

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF AUGUST 28, 2019

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, Assistant Executive Officer

AGENDA ITEM #9A: OTHER BUSINESS – LEGISLATION

RECOMMENDATION

Staff recommends that the Commission receive the following update on LAFCO-related legislation for the 2019-2020 legislative session. No Commission action is requested.

REASON FOR RECOMMENDED ACTION AND BACKGROUND

The following is a summary of recent amendments and changes to tracked legislation, including several pieces of legislation that were recently gutted and amended which now may have an impact on LAFCOs. September 13 is the last day for the Legislature to pass bills; October 13 is the last day for the Governor to sign or veto bills passed before that deadline. CALAFCO's full Legislative Report summarizing all bills currently being tracked as they continue through the first year of the two-year legislative cycle is included as ***Attachment D***.

Recent Draft Amendments (not yet in print)

AB 600 (Chu) – Local Government: Organization: Disadvantaged Unincorporated Communities

Last Amended April 29, 2019

CALAFCO Position: Watch with Concerns (changed from Opposed)

AB 600 is an attempt to address water issues within disadvantaged unincorporated community (DUCs) and proposes to modify the requirements for an application to annex a contiguous DUC. CALAFCO and a number of LAFCOs, including El Dorado, took an Oppose as Amended position on this bill in May when it was first released in its current form.

Recent draft amendments to AB 600 (revisions are not yet in print) remove the most heavily opposed portion of the bill which would have provided that an application to annex a contiguous DUC is not required if a LAFCO finds that a majority of the registered voters within the DUC would prefer to address the service deficiencies through an out-of-agency

service extension rather than annexation. Based on this draft amendment, the CALAFCO Legislative Committee voted to change its position from Oppose to Watch with Concerns, along with sending a strong letter of remaining concerns to the author. Concerns include the broader philosophical issue of the definition of DUCs and the sources of data to identify them, as well as the resources and plans to systemically and sustainably solve the issues.

AB 1628 (Rivas, Robert) – Environmental Justice
Last Amended June 14, 2019

CALAFCO Position: Watch with Concerns

This bill was brought to the attention of the CALAFCO Legislative Committee as a result of recent amendments on June 14 that impact LAFCO. The environmental justice community is the sponsor of this bill, and CALAFCO was not notified of the amendments before they went to print. The bill changes the definition of “environmental justice” in three places: within the Government Code, the Public Resources Code, and within CKH [§56668(p)]. All three sections, in statue before these amendments, had differing definitions of “environmental justice”.

As amended, this bill proposes to modify one of the factors considered by LAFCO in the review of an application pertaining to environmental justice. The process of amendment negotiations is still ongoing, but the most recent proposed language (not yet in print) is as follows:

§56668(p) The extent to which the proposal will promote environmental justice. As used in this subdivision, “environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, and incomes, and national origins with respect to the location of public facilities and the provision of public services, in order to ensure the availability of a healthy environment for all people, and so that the effects of the pollution are not disproportionately borne by those populations and communities.

It is unclear how LAFCO is to actually consider several of these definition factors; however, the existing language of §56668(p) is also very subjective. CALAFCO continues to work with the author and sponsors on amendments.

SB 414 (Caballero) – Small System Water Authority Act of 2019
Last Amended June 25, 2019

CALAFCO Position: Oppose Unless Amended (changed from Support)

SB 414 would give the State Water Resources Control Board (SWRCB) authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non-contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems, this will add the authority to mandate dissolution and formation of a new public agency.

Up until recent draft amendments (not yet in print) LAFCO would have been responsible for dissolving any state mandated public agency dissolution, and the formation of the new

water authority. LAFCO would have ability to approve with modifications the application, and the new agency would have to report to the LAFCO annually for the first three years.

CALAFCO recently received draft amendments to SB 414 that would entirely eliminate LAFCO from the formation process; the draft amendments appear to be silent on dissolution, and would still require LAFCO to potentially hold hearings after formation, but on what and under what authority is unclear. The bill proposed a very large price tag (\$88 million) and the SWRCB prefers the process in this bill mirror SB 88 in which they have the authority to mandate a consolidation or appoint an administrator to a failing water agency. As a result of these changes, the CALAFCO Legislative Committee has moved from a Support position to Oppose Unless Amended (to go back to the current version) once the amendments are out in print.

