

**Local Boundary Commissions:
Status and Roles
in Forming, Adjusting and Dissolving
Local Government Boundaries**



**U.S. Advisory Commission on
Intergovernmental Relations**

**M-183
May 1992**

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Executive Summary |

The initial creation of boundary review commissions in the **1960s** reflected an effort by some states to respond to the rapid growth in the number of suburban communities that developed after World War II as a result of massive migration out of the nation's older industrial central cities. This growth gave rise to concerns about unplanned and uncoordinated metropolitan development, local fiscal disparities, territorial disputes, and a proliferation of small local governments lacking viability. Boundary review commissions (BRC), therefore, were seen as a means by which a state could manage metropolitan development in presumably rational ways.

Boundary review commissions now operate in **12** states. Eight states established BRCs between **1959** and **1969** (Alaska, California, Michigan, Minnesota, Nevada, New Mexico, Oregon, and Washington). The other BRCs are in Iowa (**1972**), **Utah** (**1979**), Virginia (**1980**), and St. Louis County, Missouri (**1989**).

Most **BRCs** were established with a set of broad policy goals. In general, BRC missions, as spelled out in legislation, were to **(1)** encourage orderly metropolitan development and discourage sprawl, **(2)** promote comprehensive land use planning, **(3)** enhance the quality and quantity of public services, **(4)** limit destructive competition between local governments, and **(5)** help ensure the fiscal viability of local governments.

More specifically, the commissions exercise decisionmaking **or** advisory authority over the establishment, consolidation, annexation, and dissolution of units of local government, within the framework of state constitutional and legislative provisions. **Six** BRCs operate statewide (Alaska, Iowa, Michigan, Minnesota, New Mexico, and Virginia); the others operate within particular counties or metropolitan areas. Most BRCs are authorized to consider all types of boundary issues, but three of them (Nevada, New Mexico, and Utah) may consider only annexation. Eleven commissions have authority to approve or deny proposals, subject to judicial appeal or popular referendum. Virginia's BRC has only an advisory role; boundary decisions are made by the state courts.

To determine the current status of BRCs, ACIR interviewed commission staff members and conducted a survey of state associations of municipalities, townships, and counties.

For the most part, the commissions are small and have limited funding. Some BRCs have their own staff, while others rely on part-time staff (usually county employees). Some BRCs receive funding from the state; others rely on local government funds. Some of the commissions are active and influential; others are underutilized or inactive. Basic philosophical differences about local gov-

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ernment organization have a strong impact on the commissions' functions, as do state laws governing boundary changes and the formation of local governments.

The initially broad purposes of BRCs have changed over time. Today, annexation and mediation of interjurisdictional boundary conflicts top the BRC agendas. Because these issues require different types of analysis and assistance than originally envisioned for BRCs, some commissions have developed new techniques for resolving disputes and negotiating agreements for service delivery and tax sharing. These techniques can help reveal alternatives to annexations and consolidations, such as interlocal agreements and contracts.

Boundary issues are often contentious. In some cases, it appears that BRCs have reduced the number of disputes, although it was not possible to determine whether reduced tension was the result of BRC problem solving or citizen reluctance to raise boundary issues. BRC states do not have obviously better patterns of urban development or fewer contentious boundary disputes than non-BRC states. Although BRCs can provide assistance in dispute resolution, most of them are not empowered to manage growth and boundary changes themselves.

Boundary review commissions inevitably are drawn into controversy when they rule on or attempt to mediate proposals for boundary changes. Sometimes, these issues end up in court, especially in Michigan. In some states, there have been legislative challenges to the BRCs. Oregon abolished one of its three commissions, and Washington limited the role of its BRC. For the most part, the BRCs that have survived these challenges have done so by offering analytical and mediating services not available from other agencies.

The existence of boundary review commissions raises some concerns about citizen self-determination. When the state creates a BRC, citizens, in many cases, can no longer petition the legislature to establish a new unit of government or expand one to meet their needs. Boundary adjustments approved by a BRC usually are submitted to a referendum. When a BRC vetoes a proposal, however, the decision does not go to the voters. Thus, boundary commissions can prevent incorporations even when the electorate favors them.

As such, BRCs may undercut the value of having a variety of local governments that allows citizens to choose the jurisdictions that provide the services and tax rates most closely matched to their preferences. BRCs, it is argued, may interfere with citizen preferences regarding the creation and maintenance of local governments. In particular, BRCs may value large government units more highly than small ones. Those who take this view assume that BRCs generally would oppose new incorporations and favor annexations or consolidations.

However, BRC analyses may not necessarily carry a "bigger is better" bias. The diseconomies of large-scale governments as well as small-scale governments are generally recognized. Legislative direction to BRCs, as well as the analytical criteria they have developed, may guard against bias in either direction. The strongest political value in the local government system is against consolidating existing units. This preference is enforced by state laws that all but rule out municipal consolidation under most circumstances.

In general, BRCs respond to individual proposals for boundary changes rather than formulating broad strategies for metropolitan boundary adjustments. This situation is a disappointment to those who hope for a "rationalization" of local

government patterns and a comfort to those who believe that an electoral-legal marketplace of boundary decisions is preferable to a centrally planned pattern.

One question that cannot be answered definitively is whether BRCs are effective. No substantive or systematic evidence could be found on whether BRCs effectively assist urban growth management, ease competition for territory and tax base, or protect the public interest and promote fiscal equity. Despite 30 years of experience with BRCs, no comprehensive evaluation of their work or effectiveness could be found.

Nevertheless, most of the BRC staff and local association representatives opposed abolishing the commissions. Several respondents argued that without BRCs boundary issues might become more political and/or litigious. The ability of BRCs to conduct studies and analyses that assist citizens and officials in making boundary decisions was cited as a useful function, as were the mediation and dispute resolution roles.

Acknowledgments |

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Local Boundary Commissions

Introduction

The constitutions and laws of the 50 states set the rules for establishing and revising the boundaries of local governments (e.g., counties and municipalities). Consequently, there are many variations in how this function is carried out across the United States. Until the mid-twentieth century, state laws governing local government formation and boundary changes largely provided that local governments, landowners, or citizens initiate proposals to be decided case by case by local governments themselves or by the voters. In some states, the process favored municipal expansion through easy annexation. In other states, annexation was more difficult. In Virginia, for example, with its unique system of city-county separation, such proposals are adjudicated by the courts. Some state legislatures act directly to establish local governments and adjust their boundaries.

After World War II, rapid suburbanization followed by massive migration into the Sunbelt states gave rise to concerns about urban sprawl, unplanned and uncoordinated development, local fiscal disparities in metropolitan areas, territorial disputes, and the proliferation of so-called peanut governments. Numerous proposals were made, therefore, to manage metropolitan and exurban development in presumably rational ways.

In 1959, Minnesota and Alaska established institutions to help with the task of changing local government boundaries. These institutions are referred to, generally, as boundary review commissions (BRCs). Since 1959, ten other states have created similar institutions (California, Iowa, Michigan, Missouri, Nevada, New Mexico, Oregon, Utah, Virginia, and Washington). The federal government also entered the field of local boundary issues through the *Voting Rights Act of 1965* and its amendments. The legislation is intended to ensure that local jurisdictions are not formed or altered in ways that will create or perpetuate racial or ethnic discrimination.¹ As a result, local boundary issues have become intergovernmental issues.

This report updates and elaborates on the Commission's earlier work on boundary review commissions and other boundary issues.² The central questions concern (1) the extent of local freedom and flexibility in creating, changing, and eliminating local government structures, powers, and boundaries and

(2) whether implementation of state standards governing such matters should be controlled locally. This information also may help state and local policymakers decide whether boundary review commissions are a valuable institutional device for managing local boundary issues.

The basic reason for establishing boundary review commissions is to provide a framework that facilitates long-range thinking about such matters as service availability and efficiency, the financial viability of local governments, equity among local citizens and taxpayers, and the political accountability of local governments. The traditional boundary review process in many states is based on a “market” system in which the strength of landowner and voter rights—or the political power vested in current officeholders—determines the outcome.

The boundary commission approach allows BRCs, as administrative agencies with original jurisdiction, to take assertive policymaking roles based on a reasonably comprehensive view of local government organization needs and the potential impacts of reorganization. To get away from a piecemeal approach to boundary changes, BRCs can combine proposals or develop completely different proposals. In some cases, BRCs are authorized to initiate changes.

In most states, when the courts get involved in boundary issues, they generally must decide each case on its own merits. In states with boundary review commissions, judicial review is based on the record developed by the commission. Thus, BRCs can significantly affect the legal framework of the boundary change process.³

This report reviews the traditional processes of local government creation and boundary change, outlines the pressures that led to the boundary commission movement, presents the results of ACIR’s 1989 survey of boundary commissions, and evaluates the formation and adjustment issues facing state and local governments.

Traditional Processes for Establishing and Changing Local Government Boundaries

All states provide for the establishment of local governments. Many local governments are created by direct state action, for example, counties (except in Connecticut and Rhode Island), towns and townships in 20 northeastern and midwestern states, and certain municipalities that were granted charters by the state (most municipalities in New Jersey and five New England states). Other state enabling legislation allows the citizens of an area needing local services to establish their own units of local government. Many municipalities and most special districts (except in New Jersey and Pennsylvania) were established in this way.⁴

Special districts generally are created by local action pursuant to authorizing state law. Others are established directly by state legislation.

Incorporation

Each state has established requirements for municipal incorporation. The criteria vary among the states and among different classes of municipalities in some states. Generally, there must be at least a minimum population or density, and it is usually necessary to have (1) a petition from the community describing the boundaries and population of the proposed municipality, (2) an

election to ascertain popular support, and (3) certification by the secretary of state that the election is favorable and that all the conditions have been met.⁵

Overlapping

The four types of local governments—counties, municipalities, townships, and special districts (not including school districts)—frequently overlap one another, although towns and townships do not overlap municipalities. Appendix A shows the number of each of these types of local governments by state for each Census of Governments between 1957 and 1987. Towns and townships, as well as most municipalities and special districts, generally lie within counties, although municipalities and special districts sometimes cross county boundaries. The primary exception is Virginia, where “independent” cities are separated from counties. Some other cities have been separated from their counties by state legislation. The Maryland Constitution recognizes the city of Baltimore as separate from surrounding counties. A number of cities—including Jacksonville, Denver, New Orleans, New York, Philadelphia, and San Francisco—are combined city-counties.

Towns and Townships

The 20 states that have towns or townships are fully organized into units of local government. Therefore, any annexation by municipalities in those states (and in Virginia) subtracts territory and tax base from another local jurisdiction. For example, in eight northeastern states, towns or townships have become municipalities. Annexation seldom is used in these states, but in the rare cases when it is used, the affected territory is deannexed from another municipality.

Special Districts

Special district creation and expansion do not take territory away from existing units of local government. Special districts often overlap county and municipal units,⁶ may cross state lines, and often add new local tax bases. Thus, in states where municipalities and counties face strict financial limits, special districts may provide a means to circumvent those limits. Similarly, where annexation is difficult or impossible, where desirable service areas cross municipal boundaries, and where counties cannot finance or perform needed services or do not have the proper boundaries to do so, special districts offer an alternative.

Annexation

Statutory rules make annexation much easier in some states than in others. In the “easy” annexation states, the municipality can add unincorporated territory pretty much at will. In the “tough” states, the landowners or voters in the territory to be annexed hold veto power. Some states allow municipalities to exercise limited types of service and regulatory authority in unincorporated areas beyond their borders. This extraterritorial authority frequently gives the municipality leverage to influence annexation votes in adjoining areas.

Consolidation and Merger

Incorporated territory generally cannot be annexed. Instead, a consolidation or merger procedure must be used if existing local governments are to be enlarged. These procedures usually require the approval of concurrent major-

ities in each of the units to be joined. More often than not, these majorities are hard to get. Thus, in completely incorporated states, such as New Jersey, Pennsylvania, and the New England states, boundary adjustment is rare.

Joint Powers

Joint powers legislation allows any unit of local government to work with any other local jurisdiction within the state by mutual agreement. Such legislation also may authorize interstate cooperation and agreements with units of the state and federal governments.

In many states, counties are being empowered to provide urban services and to finance them through special taxing areas administered by county government. These taxing areas can perform much like special districts and municipalities, and their boundaries can be changed easily by local law.

Study Commissions

Finally, many states establish temporary study commissions from time to time to examine possibilities for “rationalizing” local government structures within the state or within a major metropolitan area. Often, the recommendations of such commissions go unimplemented because voters are satisfied with existing arrangements, and local officials whose positions might be jeopardized by proposed changes raise concerns about the allocation of power and tax-base resources. Local governments and boundaries have great staying power.

