

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF MARCH 23, 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 #8A: OTHER BUSINESS – LEGISLATION

RECOMMENDATION

Staff recommends that the Commission receive the following summary of LAFCO-related legislation for the 2015-2016 Legislative Session and consider directing staff to send letters of support/opposition, as appropriate.

REASON FOR RECOMMENDED ACTION AND BACKGROUND

The State Legislature is in the second year of the current two-year legislative cycle. February 19 was the last day for bills to be introduced; CALAFCO is currently tracking 29 bills (Attachment B). The following is a summary of bills from year one of the 2015-2016 legislative cycle which may affect this LAFCO:

Staff Recommended Positions:

- **SB 1318 (Wolk) – Local Agencies and Water Infrastructure**

As introduced, SB 1318 makes multiple amendments to Government Code (GC) Sections 56133, 56425 and 56430. To begin, the bill would prohibit a LAFCO commission from authorizing a city or a district to extend drinking water or wastewater infrastructure or services until it has extended those services to all disadvantaged communities within or adjacent to its sphere of influence, or has entered into an agreement to extend those services to those disadvantaged communities, unless specified conditions are met. Further, it prohibits the commission from approving a sphere of influence (SOI) update where there exists a disadvantaged unincorporated community (DUC) within or adjacent to the city or special district's SOI that lacks safe drinking water or wastewater infrastructure or services unless specified conditions are met.

SB 1318 would additionally prohibit a commission from approving an annexation to a city or qualified special district of any territory greater than 10 acres, or as determined by commission policy, where there exists a DUC within or adjacent to the SOI of a city or special district that lacks safe drinking water or wastewater infrastructure or

services, unless the city or special district has entered into an enforceable agreement to extend those services into the DUC as specified. The bill would define "qualified special district" to mean a special district with more than 500 service connections.

When determining an SOI, SB 1318 changes the assessment of the feasibility of a reorganization of agencies, and recommendations of reorganization of those agencies when it is found to be feasible, to a mandate (changes 56425 (h) from "may" to "shall"). Further, it adds (k), prohibiting a commission from approving an SOI update that removes a disadvantaged community from a city's sphere of influence unless a majority of the voters in the disadvantaged community approve of the proposed SOI.

SB 1318 also adds several requirements in GC Section 56430 relating to Municipal Service Reviews. First, it changes (b) to mandate the commission to assess various alternatives relating to the efficiency and affordability of infrastructure and delivery of services; and changes (c) to mandate the commission to include a review of whether the agency being reviewed is in compliance with the California Safe Drinking Water Act.

Recommendation: OPPOSE

Staff recommends the Commission direct staff to send a letter of opposition to SB 1318, for the following reasons: The bill adds a number of mandates to LAFCOs, layers on additional responsibilities to a process that is not yet fully understood (regarding disadvantaged communities) and effectively removes LAFCO discretion as it relates to district/city annexations and the extension of services. In addition, there is a negative effect on local agencies, essentially freezing the boundaries of cities and special districts until all disadvantaged communities are connected to a public water system (unless residents of those communities oppose being annexed by a city or special district). CALAFCO was not contacted by the author's office prior to the introduction of this bill.

▪ **AB 2257 (Maienschein) – Local Agencies Online Posting**

AB 2257 amends GC Section 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.

Recommendation: SUPPORT

Staff recommends the Commission direct staff to send a letter in support of 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 we already post a link on our website's homepage, taking the user directly to the upcoming meeting agenda and staff reports once they are available and in compliance to the Brown Act.

CALAFCO Requested Positions:

CALAFCO Legislative Committee took a support position on the following bills, and requests that individual LAFCOs also submit letters of support from their Commission:

▪ **SB 1266 (McGuire) – Joint Exercise of Powers Act**

SB 1266 is sponsored by CALAFCO. The intent of SB 1266 is that all stand-alone joint powers authorities (JPAs), which include a member that is a public agency, and is formed for the purposes of delivering municipal services, shall 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. Current law already requires that these agreements are filed with the Secretary of State and the State Controller. SB 1266 is sponsored by CALAFCO and CALAFCO has requested individual LAFCOs to also submit letters of support from their Commission. Because a number of amendments were still pending at the time the bill was introduced, the latest amendments were not included in the introductory version of the bill. What is currently in print will be amended later in March to reflect the amendments in Attachment A, which have reportedly been agreed upon by all stakeholders.

Recommendation: NO POSITION

Despite CALAFCO's sponsorship of this bill and request for letters of support, the Executive Officer recommends against sending a letter of support for SB 1266 and instead taking a neutral position at this time. Commissioner Frentzen, who serves on the CALAFCO Legislative Committee, voted against CALAFCO sponsorship of this bill.

The intent of SB 1266 is to create a direct communication connection with JPAs, which arguably has some value to LAFCOs; however, staff has a number of concerns regarding not only the current bill, but also the direction this bill may take LAFCOs in the future. In addition to adding to the overall list of mandated duties for each LAFCO, SB 1266 does not adequately define "municipal services", leaving individual LAFCOs to identify which JPAs are to be included/excluded from this inventory. While this bill seeks only to establish a relationship between LAFCOs and JPAs, there is a valid concern that this may ultimately open the door to LAFCOs having jurisdiction authority over JPAs. Rather than oppose this bill for what it could do, it might be better for the Commission to wait to fight a bill that does open the door for LAFCO oversight of JPAs.

▪ **SB 817 (Roth) – Vehicle License Fee Adjustments**

SB 817 reinstates allocations of the Vehicle License Fee (VLF) funding to recently incorporated cities (using ERAF money) consistent with the allocation formula those communities relied upon when making the decision to incorporate. This bill would reinstate future payments beginning in the 2016/17 year for cities that incorporated between January 1, 2004 and January 1, 2012. There are no provisions for back payments for lost revenue. As amended, SB 817 is identical to SB 25 (Roth, 2015) and SB 69 (Roth, 2014), both of which were vetoed by the Governor despite them being unanimously passed by the legislature.

Recommendation: NO POSITION

SB 817 only applies to cities that incorporated between January 1, 2004 and January 1, 2012, which is not applicable for any city within El Dorado County.

▪ **SB 971, 972 and 973 – (Committee on Governance and Finance) – Validations**

The Senate Governance and Finance Committee sponsors three annual validating acts, which validate the boundaries of all local agencies. SB 971, SB 972, and SB 973 enact the Second Validating Act of 2016, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Recommendation: NO POSITION

CALAFCO historically supports the annual validating acts and has requested letters of support from individual LAFCOs; however, this LAFCO has not historically taken a position on validating acts. While staff has no objection to the content of these bills, we recommend the Commission put its efforts and support behind bills that are more meaningful and impactful.

Other Bills of Interest:

▪ **SB 1262 (Pavley) – Water Supply Planning**

As introduced, SB 1262 is a complicated bill which makes a number of changes to GC Section 66473.7 and Section 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 section 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.

▪ **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.

SBs 1262 & 1263 are sibling pieces of legislation. Staff is attempting to gather more information on the policy intent of these bills and what they ultimately hope to accomplish. Once that information has been obtained, staff can better advise the Commission on whether to support, oppose or remain neutral on these bills.

- **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 introduced, AB 1707 would require LAFCOs, when responding to a Public Records Request for which a determination has been made to deny the request, to include in the written response the title (or other identification) of each record that was requested and not provided, and the specific exemption that applies to that record.

Upcoming Legislative Dates

March 17-28, 2016: Legislature on Spring Recess

Attachments

Attachment A: SB 1266 as amended

Attachment B: Legislation Report