

# EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

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## *AGENDA OF MARCH 23, 2011*

### *REGULAR MEETING*

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

**FROM:** José C. Henríquez, Executive Officer

**AGENDA ITEM #8:** CONSIDER ANY POTENTIAL CHANGES TO THE  
COMMISSION'S POLICY ON ALTERNATE  
COMMISSIONERS

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#### **RECOMMENDATION**

Staff recommends that the Commission review the following information on Alternate Commissioners and provide direction to staff on any possible changes to Policy 1.3.2.

#### **REASON FOR RECOMMENDED ACTION**

The Commission's Policy 1.3.2 guides the expectations and responsibilities of Alternate Commissioners.

#### **BACKGROUND**

This item was placed on the agenda at the request of Commissioner Briggs to discuss and consider these questions:

- Should the composition of the dais be limited to voting members?
- Can stipends be limited to voting members only?

This report will address the current P&G and the requirements under Cortese-Knox-Hertzberg or any other applicable State Law.

*Background: Alternate Commissioners*

The membership of this Commission is two city representatives, two county representatives, a representative of the public at large and two special district representatives. An Alternate for each category is also required per State Law [Government Code §§56325(b), (a), (d) and (c), respectively].

*Should the composition of the dais be limited to voting members?*

Other than the provision that Alternates may serve and vote on behalf of the respective Regular members who are absent or disqualified, State Law is silent on what role an Alternate may play when the Regular member is present. Statewide, some LAFCOs discourage or do not allow the Alternates' participation unless it is an item of interest to the Alternate or unless he or she is needed to fill in for the Regular member.

Other LAFCOs, similar to this one, encourage the Alternates' participation under the philosophy that Alternates may need to step into the role of a voting member during their tenure. If that occurs, the Alternate would have as much information as the Regular member and can make an informed decision. The exception to the philosophy is the Commission's decision limiting the Alternates' participation in closed session. In September 2007, the Commission amended policy 1.3.2 stating as such:

**1.3.2 Alternate Commissioners:** Alternate Commissioners are encouraged to take an active role in El Dorado LAFCO business including discussions and deliberations on project proposals, CALAFCO legislative activities and training workshops, interagency coordination and communication, and participation in policy development and other working groups.

Alternate members may vote in place of the regular member who is absent or who disqualifies himself or herself from participating in an action (§56325). However, Alternate Commissioners, when not acting in the absence of a regular member, do not generally participate in closed sessions. The Commission, under the advice of the Executive Officer and Counsel, may invite the participation of Alternates in closed sessions on a case-by-case basis

As can be seen, the "active role" part on the first paragraph has traditionally included Alternates being part of ad hoc committees and participating in discussions during meetings. The seating of the Alternates in the dais grew from that, dating back to the mid 1990s when the LAFCO meetings switched from the daytime to the evening. According to former Commissioner Al Manard, there was no impetus for inviting the Alternates to sit on the dais, but the logic behind the decision was that it was consistent with the spirit of inviting the Alternates into the "active role."

In the past, there have been concerns that Alternates sitting and participating among Regular members would confuse the public on who are the voting members. The Commission has revisited the seating arrangements at least twice, in 2003 and in 2007. Since this is not a matter of policy, but of Commission preference, staff has no recommendation. Retaining the seating arrangement furthers the "active role" preference within Policy 1.3.2; whereas, specifying that only regular and voting members may sit on the dais can send a mixed signal to Alternates on how active they can or are expected to be.

*Can stipends be limited to voting members only?*

The last paragraph in Government Code §56334 addresses compensation for Commission members. It reads, in part:

Commission members and alternates shall be reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and

in performing the duties of their office. The commission may authorize payment of a per diem to commission members and alternates for each day while they are in attendance at meetings of the commission.

Cortese-Knox-Hertzberg allows each LAFCO to adopt local policies that further define its responsibilities, so long as those guidelines or procedures are not in conflict with State or case laws. To that end, the Commission adopted the following policy regarding Commission reimbursement:

- 1.4.1 With the exception of County Board of Supervisors representatives, Commission members and alternates receive a meeting stipend as set by the Commission and are reimbursed for reasonable and necessary expenses incurred in performing the duties of their office (§56334). However, the Commission may temporarily suspend the payment of stipends for a fiscal year due to budget considerations.

The Policies & Guidelines does not specify a set amount for reimbursement. The immediate past methods were composed of a stipend of \$50 per meeting and round trip mileage from the Commissioner's home to the meeting location. The mileage rates are updated annually and set at the IRS "Standard Mileage Rates." The \$50 stipend was last set in 1999; however, in Fiscal Year 2008-2009 the Commission suspended the stipend to save money and to-date has not reinstated it.

While the Commission has the discretion to increase or decrease this reimbursement or allow for County representatives to be eligible for reimbursement, under the Law it does not appear that the Commission has the authority to eliminate it completely or permanently for either Alternates or Regular members. Consequently, the practice of Alternates receiving stipends appears to be grounded. That does not prevent a Commissioner from choosing not to receive the stipend or mileage if he or she wishes to do so, however. Direction can be given to staff on whether the stipend should continue to be suspended, whether it should be increased or whether it should be expanded to include the County representatives.