⁵ "Vernon Named Finalist," Vernon City website, <<http://www.cityofvernon.org/city-news/131-mbfc-2014>> (<<http://perma.cc/8A9E-ZBK6>>).

²⁶ "Santa Clarita and Vernon Named Los Angeles County's Most Business—Friendly Cities," Nov. 17, 2008, News Release, Mayo c=Communications, <<http://laedc.org/wp-content/uploads/2008/11/111708.pdf>> (<<http://perma.cc/VK8X-5LWR>>).

²⁷ Josh Stephens, "Industrial City of Vernon Faces Municipal Death Penalty," *CA Planning and Development Report*, Mar. 14, 2011.

²⁸ Sam Allen, Hector Becerra, and Kim Christensen, "Former Vernon City Administrator Indicted by Grand Jury," *Los Angeles Times*, October 19, 2010; Leonard and Becerra, "Vernon's Ex-Mayor," *Los Angeles Times*, Dec. 5 2009; Teri Sforza, "Updated, Felon Fights for \$541,000 Public Pension," *Orange County Register*, Mar. 7, 2014.

²⁹ Hector Becerra and Sam Allen, "Ex-Vernon Leader Accepts Plea for Using City Funds for Gold, Massages, Meals," *Los Angeles Times*, May 26, 2011.

³⁰ Josh Stephens, "Industrial City of Vernon Faces Municipal Death Penalty," *California Planning & Development Report*, vol. 26, no. 5 (Mar. 1, 2011).

³¹ *Id.*

³² John Van de Kamp, "City of Vernon Report," City of Vernon website, Jan. 2015, <http://www.cityofvernon.org/images/government/JohnVanDeKampIndependentReformMonitorReport_01_31_15.pdf>, at 1 (<<http://perma.cc/8BF5-5Z2A>>).

³³ Van de Kamp, at 2; Ruben Vives, "Vernon's Population to Double," *Los Angeles Times*, June 19, 2015.

elections, which allows the annual election of only one of five councilmembers to five-year terms, operating like a corporation's takeover defense mechanism.³⁴ In spite of the monitor's concerns about this system, which was designed in 2006 to suppress an insurgent political opposition, consideration of such a reform is expected to take place when more residents move to the city.³⁵ The current mayor has been a councilman since 1974.³⁶

The remedial effort orchestrated by de León required that Vernon fund improvements to community facilities in surrounding cities, an implicit recognition of the negative effect of Vernon's malfeasance on neighboring communities.³⁷ De León called for a "good neighbor program" to be implemented in the city that, among other things, would "establish a substantial and long-term Environmental and Community Benefit Fund to help mitigate the decades of noxious air released from Vernon."³⁸ He also expressed a desire to see Vernon reform itself by "building and maintaining a unique recreational venue for the surrounding communities."³⁹

It appears that the cross-boundary socioeconomic problems have been recognized, and yet state law and lawmakers hesitate to resolve the issue by reordering boundaries, instead opting for a partial and palliative version of redistribution. As of the writing of this article, the residents of the neighborhoods affected by the Exide plant's pollution still lack political control over the city that enabled its malfeasance. As I will discuss later, this represents a failure of existing state law on municipal boundaries.

Fighting over the Land-Use Scraps: The Suburbs of Extraction

Political fragmentation in southeast LA County has compounded the impact of regional economic distress in the residential cities surrounding Vernon and Commerce. The reality on the ground confirms the predictions of Juliet Musso, who describes the result of socioeconomic decline brought about by political fragmentation as "cumulative deterioration."⁴⁰ The current municipal boundary structure, which sequesters valuable lands and tax revenues in resident-less Vernon and Commerce, worsens the effects of declining tax revenues and increased service needs in the surrounding working-class residential cities.⁴¹

Like many working-class urban areas, southeast LA County was hit hard by the deindustrialization and global economic restructuring that began in the late 1970s and continued through the 1990s. In the four-year period between 1979 and 1983, Norris Industries, Firestone Rubber,

³⁴ Van De Kamp, "City of Vernon Report," at 12. The California League of Cities is not aware of any other city that has annual elections to select one council member.

³⁵ *Id.*

³⁶ Ruben Vives, "Vernon's Population to Double," *Los Angeles Times*, June 19, 2015.

³⁷ Kevin de León to Mark Whitworth, August 22, 2011, "Re: Cleaning Up Vernon," <http://www.cityofvernon.org/good_governance_reforms/SenatorKevinDeLeonCriticalPathReforms_08_22_11.pdf>, 4 (<<http://perma.cc/DT2M-JCBN>>).

³⁸ Kevin de León to Mark Whitworth, at 6.

³⁹ *Id.*, at 4.

⁴⁰ Juliet Musso, "Metropolitan Fiscal Structure: Coping with Growth and Fiscal Constraint," in *Up against the Sprawl: Public Policy and the Making of Southern California*, ed. Jennifer Wolch, Manuel Pastor, Peter Dreier (Minneapolis, MN: University of Minnesota Press, 2004), 174.

⁴¹ Musso, 174.

Bethlehem Steel, and GM plants in the area all closed, representing a loss of 10,000 jobs.⁴² California's recession in the 1990s added insult to injury, with the area losing a fifth of its job base (24,000) between 1992 and 1997.⁴³

The industries lost paid high wages and have since been replaced with low-wage, nonunion industries such as textiles, apparel, dyeing, furniture-making, food and beverage processing, light metals fabrication, and hazardous waste disposal.⁴⁴ Indicative of this shift was the fate of the old Bethlehem steel factory, which by the 1990s was home to a hot-dog distributor, Chinese food products company, and maker of rattan patio furniture.⁴⁵

These large-scale economic trends have wreaked fiscal havoc in the residential communities surrounding Vernon and Commerce. The area is impoverished, with unemployment rates that lead the state and income levels that are the lowest in the region.⁴⁶ According to one study, Bell, Maywood, Cudahy, and Bell Gardens have among the lowest fiscal capacities in the state of California.⁴⁷ Maywood became the nation's first 100 percent contracting city in 2010 when it fired all its employees and dismantled its police department.⁴⁸ It remains fifth on a recent list of the most financially distressed cities and counties in California published by the California Policy Center.⁴⁹

Cudahy and Huntington Park, like Maywood, have general fund revenues per capita among the lowest in the region.⁵⁰ Bell's recent corruption scandal has left its finances in a mess, with the city on the hook for repaying illegal taxes and charges.⁵¹ Meanwhile, the service needs of the cities' residents have increased as hundreds of thousands of poor Mexican and Central-American immigrants have moved to the area since the 1970s.⁵²

In the face of such fiscal stress, the residential cities have prioritized businesses like casinos and waste processing facilities over the quality of life of residents. William Fulton elegantly described the result in what he calls "suburbs of extraction": "In essence, the small islands of self-government in the southeast area became little Nevadas, seeking to exploit the powers of sover-

⁴² James R Curtis, "Barrio Space and Place in Southeast Los Angeles, CA," in *Hispanic Spaces, Latino Places*, ed. Daniel D. Arreola (Austin, TX: University of Texas, 2004), 135.