Summary

Boundary issues often are complex. They can present significant problems and are likely to be most difficult to address in rapidly growing areas where population and development are spilling across boundaries and creating new service demands not easily accommodated by existing local governments. Attempts to alter boundaries or to create new units will always be volatile and will need to be approached differently in different states in light of diverse laws, political traditions, community sentiments, and existing boundary arrangements.

The Origins and Purposes of Boundary Review Commissions

American cities grew considerably in territory and population during the late 19th century, some of them even encompassing the “suburbs” of their day.’ During most of this period, many cities were able to annex territory so that city boundaries kept up with urban growth. Some residents of unincorporated areas desiring city services were willing—and sometimes even anxious—to be annexed by a city. Other residents wanted their own communities. Political bossism and its attendant abuses, however, resulted in a reaction against annexation. By the 1920s, many people living on the urban fringe had fled from what they regarded as high city taxes, poor resources, and corrupt city politicians. These people opposed annexation attempts.⁸

Crowing Numbers of Governments

Although American urban areas grew rapidly after World War II, most cities were not able to keep up with this growth by annexing unincorporated

territory. In some parts of the country, particularly the Southeast and the West, county governments attempted to serve urban and suburban needs. Nevertheless, the post-World War II period was characterized by a rapid increase in the number of incorporations of small municipalities around major cities.

According to the U.S. Bureau of the Census, there were 17,183 municipalities in the United States in 1957.⁹ By 1987, there were 19,200 municipalities, an increase of 2,017 in 30 years. Although the number of municipalities grew each year, the increase was particularly high in the five years between 1957 and 1962—an average of 163 each year (see Table 1). This was the time when the first boundary commissions were formed.

Table 1
Number of Municipalities in the United States, 1942-1987

Year	Number of Municipalities	Average Annual Increase
1942	16,220	
1957	17,183	64.2
1962	17,997	162.8
1967	18,048	10.2
1972	18,517	93.8
1977	18,862	69.0
1982	19,076	42.8
1987	19,200	24.8

Source: U.S. Department of Commerce, Bureau of the Census, *Government Organization*, 1987 Census of Governments, Vol. 1 (Washington, DC, 1988).

Growth has not been uniform throughout the country. For example, the number of municipalities in California increased from 286 in 1942 to 442 in 1987, a 54 percent increase. In Texas, the number of municipalities climbed from 637 in 1942 to 1,156 in 1987, an increase of 81 percent. Table 2 shows the number of municipalities from 1957 to 1987 in the ten states with the largest populations in 1950, a year chosen to show the size and distribution of the immediate post-war population.¹⁰

Rapid growth in the number of municipalities helped create an impression of disorder and unplanned metropolitan “sprawl.” This impression played an important role in the decision taken by some states to establish boundary review commissions to regulate the growth of metropolitan areas.

Historically, urban services have been supplied by incorporated municipalities, while unincorporated territory has tended to be rural. However, as the need for urban services, such as water and sewer systems, overran municipal boundaries, these services were provided by private companies or by counties, townships, and special districts. Of all forms of local government, the number of special districts increased the most (see Table 3).

Table 2
Number of Municipalities, **1957-1987**
(Ten States with the Largest Populations in 1950)

	1957	1962	1967	1972	1977	1982	1987
New York	611	612	616	616	618	615	618
California	331	373	400	407	413	428	442
Pennsylvania	991	1,003	1,005	1,012	1,015	1,019	1,022
Illinois	1,181	1,251	1,256	1,267	1,274	1,280	1,279
Ohio	915	932	933	936	935	941	940
Texas	793	866	883	981	1,066	1,121	1,156
Michigan	498	509	522	532	531	532	534
New Jersey	333	334	335	335	335	323	320
Massachusetts	39	39	39	39	39	39	39
North Carolina	412	449	437	454	472	484	495
United States	17,183	17,997	18,048	18,517	18,862	19,076	19,200

Source: U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States*, various years.

Table 3
Number of Special Districts, **1957-1987**
(Ten States with the Largest Populations in 1950)

	1957	1962	1967	1972	1977	1982	1987
New York	924	970	965	954	964	923	978
California	1,650	1,962	2,168	2,223	2,227	2,506	2,734
Pennsylvania	34	1,398	1,624	1,777	2,035	2,050	1,805
Illinois	1,800	2,126	2,313	2,407	2,745	2,602	2,783
Ohio	160	177	228	275	312	377	410
Texas	645	733	1,001	1,215	1,425	1,681	1,892
Michigan	102	99	110	139	168	184	250
New Jersey	140	295	311	341	380	454	486
Massachusetts	205	194	247	268	328	354	391
North Carolina	111	126	215	248	302	321	321
United States	14,405	18,323	21,264	23,885	25,962	28,588	29,532

Source: U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States*, various years.

The incorporation of new municipal governments as a result of metropolitan growth led to the creation of the first two local government boundary review commissions in 1959 in Minnesota and Alaska. The Alaska commission is unique because it was established by the state constitution (Art. X, Sec. 12).

The Minnesota Municipal Board described the local government situation as perceived by the state legislature at the time its commission was founded:

Before the Board was established, the Minnesota Legislature was confronted with municipal boundary chaos. The spectacular post-World War II growth in large urban centers marked a distinct departure from the previous patterns of a predominantly agricultural age. In just one decade, in five metropolitan counties, **45** new villages were organized: nearly half of them contained under 1,000 people when incorporated; seven contained under 200; and one contained only **43**. By the end of the 1950s, a total of **130** separate municipalities had mushroomed in the seven-county Twin Cities area.

This proliferation of uneconomic villages, which often lack means to furnish their own police and fire protection or adequate sewage disposal facilities, placed additional burdens on counties and surrounding areas."

Changing Populations

The problems said to be associated with rapid growth were not confined to Minnesota or to the immediate post-World War II decade. Indeed, from 1960 to 1990, the population of the United States grew by **34** percent. Table 4 shows the ten states that grew most rapidly from 1960 to 1990; four of them have local government boundary review commissions (see Table 4).

The states with boundary review commissions include some that experienced substantial in-migration from 1960 to 1990 (e.g., California). The percentage of population growth was higher than the national average in eight of the BRC states and lower in the other four states (see Table 5). Minnesota, for example, grew at 28 percent, slower than the national average (**39** percent), and Iowa's population increased by less than 1 percent.

Table 4
Percentage Change in U.S. Population, **1960-1990**
(Ten Fastest Growing States)

State	Boundary Commission	Percentage Change
Nevada	Yes	322%
Arizona	No	181
Alaska	Yes	143
Florida	No	161
Utah	Yes	93
Colorado	No	88
Texas	No	77
California	Yes	89
New Hampshire	No	83
Hawaii	No	75
U.S. Average		39

Source: U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States*, 1991.

Table 5
Population and Percentage Change, 1960 and 1990
(States with Boundary Review Commissions)

State	1960	1990	Percentage Change
Alaska	226	550	143
California	15,717	27,960	78
Iowa	2,758	2,777	< 1
Michigan	7,823	9,295	19
Minnesota	3,414	4,375	28
Missouri	4,320	5,117	18
Nevada	285	1,202	322
New Mexico	951	1,515	59
Oregon	1,769	2,842	61
Utah	891	1,723	93
Virginia	3,967	6,187	56
Washington	2,853	4,867	63
United States	179,323	248,710	39

Source: U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States*, 1991.

With the population growth of the post-war period came an increase in the percentage of the U.S. population living in urban areas, from 64 percent in 1950 to 74 percent by 1980. Urbanization was above the national average in nine of the 12 BRC states, Michigan showed no change, and California showed a 10 percent increase, the same as the national increase (see Table 6).

Legislative Intent

Although legislative intent varies among the states, there is a marked similarity in state code provisions that spell out the problems to be solved by boundary review agencies. Some examples follow:

California: Among the purposes of a local agency formation commission are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local governmental agencies based on local conditions and circumstances. One of the functions of the local agency formation commission is to make studies and furnish information that will contribute to the logical and reasonable development of local governments in each county.¹²

Minnesota: The Minnesota Municipal Board is empowered to promote and regulate development to provide for the extension of municipal government to areas that are developed or are being developed for residential, commercial, industrial, institutional, and governmental purposes or are needed for such purposes; to protect the stability of unincorporated areas that are used or developed for agricultural, open space, and rural residential purposes and are not presently needed for more intensive uses; and to protect the integrity of land use planning in municipalities and unincorporated areas.¹³

Table 6
Percentage of Population in Urbanized Areas, 1950 and 1980
(States with Boundary Review Commissions)

State	Percent Urban 1950	Percent Urban 1980	Percentage Change
Alaska	27	64	37
California	81	91	10
Iowa	48	59	11
Michigan	71	71	0
Minnesota	55	67	12
	62	68	6
Nevada	57	85	28
New Mexico	50	72	22
Oregon	54	68	14
Utah	65	84	19
Virginia	47	66	19
Washington	63	74	11
United States	64	74	10

Source: U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States, 1982-83*, and *Historical Statistics of the United States: Colonial Times to 1970*, Part 1, Series A.

Oregon: The local boundary commissions are to:

- Provide a method for guiding the creation and growth of cities and special service districts to prevent illogical extensions of local government boundaries;
- Assure adequate quality and quantity of public services and the financial integrity of each unit of local government;
- Provide an impartial forum for the resolution of local government jurisdictional questions; and
- Provide that boundary determinations are consistent with local comprehensive planning.¹⁴

Virginia: The intent is to create a procedure whereby the state will help ensure that all of its counties, cities, and towns are maintained as viable communities.¹⁵

Washington: The purpose of the boundary review boards is to guide and control growth in metropolitan areas so as to avoid problems arising from rapid proliferation of municipalities and haphazard extension of and competition to extend local government boundaries.¹⁶

These statements of legislative purpose illustrate a number of policy goals relevant to the establishment of most, if not all, boundary review agencies. The goals are:

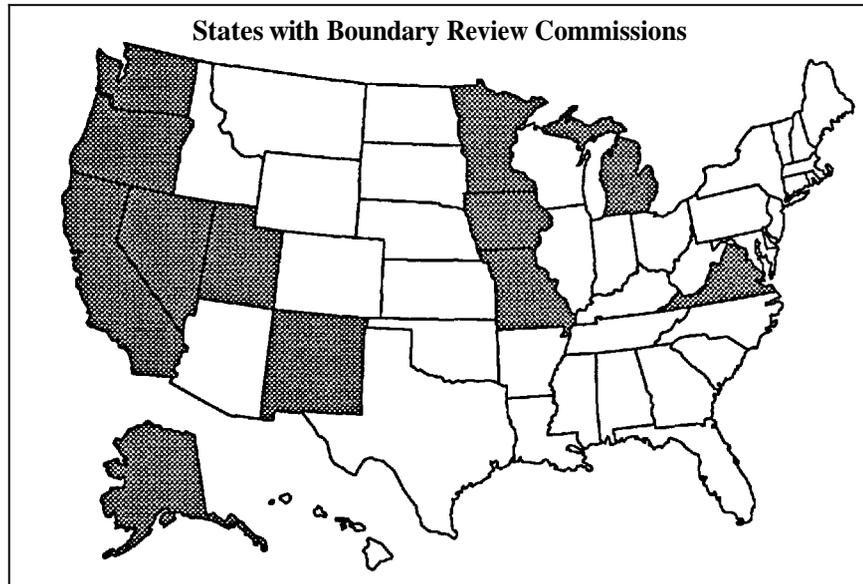
- Encouraging orderly development and discouraging sprawl;
- Protecting agricultural land and open space;
- Promoting comprehensive land use planning;
- Enhancing the quality and quantity of public services;
- Limiting destructive competition between local governments; and
- Helping ensure the fiscal viability of local governments.

In interviews with BRC staff members and other interested parties, these broad goals were raised repeatedly in relation to the current status and problems of boundary review commissions.

The Current Status of Boundary Review Commissions

To determine the current status of boundary review commissions, ACIR conducted a survey of state municipal leagues, associations of townships, and associations of counties. ACIR also interviewed the staffs of the boundary commissions. Eleven states, predominantly in the Upper Midwest and the West, established boundary agencies between 1959 and 1980.¹⁷ The St. Louis County, Missouri, Boundary Review Board was created in 1989.

