

2012 CALAFCO PROPOSAL

Expand LAFCo Authority to Allow Out-of-Agency Services

The Problem

Local Agency Formation Commissions continue to find local circumstances when it would make sense to extend municipal services (primarily water, recycled water, wastewater, and energy) outside the boundaries or spheres of local agencies. Unless there is a health and safety emergency, LAFCo is prevented from allowing the service extension, even when it makes sense economically and/or efficiently. Providing LAFCo with expanded authority to allow service extensions in very specific circumstances would measurably strengthen a LAFCo's ability to effectively regulate services in concert with its evolving role in regional growth management. Specifically, the changes will provide LAFCo more flexibility in accommodating service extensions lying beyond spheres of influence that are otherwise sensible, given local conditions, while clarifying the determination of when the statute and its exemptions apply rests solely with LAFCo. The changes would also strike unnecessary references to "contract or agreement approval" given these documents are generally prepared only after the proposed service extensions have been approved by LAFCo.

The proposal takes pains to limit this proposed authority in order to complement LAFCos mandate to prevent sprawl and protect agricultural and open space lands.

The Proposal: Three Changes

CALAFCO is considering legislation to amend Government Code §56133 and its provisions governing LAFCo approval for cities and districts to provide new and extended services outside boundaries. Three key changes underlie this proposal. The **first** and most significant change expands LAFCo's existing authority to approve new and extended services beyond agencies' spheres of influence irrespective of public health and safety threats, so long as LAFCo can make three findings at noticed public hearings. These findings involve determining the extension: 1) was contemplated in a municipal service review; 2) will not result in adverse impacts on open-space and agricultural lands or growth; and 3) a later change of organization is not expected or desired based on local policies. The **second** change clarifies LAFCo's sole authority in determining the application of the statute. The **third** change deemphasizes the approval of contracts and emphasizes the approval of service extensions.

Examples

Some examples showing how these changes could be implemented:

- ◆ LAFCo would have the authority, subject to making certain findings, to approve new or extended outside services beyond spheres of influence for public facilities, such as fire stations and schools, where the connection to the affected agency's infrastructure is a potential option.
- ◆ LAFCo would have the authority, subject to making certain findings, to approve new or extended outside services beyond spheres of influence for private uses supporting permitted intensity increases, such as residential construction or commercial additions.
- ◆ LAFCo would avoid delays and other transaction costs tied to disagreements with agencies regarding the constitution of "new" and "extended" services as well as determining when exemptions apply. Notably, this includes determining when a contract service proposed between two public agencies qualifies for exemption if it is "consistent with the level of

service contemplated by the existing provider.”

- ◆ LAFCo would have the authority, subject to making certain findings, to approve new or extended outside services beyond boundaries and spheres of influence to provide water, wastewater and fire protection services to disadvantaged unincorporated communities where it has been determined the community will not annex into the affected city or district.

FAQs

Does providing LAFCo with more flexibility to approve services beyond spheres of influence undermine LAFCo’s ability to curb sprawl?

No. The proposed changes include measured safeguards to protect against inappropriate urban development by requiring LAFCo to make three specific findings (consistency with a municipal service review, no adverse agricultural or growth inducing impacts, and no expectation of future annexation) at noticed hearings before approving new or extended services beyond spheres.

Will these changes create new pressures on LAFCo to accommodate development beyond agencies’ spheres they would otherwise reject?

The proposed changes do not affect LAFCo’s existing right and duty to deny outside service requests deemed illogical and inconsistent with their policies.