⁴³ Mara Marks, Elizabeth Gearin, Carol Armstrong, "The Experimental Metropolis: Political Impediments and Opportunities for Innovation," in *Up Against the Sprawl*, ed. Jennifer Wolch, Manuel Pastor, Peter Dreier (Minneapolis, MN: University of Minnesota Press, 2004).

⁴⁴ *Id.*

⁴⁵ Mike Davis, "The Empty Quarter," 58.

⁴⁶ Burr Consulting, "Gateway Final Municipal Service Review," LALAFCO website, <<http://lalafco.org/MSR%20SOI%20Updates/Gateway%20Final%20MSR.pdf>>, at 23. (<<http://perma.cc/P6JC-6SJR>>).

⁴⁷ Musso, 188.

⁴⁸ "There goes everybody," *The Economist*, July 8, 2010.

⁴⁹ Marc Joffe and Julie Larkedring, "California's Most Financially Distressed Cities and Counties," California Policy Center website, <<http://californiapolicycenter.org/californias-most-financially-stressed-cities-and-counties/>> (<<http://perma.cc/54PM-WF48>>).

⁵⁰ Burr Consulting, "Gateway Final Municipal Service Review," LALAFCO website, <<http://lalafco.org/MSR%20SOI%20Updates/Gateway%20Final%20MSR.pdf>>.

⁵¹ Ruben Vives and Hector Becerra, "Bell Is on the Brink of a Fiscal Crisis, State Audit Says," *Los Angeles Times*, May 23, 2013.

⁵² Curtis, "Barrio Space and Place," 2004.

eignty in whatever way they could for the closely entangled economic benefit of both the city treasuries and local businesses of urban extraction.”⁵³

Unsurprisingly, nuisance land uses like Vernon’s Exide have sprung up outside the borders of the industrial city. In 1990s Huntington Park, a scrap metal heap known as “La Montaña” once towered over a residential neighborhood, attracting the ire of its residents.⁵⁴ In Bell Gardens, local officials cozied up to the gaming industry—its Bicycle Card Casino generates about \$9 million annually for its 26,000 residents, persisting today in spite of FBI indictments of money laundering for drug cartels in the early ’90s.⁵⁵

Several other cities pursued aggressive “urban redevelopment” plans under the now-moribund California community redevelopment law as a way of capturing property tax increments to subsidize unsavory businesses.⁵⁶ The law allowed the formation of Community Redevelopment Agencies that could condemn property and finance improvements by using future increases in property tax collections. This allowed cities to keep more of their property tax allocation in the CRAs and avoid contributions to other governmental entities like school districts. Vernon and Commerce, already well positioned to provide low-tax, regulation-light environments with cheap utilities, used the same tactics to better effect, maintaining strong job bases and valuable land uses like Commerce’s Citadel Outlets (which used redevelopment funds to replace the former Uniroyal Tire plant, closed in 1978).⁵⁷

Attendant Corruption in Southeast Los Angeles County

Community pressure in Huntington Park eventually led the city to push back against the owner of “La Montaña,” described above, and demonstrates the value of political accountability in curbing irresponsible economic development policies.⁵⁸ By and large, however, the tiny fragmented cities of southeast LA County lack political accountability. In recent years, the area has been hit by a seemingly never-ending string of public corruption scandals.⁵⁹ With the background of an influx of disenfranchised immigrants, political fragmentation has worsened corruption by generating municipal fiscal distress and limiting the oversight of corrupt local officials. As Tom Hogen-Esch noted in a recent article: “It’s an environment that invites corrupt politics—no one is watching.”⁶⁰

The corruption takes place in the context of demographic upheaval in the area. Today, Maywood, Cudahy, Bell Gardens, Huntington Park, and Bell all have the highest proportions of noncitizen adult residents in California, meaning their voting population is tiny compared to their total population.⁶¹ Maywood is an example. In 1970 it was 97 percent white, and by 2000 it was

⁵³ Fulton, *Reluctant Metropolis*, 77.

⁵⁴ *Id.*, at 90.

⁵⁵ Burr Consulting, 116, Mike Davis, “The Empty Quarter.”

⁵⁶ Fulton, *Reluctant Metropolis*, 77–78.

⁵⁷ “History of Citadel Outlets,” Citadel Outlets website, <<http://www.citadeloutlets.com/info/ourHistory>> (<<http://perma.cc/9W9G-QQU6>>).

⁵⁸ Fulton, *Reluctant Metropolis*, 90.

⁵⁹ Sam Quinones, “How Mexicans Became Americans,” *New York Times*, Jan. 17, 2015.

⁶⁰ Ruben Vives and Joel Cohen, “Informant in FBI Investigation was Huntington Park Councilman,” *Los Angeles Times*, Jan. 14, 2016.

⁶¹ Joaquin Avila, “Political Apartheid in California,” *Latino Policy & Issues Brief*, No. 9, UCLA Chicano Studies Research Center, Dec. 2003.

96 percent Latino.⁶² A local council member estimated that between a third and a half of its adult residents are undocumented immigrants.⁶³

Because the California Constitution restricts the franchise to citizen residents, these members of the community have no voice in the management of their cities and voter turnout is lower than average throughout the area.⁶⁴ The demographic shifts and small size of the cities have led to a dearth of local media coverage in the area, with the 1993 merger of the *Bell Gardens Review*, *South Gate Press*, *Huntington Park Bulletin*, and *Industrial Post* leaving a vacuum in local political media coverage.⁶⁵

While corruption is caused by a variety of factors, political fragmentation has helped in southeast LA County, lowering the price of bribes, allowing these small cities' officials to slip under the radar, and making it difficult for the tiny impoverished cities to implement transparent public fiscal practices. In addition to Vernon's recent scandal, Bell is reeling from massive expropriations of public funds by corrupt officials including five councilmembers, the city manager, and other staff.⁶⁶ Three city officials in Cudahy were convicted of shaking down marijuana dispensaries, and a state controller's audit in 2014 found serious spending irregularities there, concluding that "administrative and internal accounting control deficiencies" were "serious and pervasive," and the "potential for fraud, waste, and abuse is very high."⁶⁷

Even South Gate, a relatively prosperous city nearby, suffered from election fraud and corruption in the early 2000s.⁶⁸ For years, Maywood made a practice of using sobriety checkpoints to impound undocumented immigrants' cars, charging thousands of dollars in fees for their return.⁶⁹ With the area sliced into tiny cities full of working-class immigrants, it's no surprise that the going rate for bribery is very affordable: in a recent FBI investigation of a tow truck company who did business in the area, it was found that owners of the company contributed a total of \$2,650 to a councilmember in an effort to change his vote on a proposed rate hike.⁷⁰

There are strong indications that while political fragmentation prevents the residents of these cities from exerting political control over neighbors' land use policies, it does not prevent corrupt officials from collaborating among each other. The tow truck company discussed above, recently charged with bribery, had long-term contracts with several cities in the area, including nearby Lynwood, and used a Lynwood councilmember to help funnel money to a Huntington Park

⁶² Carpio, Irazabal, Pulido, "Right to the Suburb? Rethinking Lefebvre and Immigrant Activism," *Journal of Urban Affairs*, vol. 33, no. 2 (2011): 185–208, at 196.

⁶³ *Id.*, 197.

