

**AGENDA ITEM #9
ATTACHMENT B**

**CALAFCO Legislative Committee
2006 Legislative Session**

February 15, 2006

Government Code Section 56133

Amend GC 56133 to read:

56133 (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries, ~~but within its~~ consistent with the written policies, procedures, or guidelines adopted by the Commission ~~sphere of influence~~ in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries, ~~and outside its sphere of influence~~ consistent with the written policies, procedures, or guidelines adopted by the Commission to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

(1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is

disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

CALAFCO Analysis

Note: Government Code Section 56133 contains the conditions under which new or extended services may be provided outside a local agency's jurisdictional boundary. One of the restrictions placed on out-of-agency service arrangements pertains to the sphere of influence. Section 56133 requires that out-of-agency services can only be extended if the affected territory is within a local agency's sphere of influence, unless there is a public health or safety issue. This provision can result in a LAFCO decision that does not take into consideration the locally adopted policies that culminate in a sphere boundary determination. Therefore, it is suggested that the existing "*sphere boundary*" provisions in 56133 be replaced with a "*consistency*" provision requiring that a contractual service arrangement be consistent with the written policies, procedures, or guidelines adopted by the Commission. This amendment would permit a LAFCO to perform a thorough evaluation of the merits of the proposed service arrangement based on locally adopted policies, procedures, or guidelines – rather than following a technical approach based solely on a sphere boundary. The proposed amendment to 56133 also is in conformance with Government Code Section 56375.5 that requires a sphere consistency test for all LAFCO determinations. Therefore, to achieve internal consistency within the Cortese-Knox-Hertzberg Act and allow a LAFCO to use all applicable local policies to render decisions, the following amendments are proposed for 56133.