BRCs vary with regard to several important characteristics (see Table 7, page 12). **Six** of the commissions have statewide jurisdiction (Alaska, Iowa, Michigan, Minnesota, New Mexico, and Virginia); BRCs in the other **six** states have countywide or metropolitan jurisdiction (California, Missouri, Nevada, Oregon, Utah, and Washington). Most BRCs have authority to make boundary decisions on request, subject to judicial review and popular referendum. The Virginia commission acts only in an advisory capacity to the courts, where the decisions are made. Each BRC operates under state laws concerning local gov-



ernment creation, boundary adjustment, consolidation, and dissolution. Most commissions review a wide range of boundary adjustments, including annexations, incorporations, consolidations, and detachments. The commissions in Nevada, New Mexico, and Utah deal exclusively with annexation.

Many BRCs can veto boundary change proposals without a vote of the affected citizens, although commission decisions commonly may be appealed to the courts. The circumstances for appeals vary from state to state.

Some BRCs have their own staff, while others rely on part-time staff, usually county employees. Financing also varies, with some commissions using state funds and others using local government funds.

The BRCs in California, Oregon, and Virginia appear to be involved with long-range planning issues (including spheres of influence), while the others seem more concerned with responding to specific petitions.

A brief review of the powers and duties of the 12 BRCs follows. The problems and issues facing BRCs are presented in a later section.

Alaska

Alaska is the nation's largest state in terms of land area, but ranks 49th in population. *Roughly **36** percent of the land area and 85 percent of the population lie within the jurisdiction of 15 regional governments called organized boroughs. The rest of the land area and population are in the Unorganized Borough—which refers to all areas, not necessarily contiguous, that are outside organized boroughs.

There are substantial differences between the organized boroughs and the Unorganized Borough. Service provision is one example. Most urban development and service provision are in the organized boroughs. Organized boroughs raise local revenue for education, usually through sales/use taxes and property taxes. In the Unorganized Borough, education is funded entirely by the state.

When territory becomes or is annexed to an organized borough, the law requires that it make a local contribution to schools equivalent to a 4 mill property tax or 35 percent of "basic need," whichever is less.¹⁹ All of the boroughs established before 1986 levy property taxes to support education, but none of those established since then do so. For example, Northwest Arctic Borough (established in June 1986) levies no taxes, but relies on significant payments in lieu of taxes from Cominco's Red Dog zinc mine to fund local services. Aleutians East Borough (October 1987) relies on a 1.5 percent sales/use tax on commercial fishing to fund education and other services.²⁰ Lake and Peninsula Borough (April 1989) imposes a 2 percent tax on commercial fishing. Denali Borough (December 1990) levies a 4 percent hotel bed tax and a 5 cents per ton severance tax on coal.²¹

Boundary changes have generated controversy because incorporation as an organized borough or annexation to an organized borough requires the collection of local revenues. Municipal incorporation or annexation also can mean increased taxes for residents whether or not the municipality is in an organized borough.

The Alaska Local Boundary Commission was established by the state constitution in 1959 and is administered through the state Department of Community and Regional Affairs. It is a single statewide board that handles incorporation of cities and boroughs, and annexation, detachment, consolidation, merger, and dissolution of cities, boroughs, and unified municipalities.²²

Table 7
Characteristics of Boundary Review Commissions

State	Agency Title	Statutory Citation	Date Established	State or Local Organization	Membership	Funding	Staff	Type of Boundary Changes Considered	Additional Review or Approval
Alaska	Local Boundary Commission	A.S. 44.47.565-44.47.590	1959	One statewide board	5 appointed by Governor	State funded \$266,000	4	Annexation Detachment Dissolution Incorporation Merger or Consolidation	Referendum or legislative review in some instances Appeal to courts
California	Local Agency Formation Commissions	C.G.S. Sections 56000-57550	1963	One for each of 58 counties (except San Francisco)	Varies	Counties legally required to pay expenses	Most are staffed by county employees.	Annexation Incorporation Detachments from cities Creation, reorganization, formation and abolition of special districts and county service areas Determines spheres of influence	Referendum, local government Appeal to courts if discrimination or abuse of power alleged
Iowa	City Development Board	Ch. 368	1972 (compliance mandatory in 1975) 1968 (incorporation and consolidation)	One statewide board	Total of 5 3 by Governor plus 2 local representatives	State funded \$45,000	1	Annexation Incorporation Dissolution Consolidation Detachment	Referendum within 90 days Appeal to the courts

Table 7 (cont.)
Characteristics of Boundary Review Commissions

State	Agency Title	Statutory Citation	Date Established	State or Local Organization	Membership	Funding	Staff	Type of Boundary Changes Considered	Additional Review or Approval
Michigan	State Boundary Commission	Public Act No. 191 (1968) as amended	1972 (Annexation)	One statewide board	3 statewide by Governor 2 by Probate Judge in County	State funded over \$220,000	3	Annexation Incorporation Consolidation	Appeal to courts Referendum if area to be annexed has 101 or more persons
Minnesota	Minnesota Municipal Board	M.S.A. Ch. 414 (1988)	1959	One statewide board	3 appointed by Governor	State funded \$247,000	4	Annexation Incorporation Detachment from cities Consolidation of municipalities and towns Concurrent detachment and annexation	Appeal to courts. Referenda in some circumstances
Missouri	St. Louis County Boundary Commission	RSMo. 72.403 Ch. 72	1989	One county – St. Louis County	10 nominated by mayors and county council and selected by county executive	County council appropriates funds	Staffed by county employees	Annexation Incorporation Consolidation Transfer of governing jurisdiction	Referendum
Nevada	City Annexation Commission	N.R.S. 268.610-268.670	1967	Counties with population 100,000 or more and less than 250,000	Varies	Operating expenses from county	0 (Inactive)	Annexation	Appeal to courts

**Table 7(cont.)
Characteristics of Boundary Review Commissions**

State	Agency Title	Statutory Citation	Date Established	State or Local Organization	Membership	Funding	Staff	Type of Boundary Changes Considered	Additional Review or Approval
New Mexico	New Mexico Boundary Commission	N.M.S. Annotated 1978 Section 3-7-1	1965	One statewide board	3 appointed by Governor	State funded per diem and expenses	Staffed by state	Annexation	Appeal to district courts
Oregon	Local Government Boundary Commissions	D.R.S. Chp. 199.410-199.512	1969	Two in metropolitan areas Third abolished 1980	7 or 12 appointed by Governor	Locally funded	Varies by commission	Annexation Incorporation Detachment from cities Consolidation or merger Creation, abolition, or modification of certain special districts including approval of additional functions Extraterritorial extension of sewer or water services by cities or special districts Creation of private sewer and water firms Transfers of territory	Depends on method of initiation Appeal to State Court of Appeals
Utah	Boundary Review Commission	Utah Code Annotated Title 10 Chp. 2 Part 4	1979	County	Varies by commission 7 or 5	County provides space and financing	0	Annexation	Appeal to courts

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**Table 7 (cont.)
Characteristics of Boundary Review Commissions**

State	Agency Title	Statutory Citation	Date Established	State or Local Organization	Membership	Funding	Staff	Type of Boundary Changes Considered	Additional Review or Approval
Virginia	Commission on Local Government	Ch19.1 Title 15.1 Code of VA	1980	One statewide board	5 by Governor	State \$460,000 in FY 89-90	7	Incorporation Annexation Consolidation Limited immunization of counties from city annexation Mediation	Courts make initial decisions and hear appeals
Washington	Boundary Review Boards	W.S. Ch. 36.93 R.C.W.	1967	Required for counties over 210,000 pop optional in other counties	11 for counties over 500,000 and 5 for all others	County funded	Varies by county	Annexation Incorporation Dissolution of cities and towns Consolidation of cities and towns Creation, consolidation, or abolition of special districts Extraterritorial extension of sewer or water service by a city or special district	Appeal to courts

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The five board members are appointed by the governor for five-year overlapping terms. One member is appointed from each of Alaska's four judicial districts, and one member is appointed at large and serves as chairperson. The BRC has a staff of four and is funded by the state at about \$266,000.

The commission typically receives 20 to 25 petitions a year, most of which concern annexation to cities. There are few annexations to boroughs, although interest is increasing. Some of the most rapidly growing urbanized areas in the state are contiguous to organized boroughs.

California

California established its Local Agency Formation Commissions (LAFCOs) in 1963, in part as a response to rapid growth and the perception that this growth was causing haphazard formation of cities and special districts. Of greater concern was that annexation procedures did not seem to require any reference to logic, efficiency, or service capabilities. Consequently, municipal "annexation wars," premature conversion of prime agricultural land, and perceived illogical annexation patterns were common throughout the state. The Knox-Nisbet Act of 1963, redrafted as the Cortese-Knox Governmental Reorganization Act of 1985, established a LAFCO in each of California's 58 counties (except San Francisco, which is a unified city-county with no unincorporated territory).

LAFCOs have broad jurisdiction, including (but not limited to) incorporation, annexation, detachment, and consolidation of cities and special districts. In addition, LAFCOs determine spheres of influence, which are the physical boundaries and service areas that a local governmental agency ultimately is expected to serve. The sphere of influence may, and often does, extend beyond the physical boundaries of a municipality or special district. Although local governments do not have jurisdiction in areas that are within their sphere of influence but outside their current boundaries, LAFCO members consider spheres of influence in making boundary adjustment decisions.

There are two staffing patterns. Some LAFCOs have their own staffs, which work exclusively on LAFCO projects and serve at the pleasure of the commission. Most of the commissions depend on county employees for staff and use space in county offices. Counties are legally required to fund LAFCOs, although the level of funding is somewhat discretionary.

LAFCO membership varies from county to county. The minimum number of members is five: typically, two county supervisors selected by the board of supervisors, two municipal officials selected by a majority of the mayors in the county, and one public member selected by the other four members. Some LAFCOs have added two members representing special districts, and others have increased the number of public members. Some LAFCOs, including those in Los Angeles and San Diego, have a representative from the county's largest city.

The volume of LAFCO activity varies greatly. Riverside County, a rapidly suburbanizing county east of Los Angeles, reports an average of more than 100 cases per year. By contrast, Mono County, in east-central California along the Nevada border, reports only two or three cases per year.

Although the types of petitions coming before LAFCOs differ somewhat, most appear to involve expansions of special districts.

The LAFCO process is reported to have contributed to a less controversial settlement of municipal borders in many of the most rapidly growing coun-

ties. In 50 or so counties, virtually the whole urbanized area has been assigned to municipalities' spheres of influence in an effort to end boundary disputes.

Iowa

The Iowa City Development Board was established in 1972. It is a statewide board, charged with maintaining records on boundary adjustments and reviewing and acting on municipal boundary changes. It is empowered to review municipal incorporations, annexations, discontinuances (termination of a city), consolidations, and severances (deletions of territory from a city).

The board was established to (1) regulate urban development to ensure that it does not undermine the effective provision of municipal services, especially those that are capital intensive and require long-range planning (such as water and sewers); (2) make sure that substandard facilities are not installed; and (3) restrict encroachment on agricultural land and confine development to compact areas around an existing city.

The City Development Board consists of three members appointed by the governor to serve staggered six-year terms. The board is required to appoint additional local representatives when it considers a petition. Usually, two local representatives are appointed, either from cities, counties, or the territory involved in the proceeding. The board is funded by the state at about \$45,000 a year and has one staff member.

The majority of actions coming before the BRC involve annexations, but the board also considered two dissolutions in recent years. There is disagreement about whether the number of dissolution petitions is likely to increase in coming years. Iowa's economy has been adversely affected by problems in the agricultural sector, which, combined with an aging population and an outflow of young adults, are making it difficult for some cities to maintain financial viability.

Michigan

The Michigan State Boundary Commission was established in 1968 as a single statewide board to handle petitions for incorporation and consolidation. Annexation was added in 1972. The board has three statewide members appointed by the governor to consider all matters and two local representatives appointed by the probate judge in the county affected by a specific petition. The commission has a staff of three, and its funding is more than \$220,000.

The BRC was created to place boundary adjustment decisions in the hands of an impartial board, replacing a process that involved referenda that were usually divisive and often generated litigation.²³ When the parties agree, annexations can proceed without commission action. When there is disagreement, annexations must come before the board. BRC decisions are frequently appealed to the courts and may be tied up there for long periods of time—sometimes for years.