⁶⁴ Joaquin Avila, "Political Apartheid"; Cal. Const., art. II, § 2; Tom Hogen-Esch, "Failed State: Political Corruption and the Collapse of Democracy in Bell, California," *California Journal of Politics and Policy*, vol. 3, issue 1 (2011) 15–17.

⁶⁵ Tom Hogen-Esch, "Failed State," 18-19.

⁶⁶ William Fulton, "Bell: The Latest 'Suburb of Extraction,'" *California Planning and Development Report*, 27 (July 2010).

⁶⁷ Ruben Vives, "Former Cudahy Councilman Gets 3 Years in Extortion Case," *Los Angeles Times*, Feb. 27, 2013; John Chiang, California State Controller, City of Cudahy Review Report, April 2014; Jeff Gottlieb, "Audit Faults Cudahy as Government in Chaos," *Los Angeles Times*, April 15, 2014.

⁶⁸ Sam Quinones, *Antonio's Gun and Delfino's Dream* (Albuquerque: University of New Mexico Press, 2007), 65–116.

⁶⁹ Hector Becerra, "Welcome to Maywood, Where Roads Open Up for Immigrants," *Los Angeles Times*, March 21, 2006.

⁷⁰ Ruben Vives and Joel Cohen, "Informant in FBI Investigation."

councilmember.⁷¹ A recent campaign money laundering scandal involved officials from Maywood, Commerce, Bell, and a PAC (ironically named “Californians for Good Government”) used to fund campaigns in all three cities.⁷²

Attempts at Regionalism

Beyond corrupt officials collaborating, existing regional solutions desperately needed to break this cycle have stopped far short of revenue sharing and land-use coordination. The short-lived “Gateway Cities Partnership” gained academic attention because of its forward-looking approach to cooperative economic development, but ultimately failed to reverse the cumulative deterioration ravaging southeast LA County.⁷³ Founded in 1997, it includes Vernon, Commerce, Bell, Bell Gardens, Cudahy, Huntington Park, and Maywood, and 20 other cities.⁷⁴ The partnership was a collaborative effort of business, labor, education, and the public sector.⁷⁵

Revealing for our purposes, the partnership focused on the promotion and branding of the area as an “interdependent industrial unit” and an effort to “inspire a regional identity among city officials, business owners, and community groups.”⁷⁶ Sometime in the mid-2000s it disappeared.⁷⁷ Today, the Southeast Los Angeles County Council of Governments (COG) stands in its place, but the COG lacks binding authority, and its activities are limited to consensus building and planning.⁷⁸

To the knowledge of one of the COG’s directors, it has never collaborated with the county agency charged with determining political boundaries, the Los Angeles County LAFCo.⁷⁹ I describe LAFCOs, their constitutional and statutory background, and their inability to address the ills of political fragmentation, below.

California’s Local Boundary Statute

California’s Constitution leaves to the legislature the project of establishing the rules of municipal boundary changes, with the important exception of Article XI, Section 2(b), which provides that “except with approval by a majority of its electors voting on the question, a city may not be annexed to or consolidated into another.” Beyond this restriction, the Cortese-Knox-

⁷¹ *Id.*

⁷² Hector Becerra, “State Fines Ex-Maywood Water Company Head in Money-Laundering Case,” *Los Angeles Times*, Jan. 6 2014; <<http://www.latimes.com/local/la-me-southeast-money-20140107-story.html>>.

⁷³ Mara Marks, Elizabeth Gearin, Carol Armstrong, “The Experimental Metropolis,” at 348.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*, at 350.

⁷⁷ Phone conversation with Jack Josephs, Deputy Executive Director of the Gateway COG, Nov. 17, 2:00 pm.

⁷⁸ *Id.*

⁷⁹ *Id.*

Hertzberg Local Government Reorganization Act regulates municipal disincorporation, consolidation, incorporation, and annexation.⁸⁰

The act establishes procedures by which local governments or citizens may petition county LAFCoS to incorporate new cities, annex unincorporated contiguous territory, consolidate existing cities, or disincorporate existing cities.⁸¹ The LAFCo process has three distinct phases: a petition/resolution, a series of hearings, and a final election. In order to accomplish a boundary change, landowners or residents must file a petition with the LAFCo signed by a specified percentage of landowners or registered voters (usually 25 percent).⁸²

Alternatively, an “affected local agency” can legislatively adopt a “resolution of application” to the same effect.⁸³ The LAFCo’s executive officer then undertakes a study of the petition/resolution, factoring in demographic, economic, and social data from the region (among many other statutory criteria), and submits a report to the commission.⁸⁴ A public hearing is held, with opportunity for the proponent and any opponents to comment.⁸⁵

The commission comes to a decision with or without additional conditions, and if they approve the boundary change, an additional, “protest” hearing is held.⁸⁶ If a majority of the residents of the affected territory submit written or oral protests at this protest hearing, the process is called off.⁸⁷ If not, the proposal is submitted to the voters of the affected territory, and must be approved by majorities in each affected territory in order to be implemented.⁸⁸

The state’s 58 LAFCoS (one per county) were formed under CKH Act’s predecessor, the Knox-Nisbet Act of 1963.⁸⁹ Initially passed in response to the uncontrolled sprawl and rapid incorporation of unincorporated land during California’s postwar population explosion, the current act’s purpose remains to “encourage planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns, and to discourage urban sprawl and encourage the orderly formation and development of local agencies based upon local conditions and circumstances.”⁹⁰ Included in the act’s statement of purpose is the recognition that “a single multipurpose governmental agency is accountable for community service needs and financial resources and, therefore, may be the best mechanism for establishing community service priorities especially in urban areas.”⁹¹

⁸⁰ Assembly Committee on Local Government, “Guide to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, May 2013, i, <http://www.calafco.org/files/CKH_Guide_Update_2013.pdf> (<<http://perma.cc/89F6-F2K7>>).

⁸¹ Cal. Gov’t Code §§ 56034, 56030, 56074, 45 Cal Jr. 3d Municipalities, §25. See note 17 for a description of these boundary changes.

⁸² Cal. Gov’t Code §§ 56650, 57050, 57118 (a), 56765, 56766.

⁸³ Cal. Gov’t Code §§ 56014, 56654.

⁸⁴ Cal. Gov’t Code §§ 56665, 56668.

⁸⁵ Cal. Gov’t Code § 56886.

⁸⁶ Cal. Gov’t Code § 57078.

⁸⁷ *Id.*

⁸⁸ Cal. Gov’t Code 57118 (a).

⁸⁹ Assembly Committee on Local Government, “Guide to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, May 2013, i, <http://www.calafco.org/files/CKH_Guide_Update_2013.pdf> (<<http://perma.cc/89F6-F2K7>>).

⁹⁰ Cal. Gov’t Code §56001.

