

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF SEPTEMBER 27, 2017

REGULAR MEETING

TO: Shiva Frentzen, Chair, 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 2017-2018 Legislative Session, including a letter from staff requesting Governor Brown sign AB 1725 (*Attachment A*). No Commission action is requested.

REASON FOR RECOMMENDED ACTION AND BACKGROUND

The State Legislature has nearly completed year one of its two-year legislative cycle. September 15 was the last day for each house to pass bills; October 15 is the last day for Governor Brown to sign or veto bills passed by the Legislature. The following is a status report on the final actions for some bills that staff has been monitoring in the past year, as well as bills which still require action, if they are to be passed this year:

Recently Chaptered Bills

Unless otherwise noted, chaptered bills will become effective January 1, 2018.

AB 979 (Lackey R): Special District Seating on LAFCOs *Signed by the Governor September 1, 2017.*

AB 979 streamlines the process of seating special district representatives on LAFCOs which don't currently have special district representation. Keeping the process voluntary, it allows for a simple majority vote by mail whether or not the district wants to have special districts represented on LAFCO. Previous law required a majority of special districts in the county to pass board resolution within a one-year period to obtain representation.

Bills on the Governor's Desk**SB 448 (Wieckowski) – Dissolution of Inactive Districts*****Enrolled September 7, 2017; currently awaiting action by the Governor.***

As amended on July 17, SB 448 authorizes LAFCO to dissolve inactive districts (after determining they meet the criteria set forth in the statute) by holding one hearing, without conducting a special study and with the waiver of protest proceedings. The State Controller is required to notify LAFCO when a district is inactive. LAFCO then has 90 days to initiate dissolution, and another 90 days in which to hold the hearing to dissolve. Should the LAFCO determine the district does not meet the criteria, no dissolution occurs and LAFCO notifies the Controller the district is not inactive. Should the LAFCO determine the district does meet the criteria then it is ordered to be dissolved. The bill also requires a district to provide LAFCO with their audits at the same time they provide them to the Controller.

In response to a CALAFCO call for legislative action, El Dorado LAFCO voted to send a letter in support of SB 448 at the August 23 meeting. SB 448 passed both houses and is currently enrolled and awaiting the Governor's signature.

AB 1725 (Committee on Local Government) – Annual Omnibus Bill***Enrolled September 7, 2017; currently awaiting action by the Governor.***

AB 1725 is the annual Omnibus bill for the Cortese-Knox-Hertzberg Reorganization Act of 2000 (CKH), which makes minor, non-substantive technical changes to CKH. As amended, the bill includes the following four items approved by the CALAFCO Legislative Committee:

56031(a) Revised definition of contiguous to “territory that abuts or shares a common boundary with territory within a local agency” instead of “territory adjacent to territory within a local agency”.

56131.5 Adds “detachment” to healthcare district reorganizations.

56383(a) Broadens allowable LAFCO fee recovery to include MSR/SOI updates and studies.

56658 Adds “local” to “affected agency”

AB 1725 passed both houses and is currently enrolled and awaiting the Governor's signature. Staff sent a letter in support of AB 1725 after direction from the Commission at the May 24 meeting; in response to a time-sensitive CALAFCO call for legislative action, staff sent a subsequent letter urging the Governor to sign AB 1725 on September 7, 2017, included as **Attachment A** at the end of this report.

Other Bills of Interest:**AB 1361 (Garcia, Eduardo, Waldron) – Municipal Water Districts: Indian Tribes*****Last amended 9/8/2017***

The Municipal Water District Law of 1911 provides for the formation of municipal water districts and grants to those districts specified powers. Current law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district. Current law, upon the request of certain Indian tribes and

the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe's lands that are not within a district, as prescribed.

This bill would additionally authorize a district to apply to the applicable LAFCO to provide this service of water to Indian lands, as defined, that are not within the district. The bill would require the LAFCO to approve the application and authorize the commission to impose conditions on the district with regard to the extension of service. By imposing additional duties on local officials, this bill would impose a state-mandated local program. The bill would prohibit a LAFCO from approving an application received on or after January 1, 2023, but would authorize a district that received authorization to extend water service to Indian lands before that date to continue to do so after that date.

AB 1479 (Bonta) – Public Records: Custodian of Records
Last amended 9/1/2017

AB 1479, until January 1, 2023, would require public agencies to designate a person or office to act as the agency's custodian of records who is responsible for responding to all public records requests and to respond to inquiries as to why the agency denied the request for records. As amended, the bill no longer contains a provision that a failure to respond for records or an improperly assessed fee can be considered a civil penalty and allows the courts to issue fines ranging from \$1,000 to \$5,000. CALAFCO has taken an Oppose position on the bill.

AB 1479 was ordered to the Assembly for concurrence in Senate Amendments on September 11.

Little Hoover Commission Report Update:

On August 30, the Little Hoover Commission (LHC) released their final report on special districts, titled: "*Special Districts: Improving Oversight & Transparency*". The 76-page report, included as **Attachment B**, follows a year-long investigation by the LHC that included two public hearings and two roundtable discussion forums. The report focuses on district oversight and transparency and has a special emphasis on healthcare districts as well as climate change.

In the report's cover letter to the Governor Jerry Brown and legislative leaders, Chair Pedro Nava stated, "*As much as the Commission wanted to find a magic bullet to ensure these 2,000 districts were performing efficiently and effectively, it didn't. The LAFCO process may not be working as it could and should in every corner of the state, but special districts remain best served by local decision-making. To that end, the Commission recommends the Legislature curtail its practice of bypassing the local process. Additionally, the Commission offers a number of common-sense recommendations to help LAFCOs exercise their authority.*"

Eight of the 20 final recommendations are directly related to LAFCOs. Recommendations fall in the areas of governance, transparency and healthcare districts. Most notably, the Commission recommends a one-time infusion of grant funding by the Legislature to LAFCOs of \$1 million to \$3 million to initiate the most urgent dissolutions and consolidations of special districts, and recommends the Legislature curtail special legislation that either bypass LAFCO or divest LAFCO of authority. CALAFCO fully supports the final recommendations in the report. Recommendations directly related to LAFCOs include the following:

Recommendation 1: The Legislature and the Governor should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.

Recommendation 2: The Legislature should provide one-time grant funding to pay for specified LAFCO activities, to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.

Recommendation 3: The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.

Recommendation 4: The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.

Recommendation 5: The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.

Recommendation 6: The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.

Recommendation 9: The Legislature should require that every special district have a website. Along with other information, the website should include service, budget and audit information, the most recent municipal service review, and a link to the local LAFCO's website.

Recommendation 13: The Legislature, which has been increasingly inclined to override local LAFCO processes and authority to press changes on healthcare districts, should defer these decisions to LAFCOs.

Upcoming Legislative Dates

Oct. 15: Last day for the Governor to sign or veto bills passed by the Legislature

Attachments

Attachment A: AB 1725 Support Letter (Dissolution of Inactive Districts)

Attachment B: LHC Final Report on LAFCOs and Special Districts

Attachment C: CALAFCO Legislation Report