Two-Year Bills

Bills that fail to meet a deadline in the first year of the legislative session but still may be acted upon in the second year.

AB 315 (Garcia, Cristina) – Local Government: Lobbying Associations: Expenditure of Public Funds

Last Amended July 5, 2019

CALAFCO Position: Watch

AB 315 was recently gutted and amended into a bill that would prohibit an association of local agencies or districts from expending moneys received from a local agency or district member of the association for any purpose other than to present information regarding legislation that the legislative body or the district deems to be beneficial or detrimental to the local agency or the district and other educational activities.

AB 315 appears to have significant impact to CALAFCO in the uses of member LAFCO and certain Associate Member dues being limited to only direct educational activities. This bill is considered a two-year bill; CALAFCO has a Watch position and will engage with stakeholders and the author's office as the bill moves forward in the next legislative year.

AB 1053 (Dahle / Hill) – Fallen Leaf Lake CSD

Last Amended March 25, 2019

CALAFCO Position: Watch

AB 1053 states the intent of the Legislature to address recommendations in the California State Auditor's audit of the Fallen Leaf Lake Community Services District (FLLCSD). The State Auditor's report was published on July 18, 2019 and was forwarded to the Commission shortly after. AB 1053 has not been amended since the release of the State Auditor's report; the bill is a two-year bill that may be acted upon after January 2020.

The State Auditor's report focused on financial and governmental aspects of the FLLCSD and found that its billing practices and small electorate jeopardize its ability to provide services. The report found that FLLCSD overbilled reimbursing agencies by more than \$700,000 from 2016 through 2018 for firefighting assistance, which places the financial viability of the District in jeopardy because it may have to repay those funds, which would significantly reduce its reserve balance. The report also determined that FLLCSD's small electorate of permanent residents presents a significant challenge to the District's ability

to function effectively and recruit candidates to run for its board. The report recommends expanding the District's electorate to include nonresidential landowners and leaseholders to allow more people in the community an opportunity to vote on district matters and to serve on the board.

The full report is included as **Attachment A**. Responses from the California Governor's Office of Emergency Services, FLLCSD, and El Dorado LAFCO, along with the State Auditor's comments on the responses are located at the end of the report. A Fact Sheet and Report Summary are also included as **Attachments B and C**.

**AB 1253 (Rivas, Robert) – Local Agency Formation Commissions: Grant Program
Last Amended February 21, 2019**

CALAFCO Position: Sponsor

AB 1253 is a CALAFCO sponsored bill for the Legislature to provide LAFCOs one-time grant funding for in-depth studies of potential reorganization of local service providers. This is the same bill as last year's AB 2258, which was vetoed by Governor Brown.

CALAFCO and the authors were unsuccessful in getting the \$1.5 million into the State budget, which means they would need to request an appropriation from the General Fund. Since there is a new Governor and administration, it is yet unclear about the willingness to make General Fund appropriations for items not in the budget. The authors, rather than risking another veto, have decided to make this a two-year bill and work to get it in the FY 2020-21 budget next year. AB 1253 is now held in Senate Governance and Finance Committee where it will stay until next year.

Chaptered Bills:

Unless otherwise noted, chaptered bills will become effective January 1, 2020.

**AB 1822 (Committee on Local Government) – Local Government: Omnibus Bill
Signed by the Governor June 26, 2019**

CALAFCO Position: Support

AB 1822 is the annual Omnibus bill for the Cortese-Knox-Hertzberg Reorganization Act of 2000, which makes technical, non-substantive clean-up corrections to the Act. The bill includes technical changes to the Act which are necessary to help clarify and streamline the LAFCO process, ultimately resulting in less ambiguity in the law. CALAFCO is the sponsor of this bill. AB 1822 was signed by the Governor on June 26.

Attachments

Attachment A: State Auditor Report on Fallen Leaf Lake Community Services District
Attachment B: FLLCSD Report Fact Sheet
Attachment C: FLLCSD Report Summary
Attachment D: CALAFCO Legislation Report

Upcoming Legislative Dates

September 13: Last day for the Legislature to pass bills
October 13: Last day for the Governor to sign or veto bills