⁹¹ *Id.*

While concerns over efficiency inform the act's provisions, Speaker Pérez's failed attempt to disincorporate Vernon, described above, reflects the failure of current California law to facilitate late stage boundary changes when they are sorely needed. AB 46 was drafted to avoid the CKH Act because of the impossibility of getting majority support for a LAFCo disincorporation or consolidation in a city with no independent voters.⁹² Similarly, AB 46 called for the disincorporation of Vernon and its reversion to the county, instead of consolidation with another pre-existing city, because the California Constitution prohibits the consolidation of one city into another without a majority vote of its residents.⁹³

Below, I discuss how political vulnerability to business and development influences have made LAFCOs ineffective in achieving the act's goals.⁹⁴ Further, I show how recent amendments betray a disproportionate concern with preventing the incorporation of new cities and the annexation of unincorporated land, rather than with promoting efficiency and accountability among existing governments through disincorporation and consolidation.⁹⁵ For the communities affected by the Exide battery plant, this means LAFCOs will not be of help to them in gaining political control over municipal malfeasants like Vernon.

Political Campaigns with Economic Consequences

The LAFCo procedure, with its fiscal ramifications for businesses, residents, and cities, is highly political. LAFCOs are appointed bodies, and Los Angeles County's LAFCo is composed of nine members: two appointees from the county board of supervisors, two from the county's 53 independent special districts, two from the county's 88 cities, one from the city council of Los Angeles, one from the San Fernando Valley (appointed by the county government) and one member from the general public, elected by the other eight members.⁹⁶

Currently, seven of nine members are elected representatives.⁹⁷ The result of this thin insulation from politics is that local special interest groups, especially chambers of commerce and developers, have historically had a strong influence on local boundary changes.⁹⁸ As one author on the subject explained, "LAFCo boards and their decisions are an important part of the maintenance of local conditions for economic growth and are, of necessity, tied into the local 'growth machine.'"⁹⁹ Industrial and commercial interests have successfully promoted political fragmentation as a means of controlling their regulatory and tax environment.¹⁰⁰

⁹² Cal. Gov't. Code § 56765.

⁹³ Cal. Const. art. XI, § 2(b) ("Except with approval by a majority of its electors voting on the question, a city may not be annexed to or consolidated into another."); Bill Analysis, Senate Governance and Finance Committee, April 4, 2011, <http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0001-0050/ab_46_cfa_20110616_141558_sen_comm.html> (<<http://perma.cc/29JA-RFRE>>).

⁹⁴ Gary Miller, *Cities by Contract* (Cambridge, MA: MIT Press, 1981), 110, 112–13.

⁹⁵ See pages 15–18 below.

⁹⁶ "Commissioners," LALAFCO website, <http://lalafco.org/index.php?option=com_content&view=article&id=78&Itemid=196> (<<http://perma.cc/6FWT-MPWJ>>).

⁹⁷ *Id.*

⁹⁸ Hoch, 109; Miller, 110–11; Stephanie Pincetl, *Transforming California: A Political History of Land Use and Development* (Baltimore, MD: Johns Hopkins University Press, 1999), 143.

⁹⁹ Pincetl, 142.

¹⁰⁰ Hoch, 109, 112; Miller, 113; Nancy Burns, *The Formation of American Local Governments* (New York: Oxford University Press, 1994).

The LA County LAFCo has been ineffective in encouraging political consolidation in the face of opposition from industrial and commercial interests like those from Vernon and Commerce.¹⁰¹ In addition, in spite of its procedural roadblocks to incorporation, the LAFCo process did little to stop the rapid pace of political fragmentation in California, with 70 incorporations occurring in California between 1970 and 1999.¹⁰²

This vulnerability to influence is especially obvious during the final elections required by the CKH Act for incorporations, annexations, consolidations, and disincorporations, when business interests effectively mount campaigns to maintain their tax-free and light regulatory environment. Gary Miller's discussion of the incorporation of Commerce is illustrative of the ability of industrial interests to orchestrate sophisticated LAFCo elections.¹⁰³

While the Commerce incorporation campaign occurred prior to creation of LAFCos in 1963, it involved a final election in which highly paid political consultants and lawyers were essential. According to Miller, "local industry supplied the money to organize the incorporation; it hired the public relations firm that ran the incorporation election; and it financed the filing of incorporation papers and the mapping of incorporation boundaries."¹⁰⁴

In the face of annexation attempts by neighboring cities, Lever Brothers Co. and the railroad interests who owned nearby unincorporated land decided to fund the campaign.¹⁰⁵ In doing so, they hired a professional public relations consultant, whose duties included picking a slate of council candidates for the new (as of yet imaginary) city that would be friendly to them.¹⁰⁶ What residents were included within the boundaries of the city (sandwiched between two rail yards), were sold on the incorporation idea by the prospect of great services.¹⁰⁷

Soon after incorporation, the industrial interests that funded the incorporation campaign solidified their control over the city's government, imposing a gag rule during city council hearings and intimidating opponents, while attempting to allay resident concerns by building a free public pool called the Aquatorium.¹⁰⁸ By 1973, two councilmembers were indicted for bribery and siphoning city funds for their personal use, and spent some time in jail.¹⁰⁹ In spite of the convictions, the industrial interests retained their grip on their fiefdom in Commerce by keeping city workers, the "single most powerful voting and electoral voting bloc in the city," satisfied.¹¹⁰

Commerce's story was repeated in the LAFCo-facilitated incorporation of Carson in 1968, among many others.¹¹¹ While the CKH Act hopes to produce "planned, well-ordered, efficient

¹⁰¹ Jared Eigerman, "California Counties: Second-Rate Localities or Ready-Made Regional Governments?" 26 *Hastings Const. L.Q.* 621, 653.

¹⁰² Tom Hogen-Esch, "Fragmentation, Fiscal Federalism, and the Ghost of Dillon's Rule," *California Journal of Politics & Policy*, vol. 3, issue 1 (2011): 11; Miller, 103; Pincetl, 143.

¹⁰³ Miller, 41.

¹⁰⁴ Miller, 31, 43 111 (describing the similar incorporation campaign mounted by industrial interests in Carson in 1968, after the creation of the LA County LAFCo).

¹⁰⁵ Miller, 42.

¹⁰⁶ Miller, 43

¹⁰⁷ *Id.*

¹⁰⁸ Miller, 45. Curiously, the Aquatorium was recently mentioned by Kevin de León as an example for Vernon to emulate as part of its "good neighbor program" in the wake of Speaker Pérez's failed disincorporation attempt (see above).

¹⁰⁹ *Id.* 46.

¹¹⁰ *Id.*

¹¹¹ *Id.*

urban development patterns,” well-financed and organized campaigns ensure that the LAFCO process serves the interests of industrialists like those in Vernon and Commerce, especially when the cities lack independent electorates.¹¹² The unfortunate result for the working-class residents of neighboring Bell, Bell Gardens, Cudahy, Maywood, and Huntington Park, which suffer from the worst poverty rates in LA County, is that a fragmented municipal topography of great inequality has been cemented into place.

Late-Stage Boundary Needs Ignored

Recent legislative amendments to the CKH Act focus disproportionately on regulating the processes of incorporation and annexation on the periphery of urban areas, ignoring the late-stage boundary changes of consolidation and disincorporation needed to fight the ills of political fragmentation in existing cities. This is surprising given the recent paucity of municipal incorporations. Since 1992, only 14 cities have incorporated in California, and none of them in Los Angeles County.¹¹³

2000 Amendments

In 2000, the California Assembly passed the most important amendments to the state’s local boundary laws in 40 years.¹¹⁴ Based on a report produced by the Commission on Local Governance for the 21st Century, entitled “Growth within Bounds,” the amendments focused on the prevention of sprawl by introducing heavier regulation of incorporations through the LAFCO procedure.¹¹⁵

California Government Code § 56301 demonstrates this proclivity by mandating consideration of existing service provision entities and consolidation with existing agencies “when the formation of a *new* government entity is proposed,” and “if a *new* single-purpose entity is deemed necessary.”¹¹⁶ Disincorporations and consolidations solely involve pre-existing municipalities.

