

# EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

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## *AGENDA OF APRIL 24, 2019*

### *REGULAR MEETING*

**TO:** Shiva Frentzen, Chair, and  
Members of the El Dorado County Local Agency Formation  
Commission

**FROM:** José C. Henríquez, Executive Officer

**PREPARED BY:** Erica Sanchez, Assistant Executive Officer

**AGENDA ITEM #10A: OTHER BUSINESS – LEGISLATION**

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#### **RECOMMENDATION**

Staff recommends that the Commission receive the following update on LAFCO-related legislation for the 2019-2020 Legislative Session. No Commission action is requested.

#### **REASON FOR RECOMMENDED ACTION AND BACKGROUND**

The State Legislature is in the first year of the 2019-2020 legislative cycle; February 22 was the last day for bills to be introduced. CALAFCO is currently tracking 20 bills (Attachment A). The following is a summary of bills related to LAFCO:

#### **AB 508 (Chu) – Drinking Water: Consolidation and Extension of Service: Domestic Wells**

***Amended: 3/25/2019***

***CALAFCO Position: Watch***

The California Safe Drinking Water Act requires the State Water Resources Control Board, before ordering consolidation or extension of service, to obtain written consent from any domestic well owner and make a finding that consolidation of the receiving water system and subsumed water system or extension of service to the subsumed water system is appropriate and technically and economically feasible.

AB 508 makes any domestic well owner within the consolidation or extended service area who does not provide written consent ineligible, until consent is provided, for any future water-related grant funding from the state. This bill would also modify the provision that authorizes consolidation or extension of service if a disadvantaged community is reliant on a domestic well to instead authorize consolidation or extension of service if a disadvantaged community has one or more residences that are reliant on a domestic well.

**AB 600 (Chu) – Disadvantaged Unincorporated Communities: Water****Amended: 3/25/2019****CALAFCO Position: Oppose**

AB 600 was introduced as a spot bill and recently amended at the end of March. Much of the bill appears to have come straight from SB 1318 (Wolk, 2016), which CALAFCO strongly opposed. CALAFCO has taken an Oppose position on AB 600 as well. The sponsor of the bill is the Leadership Counsel for Justice and Accountability (same as before), which was not interested in working with CALAFCO in 2016. The full language of the bill is still being analyzed and assessed for its potential impacts, but includes the following:

Accessibility Plans: AB 600 would require each city, county, and qualified special district (water/wastewater provider with more than 500 service connections) to submit an accessibility plan to LAFCO to secure safe drinking water, wastewater services, stormwater protection, and structural fire protection in disadvantaged communities by 2021. The accessibility plan would identify the city, county or special district best positioned to provide water/wastewater services to the affected territory, identify LAFCO actions necessary to enable the agency to provide those services, and include an analysis of costs and benefits of improved water or wastewater services for residents in each affected territory. Costs and fees for services extended through implementation of the accessibility plan would be prohibited from exceeding the costs and fees charged to existing customers.

Each city, county, and qualified special district would be required to provide an annual progress report on the accessibility plan at a noticed public hearing, beginning in 2022. The bill would also require a city or county to submit a map of the county that identifies DUCs that lack safe drinking water or adequate wastewater, along with the adopted accessibility plan, to the Office of Planning and Research, the State Water Resources Control Board, by 2021.

LAFCO Initiated Annexation: The bill would require LAFCO to review the status of every DUC subject to an accessibility plan within two years of the approval of the accessibility plan. The bill would authorize LAFCO to initiate an annexation or extension of services involving a DUC, and would require LAFCO to initiate an annexation or service extension if the commission determines that service needs identified in an accessibility plan remain unaddressed after two years.

Prohibited Annexations: The bill would prohibit LAFCO from approving an annexation to a city or to a qualified special district, if the city or qualified special district has failed to take steps necessary to implement an accessibility plan.

Existing law prohibits LAFCO from approving a city annexation greater than 10 acres where there exists a DUC that is contiguous to the annexation area, without an application to also annex the DUC. This bill would also prohibit LAFCO from approving an annexation under these circumstances to a qualified special district. The bill also expands these provisions to apply to the annexation of two or more contiguous territories within two years of each other that are individually less than 10 acres but are cumulatively more than 10 acres. An application to annex the DUC would not be required if a majority of the residents (rather than registered voters) within the DUC are opposed to annexation, or would prefer to address the service deficiencies through an out-of-agency service extension.

***Spheres of Influence:*** The bill would prohibit LAFCO from approving, amending, or updating a sphere of influence for a city or a special district that has not taken action pursuant to an accessibility plan that was adopted within the previous two years. The bill would also prohibit LAFCO from removing a disadvantaged community from a sphere of influence, or from adopting, amending, or updating a sphere of influence that fails to include a disadvantaged community that is contiguous to the proposed sphere of influence, unless the commission makes specified findings.

**AB 1053 (Dahle) – Fallen Leaf Lake CSD**

***Amended: 3/25/2019***

As amended, this bill states the intent of the Legislature to address recommendations in the California State Auditor’s audit of the Fallen Leaf Lake Community Services District (FLLCSD), as requested by the Joint Legislative Audit Committee in August 2018. Recommendations of the audit are unknown at this point, as the audit is not expected to be published until June 2019. This bill would make legislative findings and declarations as to the necessity of a special statute for the FLLCSD.

This bill would also prohibit, on and after January 1, 2020, the FLLCSD from providing any services or facilities except fire protection, including medical response and emergency services, and parks and recreation services or facilities, which are the only services that FLLCSD currently provides.

