

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF AUGUST 24, 2016

REGULAR MEETING

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

FROM: José C. Henríquez, Executive Officer

AGENDA ITEM #10A: 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 unless noted below.

REASON FOR RECOMMENDED ACTION AND BACKGROUND

The State Legislature is in the homestretch of the second year of its two-year legislative cycle. The following is a summary of bills from year two of the 2015-2016 legislative cycle which may affect this LAFCO.

Legislative Updates:

SB 1318 (Wolk) – Local Agencies and Water Infrastructure

As originally written, SB 1318 would have required an increase in reporting by LAFCOs on disadvantaged unincorporated agencies (DUCs) and would have frozen agency boundaries until the DUCs near their service area are addressed.

The CALAFCO Legislative Committee convened a working group, including your executive officer, to draft a response. The committee prepared alternative language and submitted it to the author. The new language called for LAFCOs mapping the locations of the DUCs within their respective jurisdiction and increasing LAFCO's authority to initiate annexations or service extensions if the local jurisdiction or the State failed to act after a certain period of time.

As previously reported, the sponsors of the bill objected the CALAFCO-sponsored language. The author preferred the CALAFCO language, and since the sponsors did not yield, the author dropped the bill and it is now dead.

AB 2470 (Gonzalez) – Water Service to Tribal Lands

This bill 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. The bill is now on the Senate floor.

SB 1266 (McGuire) – Joint Exercise of Powers Act

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. As amended on April 12, 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. The bill was enrolled on August 5, 2016 and is now awaiting action by the Governor.

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

Other Bills of Interest:**AB 2910 (Committee on Local Government) – Local Government: Omnibus Bill**

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. The bill was enrolled on August 5, 2016 and is now awaiting action by the Governor.

AB 2257 (Maienschein) – Local Agencies Online Posting

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 which would not only promote public transparency, but it would also assist LAFCO staff in the gathering of information for municipal service reviews. This bill would 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 meeting. The bill is now on the Senate floor.

SB 1262 (Pavley) – Water Supply Planning

As introduced, 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.

It remains unclear at this time what is to be done with the water supply assessment once completed, and why it is not completed prior to the LAFCO considering the application. CALAFCO has other concerns, including the ongoing discussion of the appropriate size of a project and how this bill will deal with phased development. Based on stakeholder discussions with the author, these issues will not be addressed in this bill. The bill is now on the Assembly floor.

SB 1263 (Wieckowski) – Public Water System Permits

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 at least 6 months before initiating construction of any water-related improvement, as defined. The bill would allow the state board 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 board to deny the permit if the state board 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 state board. 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 state board is a replacement for the applicant coming to LAFCO. The bill is now on the Assembly floor.

Please note that SB 1262 and SB 1263 are sibling pieces of legislation.

AB 1658 (Bigelow) – Happy Homestead Cemetery District: Nonresident Burial

AB 1658 would authorize 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. The bill is now on the Senate floor.

Upcoming Legislative Dates

August 12: Last day for fiscal committees to meet and report bills out of committee

August 31: Last day for each house to pass bills

Attachment

Attachment A: Legislation Report