One of the main provisions of the 2000 amendments that mandate periodic review and alteration of Spheres of Influence (SOIs) betrays this penchant for ignoring late-stage boundary changes.¹¹⁷ Once a toothless feature of the state law, SOIs designate “an agency’s probable future physical boundary and service area. It is a territory that a city or special district will annex in the future. It’s also an area where the local government will build facilities and deliver services sometime in the future.”¹¹⁸

¹¹² Cal. Gov’t Code §56001.

¹¹³ *Id.*

¹¹⁴ Tami Bui and Bill Ihrke, “It’s Time to Draw the Line: A Citizen’s Guide to LAFCOs,” Senate Committee on Local Government, 2d ed., May 2003, <http://www.calafco.org/docs/TimetoDrawLine_03.pdf> (<<http://perma.cc/H2NY-E9CA>>).

¹¹⁵ Commission on Local Governance for the 21st Century, “Growth within Bounds,” Jan. 2000, <<http://opr.ca.gov/docs/79515.pdf>> (<<http://opr.ca.gov/docs/79515.pdf>>).

¹¹⁶ Napa LAFCO, “Reinventing LAFCO, A Primer for Commissioners,” Sacramento Convention Center, Mar. 28, 2001, pg 9 (emphasis added).

¹¹⁷ *Id.*, 10.

¹¹⁸ Tami Bui and Bill Ihrke, “It’s Time to Draw the Line: A Citizen’s Guide to LAFCOs,” Senate Committee on Local Government, 2d ed., May 2013, at 13, <<http://www.napa.lafco.ca.gov/uploads>

The 2000 amendments demand a LAFCo review of each city's SOI every five years, and require the review be done in conjunction with a Municipal Service Review (MSR).¹¹⁹ MSRs are quite comprehensive, analyzing public utility, public safety, public works, and community service levels for each city and within each SOI.¹²⁰ For example, in southeast LA County's 2005 MSR, each of 26 cities' methods for providing patrol, dispatch, training, SWAT, air support rescue services, and holding services were detailed.¹²¹

Also provided were charts breaking down police calls per capita, citations, arrests, crimes per capita, police facility conditions, crime clearance rates, response times, staffing levels per 1,000 people, annual police-related complaints, and police regional collaboration activities.¹²² The report then gave the same treatment for fire protection.¹²³ The SOI review process, based on MSRs, can be the basis of nonbinding recommendations for boundary changes, and includes an analysis of social and economic communities of interest.¹²⁴

Nevertheless, while the 2000 amendments have made substantive changes in the way LAFCOs determine SOIs, they provide no relief to the residents of cities that are "landlocked" politically.¹²⁵ Bell, Bell Gardens, Commerce, Cudahy, Maywood, and Vernon all have SOIs that are coterminous with their current political boundaries.¹²⁶ While Huntington Park has a small SOI outside of its borders, the SOI review process still fundamentally ignores the problem of established political fragmentation and redundancy among the existing cities of Los Angeles County.

The commissioner's primer to the act admits as much, noting, "the changes to the SOI guidelines mark a shift that places LAFCOs in a better position to take a proactive position in shaping the development of *unincorporated* territory near local agencies."¹²⁷ In addition, the southeast LA MSR's analysis, while replete with facts regarding service provision, draws uninspiring conclusions from its data. With respect to the "social or economic communities" factor of analysis, the report summarily concluded that Bell, Bell Gardens, Huntington Park, Maywood, and Vernon each had a "long and rich history, with a high degree of community involvement."¹²⁸

For a group of cities with nearly identical economic and demographic profiles and yet severe imbalances in jobs per resident (Vernon: 1,678; MSR as a whole: 1.4), among other factors, this stock answer belies a superficiality of analysis. Proposals for efficiency gains through consolidation of services were threadbare and brief.¹²⁹ Especially indicative was the 2008 MSR's conclusion that "for the most part, the local agencies are accountable to their citizens," which undoubt-

/documents/TimetoDrawLine_LAFCOs.pdf> (<<http://perma.cc/H2NY-E9CA>>); Cal. Gov't Code §§ 56425, 56430.

¹¹⁹ Cal. Gov't. Code 56425 (g);

¹²⁰ Burr Consulting, "Gateway Final Municipal Service Review," LALAFCO website, <<http://lalafco.org/MSR%20SOI%20Updates/Gateway%20Final%20MSR.pdf>>.

¹²¹ Burr Consulting, "Gateway Final MSR," 31–46.

¹²² *Id.*

¹²³ *Id.*, at 49

¹²⁴ Cal. Gov't Code §§ 56425 (e) 4, (h).

¹²⁵ By "politically landlocked" I mean that the cities are not adjacent to any unincorporated land.

¹²⁶ Burr Consulting, "Gateway Final MSR," 123.

¹²⁷ Napa LAFCo, "Reinventing LAFCO," at 11 (emphasis added).

¹²⁸ Burr Consulting, at 123.

¹²⁹ *Id.*, 119.

edly confused Bell residents two years later, when prosecutors charged eight Bell officials in a large-scale public corruption case.¹³⁰

One little-noticed amendment brought about in 2000 was the reduction of the petitioner signature requirement for consolidation petitions from 20 percent of registered voters of each of the premerger cities to a meager five percent.¹³¹ While significant, this change has not resulted in any consolidations in LA County, perhaps because the final election required by the California Constitution and the LAFCo process dissuade residents undertaking the effort.¹³² Describing the similar process of county boundary changes, Jared Eigerman, a former deputy city attorney in San Francisco, complained that it “is more difficult to effect a major boundary change or consolidate counties than it is to amend the State Constitution.”¹³³

The expense is illustrated by East Los Angeles’s recent attempt at incorporation, which required a loan from the state to cover the costs of the LAFCo process.¹³⁴ To add to this, the fact remains that current law does not provide LAFCos with the authority to initiate or substantively encourage the disincorporation or consolidation of cities.¹³⁵ In southeast LA County, the result is a general perception that the LA LAFCo will shy away from any sweeping changes to governance in the area.¹³⁶

Post-2000 Amendments

More recent amendments to the CKH Act have similarly focused on the incorporation of new cities and the annexation of unincorporated land. 2011’s SB 244, responding to concerns about impoverished unincorporated communities raised by Michelle Wilde Anderson’s article “Cities Inside Out,” amended the CKH Act to require the evaluation of “disadvantaged unincorporated communities” in all SOI update reviews after 2012, and the denial of any application to annex land that is contiguous to a “disadvantaged unincorporated community,” unless a second application is also submitted to annex said community.¹³⁷

¹³⁰ Adolfo Flores, “Small Cities under Review; County Agency Looks at Governance in the South-east,” *Los Angeles Times*, April 8, 2013.