The board's work is dominated by annexation petitions, typically from cities seeking to annex land from townships. The board encourages cooperation between cities and townships, but still is involved in lawsuits over annexation petitions. Part of the reason for this is that Michigan townships (particularly those with charters) are empowered to provide services similar to those provided by cities. Some charter townships have incorporated.²⁴ Townships and cities frequently

compete to provide services to the same areas. Where these services involve considerable capital investment (e.g., water and sewer systems), the outcomes of competition have long-term fiscal impacts on both parties. Charter townships that meet certain criteria are immune from annexation. These criteria include providing fire and police protection, solid waste disposal, and water and sewer services. The net effect of **this** law has been to encourage the conversion of towns to cities. The BRC has worked to incorporate much of the urbanized areas, thus lessening the need for boundary review procedures.

Referenda are held only for annexations approved by the commission involving **101** or more persons and in which a referendum is requested by petition of voters within the area to be annexed or the city attempting annexation or the remainder of the affected township. Historically, annexations approved by the commission generally have been defeated by the electorate. Given that annexations involving **100** or fewer persons do not go to referendum, some cities have attempted to annex land areas that are small enough or sparsely populated enough to avoid the referendum requirement.

State law allows townships and municipalities to establish contracts for service delivery and tax sharing. The purpose is to help create “win-win” situations for townships and cities and avoid “win-lose” annexations. Twenty such contracts have been established since the law was enacted in **1984**, ten of them in **1988**. This form of interlocal agreement is not without its critics, but it is reported to be increasing as local officials become familiar with the law. Service contracts also appeal to officials of governments with fiscal problems because they allow cities to reduce some expenses without being subjected to forced annexation or running the risk of receivership.

Minnesota

The first local government boundary review commission established in the United States,” the Minnesota Municipal Board (MMB) has broad powers to determine incorporation, annexation, and other boundary adjustments. The impetus for the creation of this single statewide board was the explosive growth in the Twin Cities metropolitan area during the **1950s**. The legislature regarded the situation as chaotic and imprudent and created the board as a remedy.

The three members of the board are appointed by the governor. The board considers all petitions for annexation, incorporation, detachment from cities, consolidation, concurrent detachment and annexation, and dissolution. In certain instances, board decisions are followed by a referendum. Board decisions also can be appealed to the courts. The BRC is currently funded at approximately **\$247,000** and has a staff of four.

The board’s primary work involves annexation. In fiscal **1985**, **113** annexation petitions came before the MMB, **72** of them initiated by a majority of the landowners in the area to be annexed. Ninety-six petitions were approved during that fiscal year, some of which were initiated earlier. In fiscal **1986** (the most recent year for which data were available), **90** annexation cases came before the board (**61** of them through the landowners), and, with carryovers, **95** petitions were approved.

Missouri

The St. Louis County Boundary Commission, the newest **BRC**, was created in **1989** after more than a century of boundary conflicts.²⁶ In **1876**, voters in a

countywide election approved a board of freeholders proposal **to** separate the city and county. Five small incorporated municipalities remained in the county in **1876**; there are **91** of them today. Then and now, the county government provided municipal services to residents of unincorporated areas. A number of annexation and merger proposals have been defeated since the separation.”

The BRC has jurisdiction over a range of boundary adjustments, with authority to evaluate proposals on the basis of present and proposed levels of services, taxes, zoning, and compactness. BRC jurisdiction includes every annexation, incorporation, consolidation, or transfer of governing jurisdiction proposed in St. Louis County, including annexations initiated by petition of all property owners in the area to be annexed. When more than half of the land involved in a change is unincorporated, at least **10,000** persons must be affected. The long-range goal of the commission **is** to incorporate the entire county into municipalities that can provide the services their citizens require.

The county executive chooses ten commissioners for five-year terms from lists of nominees submitted by mayors of small, medium, and large cities, and county council members. Elected or appointed officials are not eligible for membership. The county council funds the BRC.

Although the commission has no authority to initiate boundary change proposals, it can make changes requested by petition and can combine requests. Boundary changes may be proposed by municipalities, citizen petition, or the county. Cases approved—those found to be in the best interest of the citizens of the municipalities and unincorporated areas involved, adjacent areas, and the county as a whole—are put on the ballot. Such cases are subject to a concurrent majority vote. After a successful election, the commission establishes a transition committee to implement the annexation. If the commission disapproves the change, the proposal dies. The commission must give its rationale for disapproval.

Soon after the commission began operation, a dispute arose over whether its jurisdiction included voluntary annexations. Missouri law provides that annexation takes place without a vote if all property owners in the area agree to be annexed and if the proposal is not challenged by citizens of the annexing municipality (at least eight must object). Earlier court rulings held that the counties had no standing to object to voluntary annexations. During its first year of operation, the commission considered **17** proposed boundary changes, of which four were withdrawn, six were approved, and seven were disapproved. The criteria for disapproval are set out in the commission’s enabling legislation. The most frequently cited reasons for disapproval were detrimental **impacts** on areas adjacent to the proposed change, problems with the legally described boundaries, and the effects of the change on county tax resources.

The commission developed several recommendations for legislative changes to improve its operation. These include:

- (1) Clarification of its jurisdiction with respect to annexations initiated by **100** percent of property owners affected by the change;
- (2) Adoption of standards and regulations for consistent review of boundary change proposals;

- (3) Directions on how the county is to provide and finance services in unincorporated areas;
- (4) Provision for services to small unincorporated pockets where annexation is not advantageous to any of the adjoining municipalities;
- (5) Independence of the commission;
- (6) Establishment of a time limit for review;
- (7) Institution of public hearings as a required step in the commission review process; and
- (8) Revision of the distribution of population-based tax revenues to annexations.

Nevada

Nevada established the City Annexation Commission in 1967 to consider certain municipal annexations. The commission's jurisdiction is based on county population. In practice, Washoe County (Reno) is the only jurisdiction subject to the commission.²⁸ Clark County (Las Vegas) has too large a population,²⁹ and other counties are too sparsely populated for board jurisdiction.

The commission in Washoe County is inactive (reports indicate that the commission has not met in ten years) because most annexations take place through procedures that do not involve the BRC. The state law provides that a city can annex property without commission action if 100 percent of the property owners within a contiguous area sign a petition for annexation or if the city owns the contiguous area "in fee."

New Mexico

The New Mexico Boundary Commission was established in 1965 as a three-member board with statewide jurisdiction. The governor appoints the members of the commission. The state funds the commission, paying per diem and expenses for members. The state also staffs the board, although staff members are not full-time employees of the commission. BRC has jurisdiction only over annexations, and its decisions can be appealed to the courts.

New Mexico has three procedures for annexation of territory to cities. They are arbitration, petition, and use of the boundary commission. The BRC can be used when either a municipality or a majority of the landowners in an area petitions the commission for annexation of the area.

The commission's jurisdiction is limited to two questions: (1) Is the area proposed for annexation contiguous to the city? (2) Can the annexing municipality provide the area with municipal services? If the commission determines that these conditions are met, it is required to order the area annexed to the municipality.

The commission is not permitted to determine whether the persons affected want to be annexed, nor can it modify the annexation request.

In some instances, cities annex property in order to preserve the semi-rural character of the area or to provide city services. In other instances, as in Santa Fe, annexation is used to control architectural style.

Oregon

Oregon established three Local Government Boundary Commissions in 1969 in the Portland area (Washington, Multnomah, and Clackamas counties),

the Eugene area (Lane County), and the Salem area (Marion and Polk counties). Only the commissions in the Portland area and Lane County survive.

These commissions have jurisdiction over municipal annexation, incorporation, detachment, and consolidation or merger, as well as the creation, abolition, or modification of certain special districts. The commissions also have jurisdiction over extraterritorial extension of water and sewer services, and the creation of private sewer or water companies.

The boundary commissions have been controversial. The Salem area commission was abolished by the state legislature in 1980. A bill to abolish the Lane County commission was introduced in the 1989 legislative session and passed the House of Representatives by a wide margin, but it died in a Senate committee. Efforts to abolish the commissions are apparently the result of public dissatisfaction with specific decisions. In addition, some legislators have expressed the view that local boundary adjustments should be made by elected officials rather than by appointed bodies.

The Portland area commission has 12 members appointed by the executive officer of the Portland Metropolitan Service District. The Lane County commission has seven members appointed by the governor. The Portland area commission has a staff of five full-time equivalent employees. The Lane County commission has a full-time equivalent staff of two, provided by the Council of Governments.

The commissions are locally funded. The Portland commission is funded at approximately \$292,000 and has 120 to 150 cases annually. The Lane County Commission is funded at approximately \$72,000 and has a smaller annual caseload. Both commissions report annexation petitions as their most common cases.

Utah

The Utah Boundary Review Commissions were established in 1979, one for each of the 29 counties. The commissions have jurisdiction only over protested boundary changes, chiefly annexations. They have no jurisdiction over incorporations. The commissions may review and approve or disapprove, in whole or in part, a proposal for a boundary change. The commissions are active in about one-third of the counties.

In counties with two or more municipalities, the commission has seven members—two representing the county, two representing municipalities, and three representing the general public. In counties with only one municipality, the commission has five members—two representing the county, one representing the municipality and two representing the general public. The commissions are funded by the counties and have no staff of their own.

Virginia

The Virginia Commission on Local Government (CLG) was established in 1980 as a statewide BRC. The commission is the only board to issue advisory reports to the courts, in which boundary decisions are made. The commission's opinions often are quite influential.

The commission reviews and analyzes annexations, incorporations, detachments, consolidations, and dissolutions, and advises the state courts of its findings. If possible, the commission resolves disputes through formal mediation.³⁰

In addition, the commission is required to report its findings to all affected local governments. CLG also conducts investigations and analyses at the request of local governments.

CLG is a statewide board with five members appointed by the governor. The commission has a staff of seven and was funded by the state at approximately \$460,000 for 1989-1990.

Virginia's cities are independent, which means that a jurisdiction cannot exist simultaneously within the boundaries of a city and a county. Under these circumstances, city incorporations and annexations subtract from the county property tax base and may greatly affect county revenues and service responsibilities. This provision of Virginia law led to controversial annexation disputes, which, in turn, led to the establishment of the commission.

In 1986, the Virginia General Assembly established the Commission on **Local** Government Structures and Relationships (the Grayson Commission) to study local government reorganization and the state's annexation and incorporation laws. The commission reported its findings in 1990, but the legislature took no action on the report. One of the Grayson Commission's major recommendations would make CLG the final decisionmaking body in annexation and incorporation issues. A special committee was set up in the General Assembly's House Appropriations Committee to review a proposal for state-local revenue sharing and financial incentives for regional cooperation, as contained in the Grayson Commission's report.

In a related move, the legislature extended a previous three-year moratorium on city-initiated annexations and municipal incorporations until 1993. Even without the moratorium, CLG staff members report that local governments tend to plan carefully for annexation proposals because annexation in Virginia can be costly and time consuming, and a contested annexation can disrupt relations between local governments. In addition, cities can annex only once every ten years, so there are incentives for cities to anticipate capital improvements and the need for vacant land.

According to staff members, the commission places strong emphasis on planning and on environmental issues in making recommendations to the courts. Growth concerns, including carrying capacity and land development controls, have been important elements of the commission's recommendations.

The commission has evolved into a research organization and technical advisor to local governments and to the state on interlocal issues, including revenue sharing, joint powers agreements, and service delivery, as well as on boundary adjustments.

City-county mergers have incorporated virtually the entire Tideland area, ending a politically divisive period of boundary disputes there. County-wide provision of urban services also seems to have stabilized boundary disputes in the metropolitan Richmond and Washington, DC, areas.

Washington

Boundary Review Boards (BRBs) were established in Washington in 1967. BRBs are required in counties with populations over 210,000 and are optional in other counties. Membership varies: BRBs in counties with more than 500,000 people have 11 members; others have 5 members. Representatives

from cities, counties, and special districts plus independent gubernatorial appointees serve four-year terms. Cities, counties, and special districts choose their own representatives. The boards are funded by the counties, and the number of staff varies by county.

BRBs have broad powers over municipal annexation, incorporation, consolidation, and dissolution. They also review the creation, abolition, or consolidation of special districts and the extraterritorial extension of water or sewer services by cities and special districts. The commissions act as dispute resolution bodies, operate on a case-by-case basis, and focus on trying to rationalize growth and local government boundaries. The jurisdiction of a BRB must be invoked, most commonly by an affected government, before it can review a proposal. In only limited instances may a BRB invoke its own jurisdiction.