**AB 1253 (Rivas) – LAFCO Grant Funding Program**

***Position: Support (February 27, 2019 support letter)***

***CALAFCO Position: Sponsor/Support***

This is a CALAFCO sponsored bill following up on the recommendation of the Little Hoover Commission report of 2017 for the Legislature to provide LAFCOs one-time grant funding for in-depth studies of potential reorganization of local service providers. This is the same bill as last year’s AB 2258, which was vetoed by the Governor. The Strategic Growth Council will administer the grant program. Grant funds will be used specifically for conducting special studies to identify and support opportunities to create greater efficiencies in the provision of municipal services; to potentially initiate actions based on those studies that remove or reduce local costs thus incentivizing local agencies to work with the LAFCO in developing and implementing reorganization plans; and the dissolution of inactive districts (pursuant to SB 448, Wieckowski, 2017).

The fiscal request is for \$1.5 million over five years, the grant program would sunset on July 31, 2024. CALAFCO is attempting to get this in the May revised budget so there is no General Fund appropriation, which is the reason Governor Brown vetoed the bill.

**AB 1389 (Eggman) – Special Districts: Change of Organization: Mitigation of Revenue Loss**

***CALAFCO Position: Watch***

This bill allows LAFCO, when approving a proposal for new or different functions or class of service for a special district, to propose the district provide payments to any affected local agency for taxes, fees or any other revenue that may have been lost as a result of the new service being provided.

This bill is a legislative fix for a local situation in San Joaquin County which is currently being litigated. San Joaquin LAFCO authorized the South San Joaquin Irrigation District (SSJID) to provide utility services in an area previously served by PG&E, and allowed for the payment of potential revenue losses to various affected local agencies. PG&E, as a private utility, pays franchise fees and unitary tax fees to local schools, the City of Lodi, and other public agencies. Special districts, such as SSJID, don't pay these fees. A Court ruling said that SSJID could not give money to another local agency, as the payments were a gift of public funds. This bill would allow a special district to make payments to an affected local agency to compensate for loss of revenue.

**AB 1751 (Chiu) – Consolidation for Safe Drinking Water Act of 2019**

***Amended: 3/21/2019***

***CALAFCO Position: Watch***

Current law authorizes the State Water Resources Control Board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water. This bill allows for water (public or state small) or sewer system corporations to file an application for consolidation with the SWRCB.

**AB 1822 (Committee on Local Government) – 2019 CKH Omnibus Bill**

***CALAFCO Position: Sponsor/Support***

This is the annual omnibus bill which makes technical, non-substantive changes to the Cortese-Knox-Hertzberg Act of 2000. There are currently six minor amendments included in this bill and one more which is expected to be added back in as an amendment. There were some errors in the preliminary language originally sent out for review, corrections have been made and all stakeholders are currently re-reviewing the bill. The bill will be updated, and CALAFCO will request letters of support, after all stakeholder reviews are completed.

**SB 414 (Caballero) – Small System Water Authority Act of 2019**

***Amended: 4/4/2019***

***CALAFCO Position: Watch***

Very similar to last year's AB 2050 (Caballero, 2018), SB 414 would give the State Water Resources Control Board authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non-contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems (SB 88, 2015), and this will add the authority to mandate dissolution and formation of a new public agency.

LAFCO will be responsible for dissolving any state mandated public agency dissolution, and the formation of the new water authority. The SWRCB's appointed Administrator will act as the applicant on behalf of the State. LAFCO will have the ability to approve the application with modifications, and the new agency will have to report to the LAFCO annually for the first three years.

CALAFCO ultimately supported AB 2050 last year, but the bill was vetoed by the Governor.

**SB 646 (Morrell) – Extension of Utility Services*****CALAFCO Position: Oppose***

As currently written, this bill would: (1) Require LAFCO to authorize a city or district to extend a service outside of its jurisdictional boundary, regardless of whether annexation is anticipated, and prohibit a city or district from denying the extension of service based on a property owner's election not to participate in an annexation proceeding. (2) Change the definition of "fee" by requiring that a fee "is of proportional benefit to the person or property being charged." (3) Prohibits a service provider from charging higher fees for water or sewer connections extended outside of its jurisdictional boundaries.

The author submitted draft amendments to the Office of Legislative Counsel removing item (1) on March 20, but the amendments are not yet in print. Despite the expected removal of this most concerning language, CALAFCO has still opted to take an Oppose position on SB 646 based on the inclusion of item (3). It is not uncommon for water and sewer providers to charge higher rates for service outside of their boundaries, in part, as an incentive to annex.

**AB 213 (Reyes) – Vehicle License Fee Adjustments: Inhabited City Annexations*****Position: Support (February 27, 2019 support letter)***

AB 213 reinstates vehicle license fee (VLF) revenue for inhabited city annexations - payments would come from ERAF which is backfilled from the general fund. This bill would restore financial incentives for cities to annex, and provide services to, unincorporated islands and adjacent disadvantaged communities. This bill is the same as last year's AB 2268 (Reyes).

**AB 818 (Cooley) – Vehicle License Fee Adjustments: Newly Incorporated Cities**

Sponsored by the League of California Cities, AB 818 will reinstate VLF funding for cities incorporating after 2018. This is the same as last year's AB 2491 (Cooley), which El Dorado LAFCO did support.

Attachment

Attachment A: CALAFCO Legislation Report