

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF MAY 25, 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 #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.

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

SB 1318 was recently gut and amended in the Senate Governance and Finance Committee Hearing on April 6, with little notice and no interaction or input from stakeholders. The bill is now very different than the prior version; however, it is not any closer to being a viable solution to the identified problem of disadvantaged communities which lack safe drinking water or wastewater infrastructure or services. The new version grants LAFCO a great deal of authority and adds numerous unfunded mandates to LAFCO; however, it does not provide a framework within which LAFCOs can properly address the issue, nor is it an issue that LAFCOs alone can fix.

Despite strong opposition from CALAFCO, many individual LAFCOs (including this one), and other stakeholders, there appears to be considerable political and social momentum behind this bill; SB 1318 has a good chance of passing through both the Senate and Assembly, with or without stakeholder approval. Therefore, the CALAFCO Legislative Committee discussed the amended bill at length at its April 22 meeting and established a small CALAFCO subcommittee (including your Executive Officer) to continue discussions with the author, sponsor and other stakeholders to find language that is not as objectionable and move towards a bill that will be more effective in accomplishing Senator Wolk's goals. Staff will keep the Commission updated on any reportable action from the subcommittee as appropriate.

As it is currently proposed, SB 1318 would do the following:

- Prohibits 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.
- Prohibit a commission from approving a sphere of influence update that removes a DUC from a city’s or special district’s sphere of influence unless the commission makes a finding that removal of the community will result in improved service delivery to the community. The bill adds 56425(k), prohibiting a commission from approving a 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.
- Adds several requirements to Government Code §56430 relating to Municipal Service Reviews, including a requirement for the commission to assess various alternatives relating to the efficiency and affordability of infrastructure and delivery of services; and a requirement for the commission to include a review whether the agency being reviewed is in compliance with the California Safe Drinking Water Act.
- Adds the following requirements to §56430: (1) on or before January 1, 2022 and every five years thereafter, LAFCO shall do MSRs for the entire county territory (regardless of service provider); (2) Create and electronically file a map that identifies DUCs that lack safe drinking water or wastewater with OPR (who will then post on their website); Within two years of identifying such a DUC, LAFCO shall create a plan based on alternatives analyzed and adopt any actions necessary to implement the plan (regardless of whether the agencies involved are public or private); (3) Creates an exemption for an election or any protest proceedings on the above action except protest proceedings are required for the residents of the DUC; (4) LAFCO will not be required to adopt a plan if there is no feasible way of connecting the DUC with an existing system; (5) LAFCO cannot change a SOI or extend services if these requirements are not met; (6) LAFCO cannot change a SOI of an agency that was identified in a plan of action and they have not taken action within three years, unless there is an application to extend services of annex that territory; or an extension of services pursuant to 56133.

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.

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 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. 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.

Upcoming Legislative Dates

June 3: Last day for each house to pass bills introduced in that house

Attachment

Attachment A: Legislation Report