¹³¹ Napa LAFCo, “Reinventing LAFCo,” at 21; Cal Gov’t Code §56766 (as of yet unnoticed by 45 Cal. Jurisprudence 3d. Municipalities §29, which erroneously says the figure is 25%).

¹³² Sarah Inh, “The Long Road to Self-Determination: A Critique of Municipal Incorporation through the East Los Angeles Cityhood Movement,” 13 *Harv. Latino L. Rev.* 67 (Spring 2010); Jared Eigerman, “California Counties: Second-Rate Localities or Ready-Made Regional Governments?” 26 *Hastings Const. L.Q.*, 621, 675–76.

¹³³ Eigerman, 675–76.

¹³⁴ Brian E. Hamilton, “Chapter 25: One more Step Toward Cityhood for East Los Angeles,” 42 *McGeorge L. Rev.* (2011): 604, 608.

¹³⁵ “Cities Merge? A Workshop on Municipal Consolidations and Disincorporations,” CALAFCO University Workshop, June 29, 2012, <http://www.calafco.org/docs/inc-studies/CALAFCOU_DisincorporationWhitePaper.pdf> (<<http://perma.cc/Z6TN-E8DV>>); Cal Gov’t. Code §56375(a) (2).

¹³⁶ Flores, “Small Cities under Review,” *Los Angeles Times*, April 8, 2013. Interestingly, even public officials elected in recall elections to displace corrupt incumbents are unwilling to look at boundary change options; Cal. Gov’t Code § 56425 (h).

¹³⁷ David J. Ruderman, “New Legislation Requires LAFCos to Plan for Disadvantaged Unincorporated Communities,” *The Sphere*, CALAFCO: March 2012, <<http://calafco.org/docs/Sphere/March12-Publish.pdf>> (<<http://perma.cc/KT48-GB9K>>).

Similarly, 2014's SB 614 allows local agencies to use tax increment financing to fund infrastructure improvements in disadvantaged unincorporated communities, a significant change after Governor Brown's 2012 elimination of the previous vehicles for TIF, the Community Redevelopment Agencies.¹³⁸ SB 162 (2007) and SB 215 (2009) add factors to the list of considerations that must be considered in responding to any petition to a LAFCo, but do not provide the LAFCOs with the power to initiate late stage boundary alterations.¹³⁹ Viewed together with the 2000 amendments, recent changes to California's local government boundary law focus disproportionately on the incorporation of new governments and the annexation of unincorporated areas, in an era when those actions are becoming increasingly rare.¹⁴⁰

Towards a Greater Southeast LA County

The ills brought about by southeast LA's political fragmentation and the LA LAFCo's current failure to encourage late-stage boundary changes demand state constitutional and statutory amendments to help cities with common interests share revenues and make cooperative land-use decisions. As discussed above, current LAFCo procedures are cumbersome and require substantial economic and political resources.¹⁴¹ Below, I present a series of possibilities for constitutional and statutory amendments designed to encourage LAFCo-facilitated consolidations and disincorporations, followed by several suggestions for remedying political fragmentation by means other than the LAFCo process.¹⁴²

LAFCo Solutions

Removing "Vetoes" from the LAFCo Process

For southeast LA County, the state constitutional requirement of a majority vote in the city that will be consolidated "into" another empowers resource-rich cities like Vernon and Commerce with a veto over any consolidation that would involve them.¹⁴³ By substituting the majority vote requirement in each city affected by a proposed consolidation for a majority vote requirement of the entire population contained within the proposed new consolidated municipality, successful large-scale consolidations that include malfeasant cities like Vernon and Commerce would no longer be impossible.

¹³⁸ Cal. Gov't Code § 56653 (c); In September 2015, the governor signed into law AB 2, which expands this ability to use TIF further to include economically depressed incorporated areas as well. David Siders, "Jerry Brown signs new postredevelopment bill," *Sacramento Bee*, Sept. 22, 2015.

¹³⁹ "LAFCo Law; Recent Changes to CKH," CALAFCO website, <calafco.org>.

¹⁴⁰ Tom Hogen-Esch, "Fragmentation, Fiscal Federalism, and the Ghost of Dillon's Rule: Municipal Incorporation in Southern California, 1950–2010," *California Journal of Politics and Policy*, vol. 3, issue 1 (2011): 11.

¹⁴¹ Jared Eigerman, "California Counties," at 675–76.

¹⁴² While disincorporation on its face does not encourage revenue sharing or cooperative land use, combined with annexation (either simultaneously or shortly after), it accomplishes the same ends as consolidation.

¹⁴³ Tami Bui and Bill Ihrke, "It's Time to Draw the Line: A Citizen's Guide to LAFCOs," Senate Committee on Local Government, 2d ed., May 2003, <http://www.calafco.org/docs/TimetoDrawLine_03.pdf> (<<http://perma.cc/H2NY-E9CA>>); Cal. Gov't Code § 57118 (a).

While this solution would require an amendment to California Constitution art. XI § 2(b), it would not present any federal constitutional problems.¹⁴⁴ The result of this amendment and an accompanying amendment to the CKH Act would be to remove Vernon and Commerce’s majority-vote veto against proposed consolidations with their neighbors. To discourage opportunistic use of this provision, petition requirements could be increased from the current five percent to help ensure strong public support in the area.

In addition, a statutory amendment should remove the possibility of “majority protest,” a redundant stage in the LAFCo process for consolidation (not protected by the California Constitution) that can operate as a veto for high-resource, low-resident cities.¹⁴⁵ As it stands, this point presents another opportunity for a resource-rich city like Vernon to scuttle the LAFCo procedure after many funds and efforts have been spent in acquiring the necessary signatures on the petition.

Legislative Disincorporation Followed by Annexation

As discussed above, the California Constitution prohibits the consolidation of one city into another without that city’s separate majority vote.¹⁴⁶ However, as we saw in Speaker Pérez’s effort to disincorporate Vernon legislatively, the constitution does not require a majority vote for municipal disincorporation. Using the same method, a constitutionally permissible unilateral consolidation could be achieved by first legislatively disincorporating the high-resource, low-population city *and* an additional residential city, and then annexing both former cities (now disincorporated land) to a third neighboring city. Because annexation may require a majority election in the territory to be annexed, the second disincorporated city would serve to dilute the high-resource city’s votes and approve the final annexation.¹⁴⁷ The fact remains, however, that in order to hurdle the obstacle of the high-resource city’s majority vote “veto,” the initial legislative disincorporation would be needed.

Neighbor-Initiated and Approved Disincorporation

Amendments to the CKH Act that would allow proponents to coordinate and expedite several boundary changes at once could help areas like southeast LA County consolidate more efficiently. By amending the CKH Act to allow neighboring cities to initiate and vote on the simultaneous disincorporation and annexation of high-resource cities, the LAFCo process would be made more accessible and efficient to fragmented areas like southeast LA County in need of many late state boundary changes at once.

Under current law, only the city to be disincorporated (or its residents) can initiate a disincorporation proceeding before the LAFCo. Under my proposal, a group of neighboring cities could initiate a disincorporation followed by an annexation. Combined majorities would be re-

¹⁴⁴ *Hunter v. City of Pittsburgh*, 207 U.S. 161 (1907); Cal. Const. art. XI § 2 (b) (“Except with approval by a majority of its electors voting on the question, a city may not be annexed to or consolidated into another.”)