The objectives of BRBs are (1) preserving neighborhoods and communities, (2) recognizing physical boundaries, (3) creating and preserving logical service areas, (4) preventing irregular boundaries, (5) discouraging the incorporation of too many small cities, (6) dissolving inactive special districts, (7) adjusting impractical boundaries, (8) approving incorporation or annexation of urbanized areas, (9) protecting agricultural land, and (10) guiding the extension of municipal services to assure that the financial burden is approximately equal to the value of services received.

The state law establishing BRBs presumes that local government competition for unincorporated territory has a disorganizing effect on land use. For this reason, the commissions are charged with limiting and guiding competition among municipalities and special districts with regard to unincorporated land. Although BRBs are not land use planning bodies, some of them encourage cities to develop mutually consistent comprehensive plans. The legislature enacted a new growth management process with similar goals during its 1990 session.

The King County BRB staff reported that commission decisions are more controversial now than in past years. A bill in the 1989 state legislature proposed eliminating the boards. Although it was supported by cities, the bill was defeated. BRB staff in counties with smaller populations report less controversy. It appears that most annexation proposals are approved, but those that are not can generate considerable controversy in local areas.

Issues Facing Boundary Review Commissions

Boundary review commissions face a variety of issues, problems, and challenges. This section of the report summarizes the most common issues identified by ACIR. They are grouped under the following three questions:

- Why have BRCs?
- What functions should BRCs perform?
- How should BRCs be structured?

Why Have BRCs?

Local government boundary issues are contentious in many cases; however, ACIR found that the existence of boundary commissions does not necessarily change that fact. In some cases, it does appear that BRCs have reduced contentious boundary disputes, although it was not possible to determine

whether the lessened tension was the result of amicable problem solving by BRCs or of the reluctance of citizens to raise boundary issues in the face of likely objections from a BRC.

Some of the BRCs themselves have become controversial. In Oregon, one commission was put out of business by the legislature as a result of political controversy and another survived a recent legislative challenge. In addition, some BRC decisions are challenged in court or at the polls. These challenges have been especially prevalent in Michigan. Those who have lost a particular decision can become severe critics and active political opponents of the boards.

In the state of Washington, the legislature limited the BRCs' powers. Originally, BRCs were empowered to consider any proposal they thought needed review. The law was amended to permit BRC review only on request of a local government or certain landowners.

In many states and urban areas, existing townships or counties provide the additional services required by metropolitan growth, thereby reducing boundary disputes. In the eight northeastern states, which are completely incorporated, there is little possibility of boundary changes.

The argument against the BRC approach is the "vote with your feet" concept. This argument stresses the value of having a variety of local jurisdictions, each of which offers a different package of public services for citizens to choose. When such competition exists, citizens are able to maximize their satisfaction with local government by living in the jurisdiction that provides the service package and tax rates most closely matched to their preferences. BRCs, it is argued, may interfere with the creation and maintenance of a multiplicity of local governments and the desire of citizens to create still more units of their own choosing. In particular, the BRCs may tend to value larger scale governments with their assumed economies of scale more highly than small governments with greater political accountability and choice of services. Those who take this view assume that BRCs generally would oppose new incorporations and favor annexations or consolidations. They see the "market" approach to citizen-initiated incorporation under general state law being more likely to create additional local government choices.

However, BRC analyses may not necessarily carry a "bigger is better" bias. The diseconomies of large-scale governments as well as small-scale governments are generally recognized. Legislative direction to BRCs, as well as the analytical criteria they have developed, could guard against bias in either direction. The strongest political value in the local government system, in fact, is against consolidating existing units. This preference is enforced by procedures established by state laws that all but rule out consolidation under most circumstances.

The fact that most BRC work involves annexation, combined with the fact that many local jurisdictions in metropolitan areas share boundaries with other incorporated governments, like a jigsaw puzzle, keeps most BRC activity incremental. In general, BRCs respond to individual proposals for boundary changes rather than initiating studies of broader strategies for governmental boundary reform. This situation is simultaneously a disappointment to those who hope for a "rationalization" of local government patterns and a comfort to those who believe that an electoral-legal marketplace of boundary decisions is preferable to a centrally planned pattern.

The establishment of boundary review commissions raises some questions about citizen self-determination. When the legislature creates a boundary commission, the role of citizens changes. They can no longer, in many cases, petition the legislature to establish a new unit of government or expand one to meet their needs. Although individuals have the right to appear before a boundary commission, they may have little influence. Commission-approved boundary adjustments typically are submitted to the voters, making the electorate part of the process in these cases. When boundary commissions deny a proposal, however, the decision does not go before the voters. Thus, boundary commissions can prevent incorporations, even when the electorate favors them. Such cases generate the most controversy, and citizens may be further removed from the determination process.

Despite the controversies generated by many boundary decisions, in most BRC states, city, county, and township association representatives opposed abolishing the commissions. Several of these respondents pointed out that in the absence of a BRC boundary proposals might become even more political and/or more litigious. The ability of BRCs to conduct studies and analyses that assist citizens and public officials in making decisions about boundaries was cited as a useful function not provided by other units of government, as were BRCs' mediation and dispute resolution roles.

What Functions Should BRCs Perform?

The question of BRC functions has been answered differently in different states. Most BRCs spend most of their time processing annexation cases. This reality is a long way from the broad charges given to several of the BRCs in their charters.

Assisting Urban Growth Management. Boundary changes alone cannot solve the problems that arise from rapid urban growth. Yet, most boundary review commissions are expected to assist in solving those problems. Only recently have a few states embarked on major growth management programs, and the work of the BRCs is potentially relevant to these efforts. Even though BRCs are neither land use regulating agencies nor public works agencies, some of them are required to consider comprehensive land use plans when making their decisions, and proposals that contravene established plans can be rejected on that basis. In most cases, however, ACIR found little connection between the BRCs and state and local growth management agencies. In California, Oregon, and Washington, where a significant amount of growth management activity is taking place, a link between these two types of agencies might be productive. Studies of service areas and spheres of influence could make a significant contribution to practical action plans.

ACIR found substantial frustration among BRC advocates about the commissions' inability to deliver fully on their broad legislative mandates. The frustration is intensified by the fact that most of the BRCs are reactive, that is, they can only consider proposals brought to them. Some of the commissions can order changes in proposals and others can initiate proposals, although they seldom do so.

Some BRC staff members feel that they must approve boundary changes having unwise implications for land use because the proposal meets other cri-

teria for an adjustment. In California, some complaints that the BRCs have “lost control” of development were based on the fact that special taxing districts are not within their jurisdiction. These districts can be established independently by developers and then turned over to the new residents, who must pay off the bonds. This activity has been spurred in recent years as a means of getting around the Proposition 13 limits on the local property tax.

Easing Competition for Territory and Tax Base. More modest goals for BRCs would center on the tasks of easing the competition among governments for territory and tax bases. ACIR found that annexation proposals make up the bulk of the BRCs’ work, with petitions for consolidation of special districts being next most prevalent. Petitions for new incorporations are infrequent. Thus, most BRC decisions influence the revenues and service production of existing local governments rather than respond to citizen requests for new local jurisdictions. Under these circumstances, BRCs must resolve interjurisdictional disputes.

Dispute resolution processes short of the courts or the electorate have begun to develop in some BRCs. Of course, not all boundary cases create disputes, and some states have provided short cuts that allow uncontested boundary changes go into effect without formal BRC action. Nevertheless, many boundary decisions can have long-range consequences for the revenues and expenditures of all the local governments involved, and they are very seriously contested. In such cases, some BRCs have become directly involved in establishing mutual agreements among contending local governments.

In California, the LAFCOs determine spheres of influence for municipalities, which are formal agreements designating the ultimate physical boundaries of the municipality and which local government will provide services to an unincorporated area. The agreements have the potential to mitigate disputes among municipalities, especially once the sphere of influence has been adopted. At the same time, these agreements make it possible for local governments to plan to meet their eventual service obligations.

In Oregon, spheres of influence are designated in state and local comprehensive plans, and the BRC is required to ensure that all boundaries are consistent with such plans. Therefore, the designated spheres of influence are a factor in BRC decisions. BRCs also rule on extraterritorial extensions of services, thereby having an impact on the configuration of service production arrangements for the future.

In Washington, boundary agencies do not establish spheres of influence, but they are required to make decisions based on the future service needs of an area and the impact of a boundary change on governing arrangements within a county. This suggests that BRCs often end up considering the ultimate boundaries of municipalities and the areas they will serve.

Other BRC states do not provide for formal municipal spheres of influence, but the need for agreement among local governments remains strong. For example, when two cities want to annex the same territory, the BRC must determine which city has the greater capacity to deliver services to the area. This leads the BRC into a dispute resolution role.

In Virginia, the BRC is required to act as a mediator under certain conditions. The service contracting provisions in Michigan run in the same direc-

tion. Although most of the other BRC states do not officially assign the commissions a dispute resolution role, it is becoming a major function of several boundary agencies.

Tax base disputes consistently produce conflict between local governments seeking boundary changes and those that stand to lose tax base if changes are approved. This is true because local governments rely heavily on property taxes, and the effect is accentuated when the territory includes commercial or industrial properties that frequently generate more property tax revenues than they consume in services. In some cases, sales tax revenues also are an issue. BRC staffs indicate that tax base disputes are among the most common. In fact, the dispute resolution role of most BRCs appears to be dominated by the need to find solutions to conflicts over tax base and the fiscal implications of boundary changes.

Sometimes, boundary change proposals can have major impacts on the affected governments, especially those standing to lose tax base. For example, the 1984 incorporation of Mammoth Lakes, California, had such a severe fiscal impact on Mono County that 30 percent of the county workforce was laid off.³¹

Boundary adjustments raise other questions regarding revenues and expenditures. For example, a county may find it difficult to maintain a public hospital if tax revenues decline as a result of a loss of tax base due to municipal annexation. A county’s ability to pay off bonds also may be affected by boundary changes. For these reasons, boundary commissions can be instrumental in achieving fiscal agreements between local governments. In some instances, commissions deny boundary changes because of their fiscal implications for other units governments. (The fiscal implications of boundary changes are often one of the factors that state legislatures direct BRCs to consider.) In other instances, the BRC plays a role in helping local governments reach an agreement prior to a boundary change.

California’s Proposition 13 has affected the work of the LAFCOs because property tax revenues can be divided between cities and overlying counties. LAFCOs typically require cities and counties to agree on how property taxes will be divided before the commission will consider a boundary proposal. There have been instances in which counties refused to agree to the division of property tax revenue unless sales tax revenue was also divided (some state sales tax revenue goes to the local government in which it is generated). LAFCOs have approved such arrangements to minimize the negative fiscal impact on counties.

Negotiating Service Agreements. It is beginning to be recognized that boundary changes are not always necessary to resolve issues brought to a BRC. The Michigan provision that allows townships and municipalities to establish contracts for service delivery and tax sharing is an example. Services may be provided—decided on and paid for—by one unit of government and produced and delivered by another.³² The sizes of these jurisdictions may be very different, but each may take advantage of the other’s strong points. A jurisdiction that is too small to produce desired services efficiently (because it is too small to capture available economies of scale) can contract with a larger unit. Contracting also may reduce the costs of services for the larger unit by utilizing excess capacity. The same per-unit costs could be achieved, theoretically, by

merging the two units of government. but the smaller unit would lose its identity and its ability to chose its own levels of service. Thus, by contracting, small units of government frequently maybe able to operate at no greater costs than larger governments. When this is true, one reason for consolidating small local governments loses its validity. In such cases, contracting can substitute for boundary changes and preserve the traditional units of local government without creating great controversy.

There can be drawbacks to contracting, however. First, the administrative/legislative overhead costs for each government are not usually reduced by the contract, thereby resulting in some continued cost duplication. Second, the governing boards' authority over service decisions is somewhat reduced. Third, for the average citizen, accountability for service decisions may become somewhat amorphous.

State laws establishing BRCs generally make no distinction between the provision and production of public services.³³ As a result, BRCs often make their decisions without considering these distinctions and their implications for the boundaries of local governments. Thus, opportunities for citizen self-determination in the choice of services to be provided—and the taxes required to pay for these services—maybe needlessly sacrificed to efficiency arguments based on economies of scale.

Nevertheless, different services have different scales of efficient provision and production. Different boundaries may be appropriate for different provision units. Thus, as one observer phrased it a few years ago, there is a need for small and large units of government together.³⁴

A single set of criteria that biases boundary commissions in favor of larger units of government for all purposes and fewer units overall may work against citizen satisfaction with many types of services, just as the lack of large provision units may deprive citizens of other service options.

