

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF SEPTEMBER 28, 2016

REGULAR MEETING

TO: Ken Humphreys, Chairman, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

PREPARED BY: Erica Sanchez, Policy Analyst

AGENDA ITEM #9A: OTHER BUSINESS – LEGISLATION

RECOMMENDATION

Staff recommends that the Commission receive the following summary of LAFCO-related legislation for the 2015-2016 Legislative Session. No Commission action is requested.

REASON FOR RECOMMENDED ACTION AND BACKGROUND

The State Legislature has nearly completed year two of its two-year legislative cycle. August 31 was the last day for each house to pass bills; September 30 is the last day for Governor Brown to sign or veto bills passed by the Legislature. The following is a status on the final actions for some bills that staff has been monitoring in the past year, as well as bills which still require action:

Chaptered Bills

Unless otherwise noted, chaptered bills will become effective January 1, 2017.

AB 1658 (Bigelow) – Happy Homestead Cemetery District: Nonresident Burial *Signed by the Governor August 30, 2016.*

AB 1658 authorizes the Happy Homestead Cemetery District, located in the City of South Lake Tahoe, to use its cemeteries to inter residents of specified Nevada communities if specified conditions are met.

AB 2257 (Maienschein) – Local Agencies Online Posting *Signed by the Governor September 9, 2016.*

AB 2257 amends Government Code §54954.2 pertaining to the online posting of a local agency's meeting agenda. The bill requires that online posting to have a prominent and direct link to the current agenda itself from the local agency's homepage. The bill would make these provisions applicable on and after January 1, 2019.

AB 2257 will not only promote public transparency, but will also assist LAFCO staff in the gathering of information for municipal service reviews. This bill will not directly affect this LAFCO because links to the meeting agendas are posted prominently on its website. The links take the user directly to the upcoming meeting agenda and staff reports once they are available and in compliance to the Brown Act. Staff sent a letter in support of AB 2257 after direction from the Commission at the March 23, 2016 meeting.

AB 2470 (Gonzalez) – Water Service to Tribal Lands
Signed by the Governor September 12, 2016.

AB 2470 requires a municipal water district, upon request of an Indian tribe, to provide water service to the tribe's lands that are not within a district without LAFCO authorization. This bill only applies if the tribe's land meet specified requirements: a) the lands were owned by the tribe on January 1, 2016; b) the lands are contiguous with at least two districts; c) the lands lie within the special study area of at least one district; and, d) at least 70% of the tribe's total Indian lands are currently within the boundaries of one or more districts. A district would have to provide water service at the same terms available to their current customers. This bill also establishes conditions that an Indian tribe must meet prior to receiving water service. Under this bill, the service area of the district and any public agency providing water would include the tribe's land, as specified, again the annexation occurring without LAFCO authorization.

The author contends that, as written, this bill applies only to the Sycuan Nation in San Diego County. However, the language does not state this explicitly. Because of that, a lot of tribal lands within California may/will qualify under the bill's provisions. The author has rejected reasonable restrictions to limit the bill's impact, such as restricting the limit to San Diego County, specifying under provision 2 above to state "two water districts" or simply specifying that the bill applies to the Sycuan Nation.

AB 2910 (Committee on Local Government) – Local Government: Omnibus Bill
Signed by the Governor August 22, 2016.

AB 2910 is the annual Omnibus bill for the Cortese-Knox-Hertzberg Reorganization Act, which makes technical, non-substantive clean-up corrections to the Act. AB 2910 also includes technical changes to SB 239 to provide consistency in the law. Changes to SB 239 include striking out the word "comprehensive" from "comprehensive fiscal analysis" and changing the wording from "current service area" to "jurisdictional boundaries." Clarification that the fiscal analysis required by SB 239 is not a "comprehensive fiscal analysis" is a tremendous relief, as that was one of the primary reasons for this LAFCO's opposition to SB 239 last year. Staff sent a letter in support of AB 2910 after direction from the Commission at the March 23 meeting.

SB 1266 (McGuire) – Joint Exercise of Powers Act
Signed by the Governor August 22, 2016.

SB 1266 requires all stand-alone JPAs, as defined in Government Code §56047.7, which includes a member that is a public agency as defined in §56054, and are formed for the purposes of delivering municipal services, to file a copy of their agreement (and a copy of any amendments to that agreement) with the LAFCO in each county within which all or any part a local agency member's territory is located. It requires the JPA to file with LAFCO within 30 days of the formation of the JPA or change in the agreement; should

the JPA not file it adds punitive action that the JPA shall not issue bonds nor incur indebtedness. Both of these changes are consistent with existing JPA statute. SB 1266 is sponsored by CALAFCO and supported by the California Association of Joint Powers Authorities.

This LAFCO was concerned about some proposed language that would require JPAs to be subject to be studied under the MSR provisions; however that language was never added to the bill.

Bills on the Governor's Desk

SB 1262 (Pavley) – Water Supply Planning

Enrolled August 30, 2016; currently awaiting action by the Governor.

The Sustainable Groundwater Management Act authorizes the State Water Resources Control Board to designate a basin as a probationary basin if the state board makes a certain determination and to develop an interim plan for the probationary basin. This bill would require a city or county that determines a project is subject to the California Environmental Quality Act to identify any water system whose service area includes the project site and any water system adjacent to the project site. This bill would provide that hauled water is not a source of water for the purposes of a water supply assessment, as specified.

SB 1262 is a complicated bill which makes a number of changes to Government Code §66473.7 and §10910 of the Water Code. In §66473.7, the bill adds definitions pertaining to the use of groundwater by a proposed subdivision as the source of water. It adds an adopted groundwater sustainability plan as optional substantial evidence that the water system has sufficient water supply to meet the demands of the subdivision project. The bill adds that a groundwater basin identified by the State Water Resources Control Board (SWRCB) as a probationary basin is not considered a viable water supply.

Recent amendments removed CALAFCO's primary concern of the timing requirements of the water supply assessment, and returns the statute to its original state. Other concerns remain unaddressed in the bill including the ongoing discussion of the appropriate size of a project (is 500 units the appropriate threshold) and how this bill will deal with phased development.

SB 1263 (Wieckowski) – Public Water System Permits

Enrolled September 8, 2016; currently awaiting action by the Governor.

SB 1263 would require a person submitting an application for a permit for a proposed new public water system to first submit a preliminary technical report to the State Water Resources Control Board (SWRCB) at least 6 months before initiating construction of any water-related improvement, as defined.

The bill would allow the SWRCB to direct the applicant to undertake additional discussion and negotiation with certain existing public water systems to provide an adequate and reliable supply of domestic water to the service area of the proposed new public water system and would require an applicant to comply before submitting an application for a permit to operate a system. The bill would prohibit the application from being deemed complete unless the applicant has complied. The bill would authorize the SWRCB to deny the permit if the SWRCB determines that the service area of the public water system can be served by one or more currently permitted public water systems. The bill also prohibits

a local primacy agency from issuing a permit to operate a public water system without the concurrence of the SWRCB. The bill prohibits water hauling as a viable source of water supply. CALAFCO has concerns that the bill is unclear on whether discussions with the SWRCB is a replacement for the applicant coming to LAFCO.

SB 1262 and SB 1263 are sibling pieces of legislation.

Upcoming Legislative Dates

September 30: Last day for Governor to sign or veto bills passed by the Legislature

Attachments

Attachment A: Legislation Report