¹⁴⁵ Cal. Gov’t Code §57078. The majority protest has more of a function with regard to annexations, where it can eliminate a final election on a proposal if the number of protests is too low. Tami Bui and Bill Ihrke, “It’s Time to Draw the Line,” 21–22.

¹⁴⁶ Cal. Const. art. XI, § 2(b).

¹⁴⁷ Tami Bui and Bill Ihrke, “It’s Time to Draw the Line,” 21–22.

quired at the election stage, eliminating the majority-vote veto. In addition, the law could facilitate the simultaneous consolidation of the initiating cities into one larger whole.

To prevent predatory behavior, requiring the consolidation of the initiating cities could help assure that groups of cities do not “gang up” on high-resource cities for their own particular benefit. In addition, discretion could be given to the LAFCo to reject certain bad-faith disincorporation petitions, and the assets and liabilities of the former city could be allocated to disincorporation initiator(s).¹⁴⁸

While such a procedure would likely be contested in court as a de facto violation of Cal. Const. art. XI § 2(b), California courts have often deferred to the legislature’s plenary power in the sphere of local government organization.¹⁴⁹ In addition, a strong public policy in favor of combating inequality through the use of boundary changes, epitomized by recent amendments to the CKH Act, would support the court’s acceptance of this new LAFCo procedure.¹⁵⁰

“Reverse” Consolidations without a Majority-Vote Veto

As mentioned above, the LAFCo process can be initiated by either a petition or a resolution of application filed by an “affected local agency,” defined as “any local agency that contains, or would contain any territory for which a change or organization is proposed or ordered, either singularly or as part of a reorganization.”¹⁵¹ A California appeals court recently construed this to permit a city to ask its LAFCo to be annexed into an adjacent irrigation district.¹⁵²

While the resolution was tossed out by the court on other grounds, this tactic inspires many possibilities—including one in which a city like Bell passed a resolution of application to be consolidated “into” Vernon—effectively achieving consolidation through backwards means. In this hypothetical, Bell would be the city that possessed the constitutionally protected majority-vote veto, as it was the entity losing its identity and being “consolidated into” Vernon.¹⁵³ Coupled with a LAFCo amendment eliminating the majority protest and majority vote stages for the “receiving” city in a consolidation, this tactic would allow for unilateral consolidations that would directly address political fragmentation. In the short term, Bell would submit itself to

¹⁴⁸ Under current law, after disincorporation the assets and liabilities of the former city pass to the county. Cal. Gov’t Code §57412.

¹⁴⁹ *Board of Supervisors v. Local Agency Formation Com.*, 3 Cal.4th 903, 914–15 (Cal. 1992, *in bank*) (applying rational basis test to differential voting rights in incorporation process, rejecting equal protection claim and referring to state’s plenary power in the sphere of local political boundaries); *Citizens Against Forced Annexation v. Local Agency Formation Com.*, 32 Cal. 3d 816, (Cal. 1982) (holding that state had a compelling interest to encourage the annexation of unincorporated land when it restricted the voting franchise only to those residents of the territory to be annexed). *Weber v. City Council*, 9 Cal. 3d 950 (1973) (“As the Legislature could constitutionally have provided that all annexations to cities be accomplished without a vote of the residents of the territory proposed to be annexed . . . the instant case involves no deprivation of or limitation on the fundamental right to vote calling for close scrutiny or justification on the basis of a compelling state interest.”).

¹⁵⁰ See pages 17–18 above.

¹⁵¹ Cal. Gov’t Code § 56014.

¹⁵² *City of Patterson v. Turlock Irrigation District*, 227 Cal. App. 4th 484, 493 (Cal. Ct. App. June 2014).

¹⁵³ Cal. Const. art XI, §2(b) (“Except with approval by a majority of its electors voting on the question, a city may not be annexed to or consolidated into another.”).

Vernon's control, but new Vernon residents would numerically overwhelm the old and control elections in the following years.

Equalizing the Final Election Playing Field

Because the LAFCo processes for consolidation and disincorporation involve a special election, they require substantial and well-organized expenditures to inform the electorate and encourage voter turnout. We have already described how an electoral effort was controlled by business interests in the Commerce incorporation and later in Carson.¹⁵⁴ If a disincorporation or consolidation procedure gets to a final election, the county should provide public matching funds (subject to a minimum and a cap) for the election campaigns to equalize funding between the sides and help both parties get their opinions heard.

I would also call for the state legislature to expand pre-existing fee waiver provisions to disadvantaged cities proposing a consolidation. In 2010, the legislature in an urgency measure loaned \$45,000 to the proponents of East LA's incorporation to assist their efforts.¹⁵⁵ While this was due to the need to pay for a special report specific to the incorporation process, a general measure that applied to collective consolidations by disadvantaged cities could help defray fees and other costs associated with the effort.¹⁵⁶

To respond to the inevitable opposition of local elected officials to consolidation and disincorporation, the law should prohibit the use of city funds to fight a disincorporation or consolidation campaign. Local government officials have the advantage of a ready-made campaign infrastructure in government employees unions and ample city treasuries. While going so far as to prohibit all involvement in boundary change elections by city employees or local elected officials could implicate first amendment issues, restricting the use of city dollars in this way should pass muster. A helpful analogy for the need of this provision would be to incumbents using city funds to fight a challenger in a normal election for public office.

LAFCo Initiation

While LAFCOs can recommend boundary changes, they have no force.¹⁵⁷ The provisions allowing LAFCOs to initiate binding boundary change processes are limited to special districts and do not reach municipalities.¹⁵⁸ The legislature could amend the CKH Act to give LAFCOs the power to initiate municipal disincorporations and consolidations based on the results of the already mandated periodic municipal service reviews (MSRs). While this would make LAFCOs the locus of considerably more political intrigue than they are now, it may bring greater popular attention to a largely ignored agency that already performs a highly political function.¹⁵⁹

Because disincorporations and consolidations are undeniably drastic, LAFCo-initiated measures could also include less severe solutions such as mandated revenue-sharing agreements

¹⁵⁴ See pages 13–15.

¹⁵⁵ Brian E. Hamilton, "Chapter 25: One more Step Toward Cityhood for East Los Angeles," 42 *McGeorge L. Rev.* 604, 608.

¹⁵⁶ *Id.*

¹⁵⁷ Cal. Gov't Code § 56425 (h).

¹⁵⁸ Tami Bui and Bill Ihrke, "It's Time to Draw the Line," at 19 (<<http://perma.cc/H2NY-E9CA>>); Cal. Gov't Code § 56375.

¹⁵⁹ Eigerman, "California Counties," at 653; Pincetl, *Transforming California*, at 143.

between resource-rich cities and service-demanding cities. These solutions have substantial monitoring costs and do not remedy the problem of diffused political accountability. Nevertheless, said measures could avoid the majority-vote “veto” of high-resource cities because they are not subject to Cal. Const. art. XI § 2(b) and could be structured to avoid CKH Act petition and election processes.