Protecting the Public Interest and Promoting Fiscal Equity. The citizens directly involved in a boundary adjustment are not the only ones affected by change. A boundary change could, for example, result in increasing service demands on a county, thus necessitating a countywide tax increase. The tax increase would have an impact on county residents who live quite far from the territory directly involved in the boundary adjustment. This suggests that boundary agencies also have a role as representatives of a larger “public” interest.

Boundary agencies often must consider the impact of a proposed change on citizens and landowners outside the territory directly affected (e.g., citizens of unincorporated areas and other municipalities in the county). This makes the BRC the representative of the interests of the entire county or region and of citizens who may not be aware of the impact of distant boundary changes on their taxes and services.

It is not always easy, however, to determine what the “public” interest is. Those who receive tangible benefits from annexation or incorporation would likely vote “yes” on the issue, saddling future residents with potential long-run burdens or inequities. One of the roles of California’s LAFCOs, for example, is to examine the long-run implications of formation/incorporation proposals, such as: Do the boundaries make sense? Is the proposal financially feasible? Is

there an adverse effect on adjacent communities? Are the range and level of services sufficient to meet present and future needs? Is the larger community represented within the proposal? Properly applied, these tests do not inhibit free public expression; instead, they can promote a reasoned citizen review of available service options.³⁵

How Should BRC Membership be Structured?

Cities, counties, and special districts within the jurisdiction of a BRC frequently have representation on its governing board. This does not mean that local government officials directly control BRC decisions. Indeed, in some states, cities, counties, and special districts must be represented on the commission, but officeholders and public employees are prohibited from serving.

Most commonly, appointments are made by the governor, with relatively few restrictions. Even so, the importance of boundaries to local governments leads them to become involved in the appointment process. In some instances, they formally nominate members. In other cases, they informally communicate with the governor’s office, and sometimes there are understandings that local jurisdictions will be represented on the BRC.

This raises a question of the extent to which the composition of a BRC influences its decisions. Certainly, members are likely to draw on their backgrounds in making decisions. In addition, different types of local government members may have very different views about boundary adjustments.

Given that many, if not most, BRC decisions involve existing local governments and can have major long-term consequences, there is reason to believe that it is appropriate for these governments to be represented on the board. Nevertheless, heavy or exclusive representation from existing governments would seem to favor the status quo and make it more difficult for interests advocating the creation of new governments to get a fair hearing.

Effects of Boundary Review Commissions on Annexation

One question that this report cannot answer definitively is whether BRCs are effective. ACIR found no substantive or systematic evidence to indicate that BRCs effectively assist urban growth management, ease competition for territory and tax base, protect the public interest and promote fiscal equity, or negotiate service agreements. Nor was there any evidence that BRCs do not effectively serve these functions.

The effectiveness of BRCs is difficult to measure. In an article on the factors that affect annexation rates, Gaines Liner points out that several scholars have touched on the effectiveness issue in their studies of annexation.³⁶ John Bollens, David Bromley and Joel Smith, Ira Kaufman and Leo Schnore, Vivian Klaff and Glenn Fuguitt, and others have highlighted the significance of annexation as the predominant form of municipal growth.³⁷ These attempts at gauging the impact of state laws on annexation have yielded mixed results. In 1949, Bollens concluded that restrictive laws could slow annexation rates.” Ranking state laws by perceived restrictions on annexations, Thomas Dye concluded that the laws seemed to have few constraining effects on cities.³⁹ Using a different ranking, Raymond Wheeler concluded that laws could restrict an-

nexation activity.⁴⁰ Of course, each ranking depended on the author's perception of the restrictiveness of the law.

Instead of ranking laws by the degree of restrictiveness, several other studies relied on Frank Sengstock's typology of laws, which classifies annexation activity by whether it is determined judicially; legislatively; popularly; by municipalities; or by quasi-legislative, administrative, or third-party boards.⁴¹ Building on this typology, Susan MacManus and Robert Thomas studied 243 U.S. cities and found no relationship between laws and annexation activity.⁴² In a study of annexation in southern states, Patricia Dusenbury concluded that state law was the most important variable affecting annexation rates.⁴³

Thomas Galloway and John Landis obtained mixed results when they tested the predictive power of the Sengstock typology using states as the unit of analysis.⁴⁴ The results varied with how they measured annexation. Comparing metropolitan and nonmetropolitan cities and using the percentage of cities reporting annexation as the dependent variable, states with judicially determined annexation exhibited the highest levels of activity. With the frequency of annexations by reporting municipality as the dependent variable, they found the greatest metropolitan annexation in states employing third-party or quasi-legislative bodies. With the size of the annexed parcel as the dependent variable, states with judicially determined annexation showed the greatest activity. In comparison to other states, states with municipally determined annexation had the highest level of activity when annexation was measured as the percentage of cities reporting annexation.

When Galloway and Landis measured annexation as the average number of annexations per reporting city, states relying on quasi-legislative or administrative bodies displayed the highest annexation levels for metropolitan cities, and states with popularly determined annexation showed the highest levels for nonmetropolitan cities. When annexation was measured as the average size of the land area annexed, states with judicial determination exhibited the highest levels of annexation in both types of cities.

Gaines Liner analyzed the predictive power of the Sengstock typology of annexation laws using data on cities instead of aggregate state data.⁴⁵ His study showed that state laws do influence annexation rates. In terms of land area annexed, he concluded that the role of annexation tends to be greater when cities are able to annex unilaterally than when they are required to annex under restraining laws. In contrast to the Landis and Galloway finding that cities in states with municipal determination laws do not exhibit higher annexation activity, Liner's study showed higher annexation rates when cities are permitted to act unilaterally than when laws subject the final decision to a vote of the people or to a third party.

In terms of population annexed, Liner's findings showed weak indications of greater annexation under laws that allow a quasi-legislative or administrative body to rule on the final annexation decision than under other types of laws, including those allowing cities to act unilaterally. By the Sengstock typology definition, boundary review commissions should be included in this category. Thus, annexation of more population may occur where there is a boundary review commission than where cities can act unilaterally or where

they must go through the judicial process. A final caveat—annexation laws may be more closely associated with annexation of land than of population.⁴⁶

ACIR attempted to discern whether boundary review commissions were effective devices for stemming annexation rates by examining annexation data provided by the U.S. Bureau of the Census from the 1950s until 1990. However, because reporting standards changed frequently during these years, the data did not yield a consistent time series suitable for analysis.

Using available census data, Table 8 ranks states by population annexed in 1987. The data show at least some annexation activity in all BRC states, but no discernible pattern. Table 9 ranks states by the number of annexation actions between 1980 and 1987. Again, no discernible pattern is evident. One cannot establish that BRC states generally have more or less annexation activity.

When ranked by the number of annexation actions per 10,000 population between 1980 and 1987, as shown in Table 10, there is no discernible pattern. There is, however, a cluster of six BRC states in the third quintile of activity. Two BRC states had so little annexation activity that it was disguised in the table due to rounding. When the number of square miles and the population added are taken into account in Table 11, a pattern among BRC states still cannot be distinguished.

The existing empirical research, therefore, does not permit confident conclusions about whether boundary review commissions do or do not reduce the amount or increase the quality of municipal annexation activity.

Conclusion

All states must provide for the establishment and modification of local government boundaries. Different approaches to handling proposed boundary changes, including the establishment, consolidation, annexation, and dissolution of local governments, have been developed by different states. Twelve states have chosen boundary review commissions. Some BRCs have statewide jurisdiction; others serve only one or a few areas within a state. Most states have opted for other approaches to boundary changes. In at least eight states, all territory is incorporated into local governments, with stable boundaries precluding most possibilities for further change.

BRCs: One Method of Boundary Adjustment

Eight of the 12 boundary review commissions were established between 1959 and 1969. Iowa established its commission in 1972, Utah in 1979, Virginia in 1980, and St. Louis County, Missouri, in 1989. City and county representatives contacted by ACIR in states with BRCs generally supported their commissions.

BRC Benefits. Boundary review commissions can be helpful in states that have political problems with annexation and incorporation of municipalities and special districts in metropolitan areas and in rural areas with declining population and economies. BRCs can provide assistance in solving contentious matters, but most commissions are not sufficiently empowered to manage growth and boundary changes in the manner envisioned in their enabling legislation.

Potential Drawbacks. BRCs may not be appropriate in all states. Few states have established such commissions; even fewer have reasonably active com-

missions. As a group, BRC states do not display manifestly better patterns of urban development or fewer contentious boundary disputes.

There is little evidence that BRCs are able to fulfill all of the expectations set for them when they were created. ACIR found no thorough evaluations of the effectiveness of these bodies, despite 30 years of experience with them. Although it is argued that at least eight states have too little boundary change activity to warrant using BRCs, other states with a great deal of such activity have not chosen to follow the BRC approach.

Boundary review commissions have the potential to limit citizen choice with respect to local government organization. Citizens may be reluctant to turn over to a nonelected boundary review commission some of their present rights to vote on boundary changes.

Defining BRCs Roles. Some states with BRCs provide alternatives to their use, or they exclude certain types of boundary decisions from their jurisdiction.

Options for states with boundary review commissions include a reassessment of the BRCs to see if they are fulfilling their legislative mandates and if they are the optimum mechanism for handling boundary adjustments and proposals for local government formation. An alternative would be to consider an advisory model in which a boundary agency serves as a source of third-party information and mediation, and in which the composition of the agency does not advantage or disadvantage any existing local jurisdiction.

BRCs Are Not All Alike

There is considerable diversity among BRCs. Some operate statewide; others operate only within individual counties or metropolitan areas. While some have authority to decide a variety of boundary issues, three are limited exclusively to considering annexations. Most have authority to decide these boundary issues, subject to judicial appeal or popular vote, but one has only an advisory role. Some BRCs have broad goals that go to the heart of urban growth and development issues, while others have narrower goals. Some are busy and influential; others are underutilized or inactive.

BRCs Face Varying Degrees of Controversy

Resolving local government boundary issues often is contentious, even in BRC states. Boundary review commissions inevitably are drawn into controversies as they attempt to adjudicate and mediate proposals by landowners, competing governments, taxpayers, and other parties seeking advantages for themselves—sometimes at the expense of others. Two states have had especially contentious experiences with their commissions: Oregon, where one of the three metropolitan BRCs was abolished and another one nearly was abolished; and Michigan, where a high percentage of BRC decisions are appealed to the courts.

Basic philosophical differences about whether BRCs should limit the number of governments or favor large governments over small ones also create stress. Sometimes, these issues become so politically and emotionally charged that they end up in court, or they emerge as legislative challenges to the established mission or the very existence of the BRC. For the most part, however, BRCs have survived these challenges by performing analytical and mediating services not available from other sources.

Shifting Functions of Boundary Review Commissions

The traditional mission of boundary review commissions often included slowing the growth in the number of new municipalities and special districts as well as seeking to systematize annexations. Today, BRC work has shifted heavily toward annexation and its attendant interjurisdictional conflicts. Hence, an emphasis on citizen-initiated creation of new governments has given way to political competition among existing units. This shift calls for a different type of analysis and assistance than originally envisioned for BRCs.

A variety of new techniques is emerging for resolving intergovernmental disputes and negotiating intergovernmental agreements for service delivery and tax sharing. These techniques can help ease the burdens of BRCs having to choose between competing local governments, and they can help avoid unnecessary or inefficient annexations and consolidations. Often, a negotiated settlement of differences can be more satisfactory than the “winner take all” outcome of a court case or a referendum. Likewise, the option of contracting for services often can accommodate needs for economy and efficiency without creating the controversy of a boundary change.

The relatively recent distinction between local government provision and production of services affords communities new opportunities for considering interlocal agreements and contracting as alternatives to boundary changes. Nevertheless, new municipalities, special districts, subordinate taxing areas, and regional entities may have their place in providing or producing needed public services in response to citizen preferences and should be given impartial consideration on their political as well as economic merits.

Although boundary review commissions can provide assistance in solving contentious matters, most of them are not empowered to manage growth and boundary changes themselves. States might consider strengthening the role of the BRC in working with other growth management and service delivery agencies.

Given such a role, a BRC might pursue opportunities more effectively for improving the economy, efficiency, effectiveness, and accountability of the local governments within its area of jurisdiction. A BRC can protect the public interest from unbridled competition for territory and tax base that can work against the interests of taxpayers outside the territory that changes hands. A positive program of BRC analysis showing the outcomes of a wide range of alternative boundary changes and intergovernmental cooperation options is preferable to an overly cautious role that lets decisions be made without a thorough exploration of probable outcomes or to an overly aggressive role that imposes bureaucratic mandates on citizens and their locally elected officials.

