

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF JUNE 27, 2007

REGULAR MEETING

TO: Ted Long, Chairman, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

AGENDA ITEM #8A1: Consideration of additional information on AB 745 (Silva)

RECOMMENDATION

Staff recommends that the Commission receive additional information on AB 745 (Silva) and provide staff with direction if it wishes to adopt a position on this bill.

REASON FOR RECOMMENDED ACTION

At the May 23, 2007 Regular Meeting, the Commission heard a summary report on AB 745 (Silva) that requires the disclosure of expenditures for political purposes made in connection with petitions not yet submitted to a local agency formation commission. The Commission asked staff to return this item for further discussion.

BACKGROUND

Assembly Bill 745 requires that contributions and expenditures for political purposes on boundary changes approved by a local agency formation commission (LAFCO) be disclosed and reported subject to the same requirements that the Political Reform Act provides for local initiative measures. AB 745 amends the state law that already requires contributions and expenditures for political purposes on boundary change petitions to a LAFCO to clarify those provisions and insert a cross-reference to the Political Reform Act. The bill also clarifies the current law that allows a LAFCO to adopt local disclosure policies and procedures that are more stringent than the statewide requirements for disclosure and reporting on boundary change petitions to a LAFCO. The changes in the applicable code sections are appended to this report in Attachment A.

CALAFCO has taken a "Support" position on this bill, if amended to include a technical correction (substituting the word "petition" with "proposal"). In its letter of support, Bill Chiat, Executive Director writing on CALAFCO's behalf, said that, "This legislation will contribute to increased transparency in local government" because "Our members

believe this legislation will assist commissioners and the public to better evaluate the merits of potential proposals before a commission.”

According to an Assembly document on this bill, Assemblymember Silva states that his bill corrects his concern that, “Proposed local annexations have been impacted by petitions, leading to elections that were financially supported by individuals that may be outside the proposed annexation area, who nevertheless had a vested interest in the outcome. There have been no disclosure requirements in place that would have revealed who was financially behind the petition drive to influence the electorate. Transparency and disclosure is a fundamental aspect of our political process. Every voter deserves to know what interest is involved in influencing them and their decision makers. This bill conforms LAFCO-related initiatives to other similar initiatives' reporting and disclosure requirements.”

The consensus on this bill is that it seems to be aimed at making the circulation of petitions intended to open (or close) a LAFCO project subject to the same disclosure laws as other circulated petitions or initiatives. As the Commission is aware, in certain cases individuals collect signatures on a petition that will be submitted to LAFCO. Current law requires applicants to disclose monetary contributions to Commissioners; however, Cortese-Knox-Hertzberg is silent on whether disclosure of the funding source(s) for petition circulation is required. In addition, the Fair Political Practices Commission (FPPC) has opined that a proposal pending before a LAFCO does not become a "measure" until that proposal is placed on the ballot (*In re Fontana, 2 FPPC Ops. 25, 75-162*). Consequently, a circulated petition for LAFCO is not subject to the provisions of the Political Reform Act requiring disclosure of contributions and expenditures in support of or in opposition to that measure.

The most immediate LAFCO-related impact appears to be additional requirements of proponents and opponents of LAFCO projects submitted for processing via registered voter petitions since these tend to be widely circulated; however, certain types of landowner petitions would also be impacted. In addition the bill's requirements would also apply to the circulation of petitions protesting a LAFCO action. The bill does not, however, significantly impact this agency from a financial or operational perspective. AB 745 is scheduled to be heard by the Senate Local Government Committee on June 20th.

Attachments

Attachment A: Proposed changes to the Government Code by AB 745 (as amended June 5, 2007)