Non-LAFCo Solutions

State Commission on Consolidation in Los Angeles County

The creation of a state-level commission focused on rationalizing municipal boundaries in Los Angeles County, with substantial powers to order changes, could be an effective way to combat the ills of political fragmentation. Removing the decision-making power over political boundary decisions to a higher level of government could make it harder for local entrenched interests to exert their influence. This method was used by Speaker Pérez and the proponents of AB 46 when they looked to the legislature to override the LAFCo process and disincorporate the city of Vernon. The creation of an appointed commission with a strong political mandate (and executive oversight) could potentially overcome the local political power of cities like Vernon and Commerce. The commission could avoid the constitutionally protected majority-vote veto on consolidation by limiting its actions to disincorporations and forced annexations, or by mandating lesser measures like revenue sharing.¹⁶⁰ The enabling legislation for the commission would have to be drafted to avoid the constitution’s special acts ban, perhaps by making it apply to all counties with a population over nine million, which would leave only Los Angeles County.¹⁶¹

Adopting the Cause of East Los Angeles

Unincorporated East Los Angeles, long a national cultural center for Mexican Americans, has struggled for years to incorporate. Unfortunately, because it lacks the requisite revenue-producing commercial and industrial land, it has been unable to do so in spite of four attempts since 1960 (it too is trapped within the same landscape of unequal land-use distribution).¹⁶² Uniting the cause of Bell, Bell Gardens, Cudahy, Huntington Park, and Maywood to that of East LA, which as a northerly neighbor to Vernon has suffered from the Exide pollution scandal, could provide a strong political narrative for an effort to consolidate the cities into a greater whole.

Such a larger political unit could potentially benefit from efficiencies of scale, a stronger market for local media, and dramatically increased local, state, national, and international attention as a capital of Latino power in America. Professors Victor Valle and Rodolfo Torres have already included the cities within the same umbrella of the “Greater Eastside.”¹⁶³ The idea behind this proposal is that disincorporation and consolidation can be effective tools to achieve

¹⁶⁰ Cal. Const. art. 11 § 2 (b).

¹⁶¹ Cal. Const. art. IV § 16(b).

¹⁶² Brian E. Hamilton, 42 *McGeorge L. Rev.* 604; *Inh*, 13 *Harv. Latino L. Rev.* 67 (Spring 2010).

¹⁶³ Victor M. Valle and Rodolfo D. Torres, *Latino Metropolis* (Minneapolis, MN: University of Minnesota Press, 2000).

greater self-determination for the Latino community in southern California, addressing head-on the concerns of critics who see disincorporation as an attack on Latino local democracy.¹⁶⁴

Epilogue

Downwind from the Exide battery plant, on the side of a busy four-lane avenue in suburban Bell Gardens, just east of the gaping concrete channel of the Los Angeles River, is an inconspicuous driveway. Rising above it is a large sign that reads “Casa Mobile Home Co-op, 7000 E Gage Avenue.” As one enters the driveway, the endless whooshing of speeding traffic recedes and a charming series of brightly painted postwar trailer homes comes into view. Tropical boughs and well-tended lawns frame the neat rows of homes.

Venturing deeper into the Casa Co-op, one is surprised to find a large colonial home, covered with white clapboards gleaming in the California sun. This is the Casa San Antonio, the oldest still-standing home in Los Angeles County.¹⁶⁵ Renamed the Gage Mansion for the subsequent owner who restored it (Henry T. Gage, California Governor, 1899–1903), the adobe home was built from 1795 to 1810 by Francisco Salvador Lugo and his son Antonio in order to qualify for the ownership of a Spanish land grant whose 29,514 acres included the present day cities of Bell, Bell Gardens, Commerce, Cudahy, Huntington Park, Maywood, and Vernon, among others.¹⁶⁶

Upon the house’s completion, the grant became Lugo’s and he named it the Rancho San Antonio.¹⁶⁷ In later years, Henry Gage covered the adobe structure in its current clapboard exterior, but a cut-out on the walls today reveals the adobe within. Throughout the years, the Rancho San Antonio was sliced up among different owners and municipalities. Today, all that remains of its previous splendor is the mansion in Bell Gardens.¹⁶⁸ In 1991, the residents of the Casa Mobile Co-op, who had pooled their resources together to buy the park in 1983, were successful in having the house designated as California Historical Landmark #984.¹⁶⁹

The Gage Mansion, besides being a strong symbol of the dense layering of history and cultures in the Los Angeles Basin, stands as a reminder of the fact that today’s patchwork map of 88 separate cities and some 140 unincorporated areas in Los Angeles County is as much an artifact of law as Don Lugo’s 30,000 acre land grant from the Spanish crown. The laws in California today regarding the modification of political boundaries have been ineffective in promoting social and economic efficiency, political accountability, and resident quality of life. To the extent that state law can encourage municipalities with similar demographic, economic, and social interests to realize strength and inclusion through unity, political topographies will better serve their residents.

¹⁶⁴ In the words of Bell Gardens Assemblywoman Cristina Garcia, “Talking about Disincorporation Is Telling the Latino Working-Class Community That They Don’t Have the Capacity, Talent or Leadership to Lead Their Community.” Flores, “Small Cities under Review,” *Los Angeles Times*, April 8, 2013.

¹⁶⁵ “History of Bell Gardens,” city of Bell Gardens website, <<http://www.bellgardens.org/ABOUTBELLGARDENS/BellGardens/History.aspx>> (<<http://perma.cc/45LS-VSGP>>).

¹⁶⁶ “History of Bell Gardens,” city of Bell Gardens website; “Gage Mansion-Oldest Remaining Home in Los Angeles County,” Los Angeles Almanac, <<http://www.laalmanac.com/history/hi05h.htm>> (<<http://perma.cc/LQ3Y-HNAG>>).

¹⁶⁷ “Gage Mansion-Oldest Remaining Home in Los Angeles County,” Los Angeles Almanac.

¹⁶⁸ “History of Bell Gardens,” city of Bell Gardens website.

¹⁶⁹ *Id.*

In southeast Los Angeles County, the recent Exide battery plant scandal has underlined the mutual dependence and social coherence of the area and highlighted the ills created by political fragmentation. With the adoption of thoughtful constitutional and statutory amendments and the efforts of community leaders, hopefully the political unification of this community and others like it can be achieved.¹⁷⁰

Figure 3. Casa Mobile Home Co-op, Bell Gardens, CA. Photo by Henry Grabar.



¹⁷⁰ A recent corruption scandal involving the industrial city of Industry in LA County, which has a population of 207, reveals its potential to be strongly analogized to Vernon. Frank Shyong, "State Audit Berates City of Industry of Accounting Controls and Questions Employee Charges," *Los Angeles Times*, Jan. 28, 2016.

Figure 4. Plaque Commemorating California Historical Landmark # 984, Casa de Rancho San Antonio, Bell Gardens, CA. Photo by Henry Grabar.



Figure 5. Front Entrance to Gage Mansion, Built Atop the Casa San Antonio, Bell Gardens, CA. Photo by Henry Grabar.



**Figure 6. Side View of Gage Mansion, Built Atop Casa San Antonio, Bell Gardens, CA.
Photo by Henry Grabar.**