Difficulty of Achieving Broader Objectives

Setting the boundaries of local governments is not a panacea. Boundaries do not fund programs, deliver services, construct or maintain facilities, or regulate land use. Much more is needed for effective government. The objectives of boundary review commissions are often described in their enabling acts in terms of controlling urban growth and ensuring the financial well-being of local governments, but other governments can hold many of the keys to success. This point is made explicit in the BRC legislation in California, Washington, and Oregon, but not in the other states.

Frustration runs high in some BRC states, where there is no strong link between BRCs and other institutions. Boundary agencies have difficulty making the necessary linkages because of the other issues they face. State legislation could fill this gap by requiring the boundary commissions, as well as other appropriate agencies, to cooperate as they do in Oregon and Washington. Boundary review commissions could work closely with state and local growth management agencies and coordinate their decisions as closely as possible with the official comprehensive land use, development, and environmental protection plans.

However, effective implementation of broad growth management goals appears to be too much to expect of boundary commissions. Many of them must attempt to mediate highly controversial contests for territory and tax bases. Furthermore, land use and comprehensive development plans often are not reliable policy tools. They change too frequently, or they simply fail to be implemented. The boundary commissions may remain frustrated in striving to meet broader goals because they are perceived to be too closely associated with narrower controversies. **An** alternative might be to limit the goals of the BRC to a narrower set of objectives.

The Influence of State Law on BRC Agendas

State “rules of the game” are the primary driving force in local government formation and boundary change (the federal government plays a role through the *Voting Rights Act* and its amendments). Hence, state law affects the specific issues dealt with by BRCs.

State laws create incentives and disincentives for various types of citizen and local government behavior. For example, if certain kinds of services can be obtained only in a municipality, citizens have incentives to create new municipalities or seek annexation. In instances when the issue is how best to deliver services, there might be incentives to form intergovernmental cooperation agreements. Similarly, state laws governing local taxation can stimulate or mitigate interjurisdictional competition and afford incentives or disincentives to create new units of local government. Few BRCs are powerful enough to resist the forces arising from those incentives.

State laws also can generate bias in boundary review commissions. Some commissions are set up to deter the creation and continued existence of new (and particularly small) local governments. With current understandings of the distinction between the provision and production of local services, and recognizing that local governments are, for many purposes, fundamentally provision units rather than production units, local citizens (as voters, consumers, and taxpayers) may be in the best position to determine the appropriate number and mix of local governments to serve their communities.

If the aim of boundary review commissions is to minimize the number of new units of local government and to ensure that existing governments are large and prosperous enough to carry out their responsibilities reliably, the BRCs should maintain a steady course. While there can be few objections to reaching negotiated settlements, especially of highly contentious issues often associated with local boundary changes, a switch in emphasis toward easing restrictions on the creation of small, independent local governments may encourage wider disparities in taxing and servicing capacities. Easing such re-

strictions also may multiply the difficulties in reaching agreements about the provision of **areawide** or large-scale services that small units cannot provide.

If the aim of boundary commissions **is** to remove biases against the establishment of additional units of government, states might choose to reassess the assumptions underlying the establishment of their BRCs. States also could require these agencies to consider the provision-production distinction and contracting opportunities as they decide boundary issues. In addition, states could promote cooperation by specifying BRC responsibilities for resolving intergovernmental disputes through the negotiation of interlocal agreements for service delivery or tax sharing.

Another option might be for states to reassess their rules of local government formation, boundary adjustment, and dissolution—as well as other legislation, such as local tax law—to understand how the incentives and disincentives created by state law affect the organization of local governments throughout the state.

In summary, one cannot say conclusively that boundary review commissions are effective. State interest in creating BRCs dropped off after 1969, and the missions of many existing BRCs changed as well. Thus, it would seem advisable for states with BRCs and for states considering the establishment **of** a BRC to evaluate carefully the objectives that can and should be achieved by such an agency.

Notes

- ¹See also Charles L. Cotrell, ed., "Assessing the Effects of the U.S. Voting Rights Act," *Publius: The Journal of Federalism* 16 (Fall 1986): entire issue.
- ²U.S. Advisory Commission on Intergovernmental Relations (ACIR), *The Challenge of Local Government Reorganization: Substate Regionalism and the Federal System*, Vol. 3 (Washington, DC, 1974); and *State and Local Roles in the Federal System* (1982).
- ³Daniel R. Mandelker et. al., *State and Local Government in a Federal System*, 3rd Edition (Charlottesville, Virginia: The Michie Company, 1990), pp. 82-84.
- ⁴See Vincent L. Marando and Mavis Mann Reeves, "State Responsiveness and Local Government Reorganization," *Social Science Quarterly* 69 (December 1988): 996-1004.
- ⁵ACIR, *State and Local Roles in the Federal System*, p. 241.
- ⁶California's special districts with regional responsibilities (e.g., wholesale water service, resource conservation, etc.) usually overlie cities. But special districts that provide local services (e.g., parks, fire protection, street lighting, etc.) frequently are detached from an area upon city expansion. Therein lies the basis for significant intergovernmental conflict. Proposals that involve a change in multiple boundaries are "reorganizations." The goal of LAFCOs is to simplify the pattern of service delivery by allowing a single, multipurpose agency to serve an area rather than several single-purpose districts. Letter to ACIR from James M. Roddy, Executive Officer, San Bernardino LAFCO, May 25, 1990.
- ⁷Gregory H. Singleton, "The Genesis of Suburbia: A Complex of Historical Trends," in Louis H. Masotti and Jeffrey K. Hadden, *The Urbanization of the Suburbs*, Urban Affairs Annual Reviews, Vol. 7 (Beverly Hills: Sage Publications, 1973), pp. 29-50.
- ⁸Howard P. Chudacoff, *The Evolution of American Urban Society* (Englewood Cliffs, New Jersey: Prentice Hall, 1975), pp. 182-183. See also Ernest S. Griffith, *A History of American City Government: The Progressive Years and Their Aftermath 1900-1920* (New York: Praeger Publishers, 1974), pp. 286-301.
- ⁹U.S. Department of Commerce, Bureau of the Census, *Governmental Organization*, 1957 Census of Governments, Vol. 1 (Washington, DC, 1958), p. 14.
- ¹⁰U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States, 1985* (Washington, DC, 1985), pp. 12-13.
- ¹¹Minnesota Municipal Board, *Minnesota Municipal Board* (September 1986), unpublished, p. 1.
- ¹²West's Annotated California Codes, Government Code, Chapter 6.6, Section 54774.
- ¹³Minnesota Statutes Annotated (1988), Chapter 414.
- ¹⁴Oregon Revised Statutes, Chapter 199, Section 410.
- ¹⁵Code of Virginia, Chapter 19.1, Section 15.1-945.1.
- ¹⁶West's Revised Code of Washington Annotated 1989, Title 36, Chapter 93.010.
- ¹⁷ACIR, *State and Local Roles in the Federal System*, p. 375-381.
- ¹⁸*Statistical Abstract of the United States, 1988*, p. 19.
- ¹⁹"Basic need" is defined by a formula based on student population and needs, such as vocational or special education. Alaska Stat. 14.17.025.
- ²⁰Letter to ACIR from Dan Bockhorst, Local Government Specialist, Department of Community and Regional Affairs, State of Alaska, July 3, 1990.
- ²¹Comments to ACIR staff by Dan Bockhorst, Local Government Specialist, Department of Community and Regional Affairs, State of Alaska, December 1991.
- ²²A merger occurs when one or more governmental units are brought under the jurisdiction of an existing governmental unit. A consolidation occurs when two or more governmental units combine to form a new governmental entity.
- ²³*Shelby Charter Township v. State Boundary Commission*, 425 Mich 50 (May 1986).

- ²⁴Some of the cities surrounding Detroit and on the southern border of Grand Rapids have nearly square boundaries because they are incorporated townships. The square boundary was set in the original land survey.
- ²⁵The Alaska Local Boundary Commission was established by the state constitution in 1959, but did not immediately begin operations.
- ²⁶The St. Louis County BRC was created after the ACIR survey. This section is based on James M. Brasfield, "Incremental Reform in a Fragmented Metropolitan Community: The Case of St. Louis," paper prepared for the annual meeting of the Midwest Political Science Association, April 1990.
- ²⁷See ACIR, *Metropolitan Organization: The St. Louis Case* (Washington, DC, 1988).
- ²⁸Clark County had a 1986 preliminary estimated population of 569,500. Washoe County had a 1986 preliminary estimated population of 224,600. *Government Organization*, 1987 Census of Governments, Vol. 1 (Washington, DC, 1988), p. 60.
- ²⁹The commission only has jurisdiction in counties with populations of between 100,000 and 250,000.
- ³⁰Roger Richman, Orion F. White, Jr., and Michaux H. Wilkinson, *Intergovernmental Mediation Negotiations in Local Government Disputes* (Boulder, Colorado: Westview Press, 1986).
- ³¹Interview with Glen Thompson, Mono County Administrator, January 26, 1990.
- ³²See ACIR, *The Organization of Local Public Economies* (Washington, DC, 1987).
- ³³See *ibid.*
- ³⁴Howard W. Hallman, *Small and Large Together: Governing the Metropolis* (Beverly Hills: Sage Publications, 1977).
- ³⁵Letter to ACIR from James M. Roddy, Executive Officer, San Bernardino LAFCO, May 25, 1990.
- ³⁶Gaines H. Liner, "Annexation Rates and Institutional Constraints," *Growth and Change* 21 (1990): 80-94.
- ³⁷John C. Bollens, "Annexation of Fringe Areas," *Public Management* 30 (April 1949): 98-102; David G. Bromley and Joel Smith, "The Historical Significance of Annexation as a Social Process," *Land Economics* 49 (1973): 294-309; Ira R. Kaufman and Leo F. Schnore, *Municipal Annexations and Suburbanization, 1960-1970* (Madison: University of Wisconsin, Center for Demography and Human Ecology, 1975); and Vivian Z. Klaff and Glenn V. Fuguitt, "Annexation as a Factor in the Growth of U.S. Cities, 1950-1960 and 1960-1970," *Demography* 15 (1978): 1-12.
- ³⁸Bollens.
- ³⁹Thomas R. Dye, "Urban Political Integration: Conditions Associated with Annexation in American Cities," *Midwest Journal of Political Science* 8 (1964): 430-446.
- ⁴⁰Raymond H. Wheeler, "Annexation Law and Annexation Success," *Land Economics* 41 (1965): 354-360.
- ⁴¹Frank D. Sengstock, *Annexation: A Solution to the Metropolitan Area Problem* (Ann Arbor: University of Michigan Law School, 1960).
- ⁴²Susan A. MacManus and Robert D. Thomas, "Expanding the Tau Base: Does Annexation Make a Difference?" *The Urban Interest* 1 (1979): 15-28.
- ⁴³Patricia J. Dusenbury, *Suburbs in the City: Municipal Boundary Changes in the Southern States* (Research Triangle Park, North Carolina: Southern Growth Policies Board, 1980).
- ⁴⁴Thomas D. Galloway and John D. Landis, "How Cities Expand: Does State Law Make a Difference?" *Growth and Change* 17 (1986): 25-45.
- ⁴⁵Liner.
- ⁴⁶*Ibid.*, p. 92.

