

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF JUNE 22, 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 #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 unless noted below.

REASON FOR RECOMMENDED ACTION AND BACKGROUND

The State Legislature is in the second year of the current 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.

A majority of the language was accepted into SB 1318, but there was enough alteration by the bill's sponsors that caused CALAFCO to continue to be opposed to the bill. The other stakeholders on the bill found the CALAFCO-drafted language superior to what was incorporated into the bill and were not silent in their displeasure. The staff for the senator have indicated the author is leaning towards either incorporating the CALAFCO language in its entirety, dropping the bill or amending the bill to include only the mapping requirements. To date the bill has not been amended to indicate the direction. Staff will keep the Commission apprised on the outcome.

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 qualify under the bill's provisions. Reasonable restrictions can be made to the bill to limit the 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.

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.

At the March 23 LAFCO meeting, the Commission discussed an amendment proposed by the CALAFCO Legislative Committee to amend Government Code §56430, which is the section of the Cortese-Knox-Hertzberg Act which directs LAFCOs in conducting municipal service reviews. The amendment would create a clear link between JPAs and which agencies are to be studied by LAFCO under §56430, which is concerning to this LAFCO because it may ultimately open the door to LAFCOs having jurisdiction authority over JPAs. Despite CALAFCO's sponsorship of this bill and request for letters of support, the Commission authorized staff to send a letter of opposition to Senator McGuire and CALAFCO if SB 1266 is amended to include the proposed changes to §56430.

The recent amendments on April 12 did not include the CALAFCO Legislative Committee proposed amendment to §56430; however, CALAFCO still may include the amendments when the bill makes it to the Assembly Local Government Committee (ALGC).

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 is now on the Senate Consent Calendar

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.

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.

In Water Code §10910, the bill makes the following changes: If no water system that is within or adjacent to the service area of the project site is identified as a viable source of water for the project, the city or county shall prepare a technical report that includes five factors. Based on this report, if the city or county determines that it is feasible for a water system to provide water to the project, the city or county shall submit the technical report to the local LAFCO with jurisdiction over the project. If the LAFCO denies the annexation or extension of service then the city or county shall develop a water supply assessment as outlined in §10910.

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 is involved with ongoing discussions with stakeholders, the administration and the author's staff on pending amendments.

SB 1263 (Wieckowski) – Public Water System Permits

As introduced, SB 1263 would prohibit an application for a permit for a new public water system from being deemed complete unless the applicant has submitted a preliminary technical report to the SWRCB, as specified, and would allow the State Board to impose technical, financial, or managerial requirements on the permit. The bill would prohibit a public water system not in existence on January 1, 1998 from being granted a permit unless the public water system demonstrates that the water supplier also possesses adequate water rights to ensure the delivery safe drinking water, and would specify that the prohibition applies to any change in ownership of the public water system, including the consolidation of a public water system. The bill would allow the State 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. Finally, the bill would prohibit a local primacy agency from issuing a permit without the concurrence of the State Board.

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.

AB 1707 (Linder) – Public Records Response

As amended, AB 1707 would require public agencies, including LAFCOs, when responding to a Public Records Request for which a determination has been made to deny the request, to identify the types of records being withheld and the specific exemption that applies to that record. The amendments to the bill on March 28 were minor, removing the requirement of having to list every document and now requires them to be categorized.

This bill failed to pass out of the Assembly, so it is now dead.

Upcoming Legislative Dates

June 15: Budget bill must be passed by midnight

July 1: Last day for policy committees to meet and report bills out of committee

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