Appendix A | **Appendix Tables**

Table A-1
Number of Counties in the United States, by State, 1957-1987

State	1957	1962	1967	1972	1977	1982	1987
Alabama	67	67	67	67	67	67	67
Alaska	N/A	N/A	9	8	8	8	9
Arizona	14	14	14	14	14	14	15
Arkansas	75	75	75	75	75	75	75
California	57	57	57	57	57	57	57
Colorado	62	62	62	62	62	62	62
Connecticut	NIA	N/A	N/A	N/A	N/A	N/A	N/A
Delaware	3	3	3	3	3	3	3
Florida	67	67	67	66	66	66	66
Georgia	159	159	159	158	158	58	158
Hawaii	N/A	3	3	3	3	3	3
Idaho	44	44	44	44	44	44	44
Illinois	102	102	102	102	102	02	102
Indiana	92	92	92	91	91	91	91
Iowa	99	99	99	99	99	99	99
Kansas	105	105	105	105	105	05	105
Kentucky	120	120	120	120	119	119	119
Louisiana	62	62	62	62	62	62	61
Maine	16	16	16	16	16	16	16
Maryland	23	23	23	23	23	23	23
Massachusetts	12	12	12	12	12	12	12
Michigan	83	83	83	83	83	83	83
Minnesota	87	87	87	87	87	87	87
Mississippi	82	82	82	82	82	82	82
Missouri	114	114	114	114	114	114	114
Montana	56	56	56	56	56	54	54
Nebraska	93	93	93	93	93	93	93
Nevada	17	17	17	16	16	16	16
New Hampshire	10	10	10	10	10	10	10
New Jersey	21	21	21	21	21	21	21
New Mexico	32	32	32	32	32	33	33
New York	57	57	57	57	57	51	57
North Carolina	100	100	100	100	100	100	100
North Dakota	53	53	53	53	53	53	53
Ohio	88	88	88	88	88	88	88
Oklahoma	77	77	77	77	77	77	77
Oregon	36	36	36	36	36	36	36
Pennsylvania	66	66	66	66	66	66	66
Rhode Island	NIA	NIA	N/A	N/A	NIA	N/A	N/A
South Carolina	46	46	46	46	46	46	46
South Dakota	64	64	64	64	64	64	64
Tennessee	95	95	94	94	94	94	94
Texas	254						
Utah	29	29	29	29	29	29	29
Vermont	14	14	14	14	14	14	14
Virginia	98	98	96	96	95	95	95
Washington	39	39	39	39	39	39	39
West Virginia	55	55	55	55	55	55	55
Wisconsin	71	72	72	72	72	72	72
Wyoming	23	23	23	23	23	23	23

NIA— not applicable

Source: U.S. Department of Commerce, Bureau of the Census, *Government Organization*, Census of Governments, Vol. 1 (Washington, DC, every 5 years).

Table A-2
Number of Municipalities* in the United States, by State, 1957-1987

State	1957	1962	1967	1972	1977	1982	1987
Alabama	318	349	359	396	419	434	436
Alaska	—	40	51	112	142	142	149
Arizona	52	61	62	65	70	76	81
Arkansas	374	417	423	454	467	472	483
California	331	373	400	407	413	428	442
Colorado	246	253	251	258	262	267	266
Connecticut	33	34	34	34	33	33	31
Delaware	49	51	52	52	55	56	57
District of Columbia	1	1	1	1	1	1	1
Florida	310	366	383	390	389	391	390
Georgia	508	561	512	530	530	533	532
Hawaii	—	1	1	1	1	1	1
Idaho	199	200	194	197	199	198	198
Illinois	1,181	1,251	1,256	1,267	1,274	1,280	1,279
Indiana	544	546	550	546	563	564	567
Iowa	942	944	945	951	955	955	955
Kansas	610	618	623	626	625	627	627
Kentucky	323	365	359	378	405	425	437
Louisiana	237	258	270	287	300	301	301
Maine	42	21	21	22	24	22	22
Maryland	149	152	151	151	151	152	155
Massachusetts	39	39	39	39	39	39	39
Michigan	498	509	522	532	531	532	534
Minnesota	826	845	850	854	855	855	855
Mississippi	262	266	268	270	283	292	293
Missouri	803	892	856	894	916	926	930
Montana	123	124	125	126	126	126	128
Nebraska	534	537	538	537	534	535	534
Nevada	17	17	17	17	17	17	18
New Hampshire	12	13	13	13	13	13	13
New Jersey ¹	333	334	335	335	335	323	370
New Mexico	77	80	88	89	93	96	98
New York	611	612	616	618	618	615	618
North Carolina	412	449	437	454	472	484	495
North Dakota	356	356	357	358	361	365	366
Ohio	915	932	933	936	935	941	940
Oklahoma	506	533	522	547	567	581	591
Oregon	213	222	222	231	239	241	240
Pennsylvania	991	1,003	1,005	1,012	1,015	1,019	1,022
Rhode Island	7	8	8	8	8	8	8
South Carolina	235	255	259	262	264	265	269
South Dakota	306	307	306	308	311	312	309
Tennessee	255	280	297	316	326	335	334
Texas	793	866	883	981	1,066	1,121	1,156
Utah	210	212	213	214	216	224	225
Vermont	68	68	65	61	57	57	55
Virginia	228	236	229	231	229	229	229
Washington	252	263	267	266	265	265	266
West Virginia	219	224	225	226	227	231	230
Wisconsin	547	563	568	570	576	580	580
Wyoming	86	90	87	87	90	91	95

*Includes all active government units officially designated as cities, boroughs (except Alaska), towns (except the New England states, Minnesota, New York, and Wisconsin) and villages.

¹New Jersey townships are incorporated municipalities. Using this criterion, the numbers would be 566,567, 567, 567,567, 568, and 567.

Source: U.S. Department of Commerce, Bureau of the Census, *Government Organization*, Census of Governments, Vol. 1 (Washington, DC, every 5 years).

Table A-3
Number of Special Districts in the United States, by State, 1957-1987

State	1957	1962	1967	1972	1977	1982	1987
Alabama	119	202	251	286	336	390	421
Alaska	—	—	—	—	—	6	14
Arizona	50	52	76	90	106	130	253
Arkansas	254	299	352	366	424	505	505
California	1,650	1,962	2,168	2,223	2,227	2,506	2,734
Colorado	421	566	748	812	950	1,030	1,085
Connecticut	187	204	221	231	236	281	281
Delaware	64	63	65	78	127	139	202
District of Columbia	1	1	1	2	1	1	1
Florida	227	264	310	315	361	417	414
Georgia	255	301	338	366	387	390	410
Hawaii	—	16	15	15	15	14	14
Idaho	431	469	513	543	612	659	705
Illinois	1,800	2,126	2,313	2,407	2,745	2,602	2,783
Indiana	313	560	619	832	885	897	836
Iowa	199	263	280	305	334	361	372
Kansas	808	880	1,037	1,136	1,219	1,370	1,387
Kentucky	157	179	273	446	478	517	569
Louisiana	217	241	334	419	30	39	24
Maine	107	125	127	126	178	195	203
Maryland	155	176	187	229	252	264	223
Massachusetts	205	194	247	268	328	354	391
Michigan	102	99	110	139	168	184	250
Minnesota	92	115	148	211	263	356	374
Mississippi	248	266	272	282	304	315	307
Missouri	827	742	734	820	1,007	1,195	1,217
Montana	174	192	209	258	311	450	514
Nebraska	610	752	952	1,081	1,192	1,157	1,119
Nevada	58	85	95	134	132	134	146
New Hampshire	80	85	89	94	103	113	120
New Jersey	140	295	311	341	380	454	486
New Mexico	112	102	97	99	100	101	112
New York	924	970	965	954	964	923	978
North Carolina	111	126	215	248	302	321	321
North Dakota	168	246	431	561	587	692	703
Ohio	160	177	228	275	312	377	410
Oklahoma	105	124	214	402	406	916	498
Oregon	550	727	800	826	797	825	876
Pennsylvania	34	1,398	1,624	1,777	2,035	2,050	1,805
Rhode Island	51	56	67	73	78	80	83
South Carolina	112	142	148	182	182	242	300
South Dakota	69	80	106	136	148	199	212
Tennessee	195	268	386	457	471	469	462
Texas	645	733	1,001	1,215	1,425	1,681	1,892
Utah	118	142	163	176	207	211	236
Vermont	72	72	72	74	67	83	95
Virginia	40	46	48	58	65	83	106
Washington	745	867	937	1,021	1,060	1,130	1,177
West Virginia	32	55	120	172	258	292	290
Wisconsin	78	68	62	121	190	263	366
Wyoming	133	144	185	203	217	225	250

Source: U.S. Department of Commerce, Bureau of the Census, *Government Organization*, Census of Governments, Vol. 1 (Washington, DC, every 5 years).

Table A-4
Number of Townships in the United States, by State, 1957-1987

State	1957	1962	1967	1972	1977	1982	1987
Connecticut	152	152	149	149	149	149	149
Illinois	1,433	1,433	1,432	1,432	1,436	1,434	1,434
Indiana	1,009	1,009	1,009	1,008	1,008	1,008	1,008
Kansas	1,550	1,546	1,543	1,517	1,449	1,367	1,360
Maine	471	470	469	472	475	475	471
Massachusetts	312	312	312	312	312	312	312
Michigan	1,262	1,259	1,253	1,248	1,245	1,245	1,242
Minnesota	1,828	1,822	1,817	1,798	1,792	1,795	1,798
Missouri	328	329	343	343	326	325	325
Nebraska	478	478	486	476	471	470	454
New Hampshire	222	221	222	224	221	221	221
New Jersey ¹	233	233	232	232	232	245	247
New York	932	932	931	931	930	928	929
North Dakota	1,392	1,387	1,378	1,368	1,360	1,360	1,355
Ohio	1,335	1,328	1,324	1,320	1,319	1,318	1,318
Pennsylvania ²	1,564	1,555	1,554	1,552	1,549	1,549	1,548
Rhode Island	32	31	31	31	31	31	31
South Carolina	2	—	—	—	—	—	—
South Dakota	1,080	1,072	1,050	1,034	1,010	996	984
Vermont	238	238	238	237	237	237	237
Washington	69	66	63	39	—	—	—
Wisconsin	1,276	1,271	1,269	1,268	1,270	1,269	1,268

¹ Because New Jersey state law does not distinguish between townships and incorporated municipalities, some argue that the number of townships in New Jersey should be 0. See Table A-2.

² The Bureau of the Census treats townships in New Jersey and Pennsylvania as "townships" because they have no relation to concentrations of population.

Source: U.S. Department of Commerce, Bureau of the Census, *Government Organization*, Census of Governments, Vol. 1 (Washington, DC, every 5 years).

In addition to a nationwide mail survey, this study is based on in-depth interviews with staffs of boundary commissions in each of the states having such agencies, interviews with representatives of associations of municipalities and counties in those states, and written materials from the boundary agencies. Interviews were conducted with 21 boundary commission staff members. The interviews generally were from 30 to 90 minutes long.

In the states that have several county or regional commissions, staff members from more than one commission were interviewed. Where there was only a single statewide board, one interview was conducted. Following is the number of interviews with **BRC** staff in each state: Alaska, one; California, eight; Iowa, one; Michigan, one; Minnesota, one; Nevada, two; New Mexico, one; Oregon, two; Utah, one; Virginia, one; and Washington, four.

In addition, **14** in-depth interviews were conducted with members of city and county associations in the states with boundary commissions. This research report is based on these interviews plus the mail survey and written materials obtained from boundary agencies.

Boundary Review Commissions

Questions for Municipal leagues and County Associations

1. How much, if any, contact has your organization had with the boundary review commission(s) in your state?
2. What do you think are the principal benefits for (cities/counties) of having this (these) commission(s)?
3. What issues with regard to boundary review commissions have been most salient for your organization or its members? Can you give any examples?
4. Do you feel the boundary commission(s) in your state generally protect the interests of your members?

- | | |
|------------|---|
| Yes | 1 |
| It Depends | 2 |
| No | 3 |

4a. Why do you say that?

5. Are there any examples of instances in which the commission did protect the interests of one of your members?
6. Are there any examples of instances in which the commission did NOT protect the interests of one of your members?
7. What problems or controversies, if any, has your organization or its members had with the boundary commission(s)?
8. Are there examples of these problems or controversies?
9. Has there been any legislation proposed or passed in recent years to change the powers of the boundary review commission(s) in your state?

- | | |
|-----|---|
| Yes | 1 |
| No | 2 |

9a. *(If yes)* What years and what did the legislation provide?

9b. Did your organization play a role in initiating, amending, passing, or defeating this legislation?

Initiating	1	Defeating	4
Amending	2	No Role	5
Passing	3		

9c. (*If played a role*) Would you describe the role your organization played?

9d. (*If appropriate*) What is the current status of this legislation?

10. (*If appropriate*) If legislation were to be proposed to abolish boundary commissions in your state, **do** you think your organization would favor or oppose it?

Favor	1
Not Sure	2
Oppose	3

10a. Why **do** you **say** that?

11 In general, do you think residents of local communities know enough to make good decisions about incorporations or other boundary changes?

Yes	1
It Depends	2
No	3

11a. Why **do** you say that?

12. Overall, what is your evaluation of the boundary review commission(s) in your state?

Favorable	1
It Depends/Not Sure	2
Favorable	3

12a. Why do you say that?

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After selecting intergovernmental issues for investigation, ACIR follows a multistep procedure that assures review and comment by representatives of all points of view, all affected governments, technical experts, and interested groups. The Commission then debates each issue and formulates its policy position. Commission findings and recommendations are published and draft bills and executive orders developed to assist in implementing ACIR policy recommendations.