

LOCAL AGENCY FORMATION COMMISSION
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KATE McKENNA, AICP
Executive Officer

DATE: June 27, 2011

TO: Chair and Members of the Formation Commission

FROM: Kate McKenna, AICP, Executive Officer

SUBJECT: **ACTIVITIES OF THE CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS**

SUMMARY OF RECOMMENDATION:

This report is for information only; no action is required at this time.

EXECUTIVE OFFICER'S REPORT:

Legislative Update

CALAFCO is tracking 29 bills, with four top priorities. None of the bills need action by the LAFCO of Monterey County at this time. Attachment 1 is a summary update prepared by CALAFCO. I will be pleased to provide more detailed information upon request.

Also, the CALAFCO Board of Directors proposes to sponsor changes to current law relating to the extension of services outside a local agency's boundary (Government Code Section 56133). We have received the proposed language changes for review and comment. An analysis and recommendation will be provided at the Commission's next regular meeting on August 22. If the changes are supported by member LAFCOs, CALAFCO will seek a bill sponsor in the next legislative cycle.

2011 CALAFCO Annual Conference

Last month, the Commission authorized up to four Commissioners to attend the annual conference. After reviewing their calendars, three Commissioners confirmed their availability to attend the conference in Napa from August 31 to September 2. They are Commissioners Delgado, Salinas and Snodgrass. Senior Analyst McCue, General Counsel Girard and I will also attend the conference. We have forwarded the names of our Voting Delegates to CALAFCO, and are preparing to submit achievement award nominations as authorized last month by the Commission, in consultation with Chair DiMaggio.

Respectfully Submitted,

A handwritten signature in black ink that reads "Kate McKenna". The signature is written in a cursive style with a long, sweeping underline.

Kate McKenna, AICP
Executive Officer

Attachment: CALAFCO Legislative Committee Report, June 24, 2011

BOARD OF DIRECTORS MEETING STAFF REPORT

24 June 2011

Agenda Item No. 4

Legislative Committee Report and Recommendations

Prepared By: William Chiat, Executive Director and Legislative Committee Chair
Date: 24 June 2011

RECOMMENDATION

1. Receive and file.
2. Consider removing CALAFCO objections on SB 244 (Wolk) – Disadvantaged Unincorporated Communities.

DISCUSSION

Early June marked the beginning of the second phase of the 2011 legislative session. By 3 June most bills were required to pass out of their house of origin. The next round of policy committee hearings began the week of 13 June. As a result 12 of the bills CALAFCO was tracking died in their house of origin. Most significant to LAFCo of the dead bills are AB 785 (Mendoza) – Financial Conflicts of Interest, and SB 31 (Correa) – Commission Regulation of Local Lobbyists.

Through the “gut and amend process” several bills were amended which affect LAFCo and we have added them to the CALAFCO tracking system. Most notable are AB 119 (Committee on Budget) – LAFCo State Mandates, and SB 878 (DeSaulnier) – Bay Area Sustainable Communities Strategy. After discussions with the League of Cities and CSDA we have also added AB 506 (Wieckowski) – Local Agency Bankruptcy to our tracking.

With those changes, CALAFCO is currently tracking 29 bills this legislative session, with four as our top priorities. The attached Legislative Update (Attachment 4a) highlights the current status of all 29 bills, including our priority items. The status of several key bills is discussed in more depth below. A number of hearings are scheduled for the week of 20 June and staff will update the Board on those outcomes at your meeting.

The CALAFCO Legislative Committee met on 20 May 2011 in San Diego. The minutes of the meeting are included in attachment 4b. Several key items were discussed, including the protest provision update project, additional amendments to the CKH Omnibus bill, and dissemination of the approved 56133 extension of services language to member LAFCos. The Committee reviewed the status of **AB 244 (Wolk) – Disadvantaged Communities** and directed staff to continue to work with sponsors on the language to minimize the impacts on LAFCo. The Committee agreed with continued support of the amended bills **AB 912 (Gordon) – District Dissolution** and **AB 54 (Solario) – Mutual Water Companies**. The Committee adopted an “oppose” position on **SB 46 (Correa) – Compensation Disclosure** because of the extensive reporting requirements which duplicates much of what LAFCos are already doing. The Committee adopted a “support” position on **SB 436 (Kehoe) – Non-Profit Acquisition of Mitigation Lands** as it adds another tool for LAFCo to use in conditioning mitigation lands for annexation.

CALAFCO has recently sent or is prepared to send a number of support and oppose letters. They are attached to this report.

Update on Priority Legislation

AB 54 (Solario) – Mutual Water Companies. CALAFCO staff worked with several mutual water company associations that were in opposition to the bill. We crafted language that addressed their concerns and still requires the mutuals to respond to LAFCo information requests. The language is identical to the language in the Public Utilities Commission Executive Order to private utilities. We believe their opposition to the bill has been removed.

AB 912 (Gordon) – District Dissolution. CALAFCO staff worked with the author and CSDA to address our concerns and the concerns of other stakeholders. We believe the bill is now consistent with LAFCo law and procedures. CSDA has removed their concerns. It is scheduled to be heard in Senate Governance & Finance on 22 June.

AB 1430 (Assembly Local Government Committee) – Cortese-Knox-Hertzberg Omnibus Bill. We have worked with Assembly staff and Legislative Counsel to address all of the concerns raised regarding our proposed extensive changes to the CKH definitions sections. The bill is expected to be amended this week and is scheduled to be heard by Senate Governance & Finance on 29 June. We are hopeful it will be a consent item.

SB 244 (Wolk) – Disadvantaged Unincorporated Communities. Staff has participated in a number of meetings with the sponsor, author and other stakeholders. Our goal has been to minimize the impact to LAFCo as much as possible. In discussions with the consultants to both the Assembly Local Government and the Assembly Housing committees it appears the bill is anticipated to pass both committees. The bill was amended on 14 June and included much of our proposed language. The term “adjacent” has been replaced with “contiguous” throughout the bill. LAFCos no longer “shall” assess various alternatives for improving efficiencies, but rather “may” conduct such studies. The cumbersome language in the sphere updates requiring LAFCo to give “attention” has been improved, although it still requires LAFCo to consider the sewer, water and structural fire protection needs or deficiencies of disadvantaged unincorporated communities within or contiguous to the agency’s sphere of influence.

The sponsors did not adopt our proposed language for their new subsection (8) in §56375 which prohibits LAFCo from approving an annexation of undeveloped land contiguous to an unincorporated disadvantaged community to a city unless an application has also been filed to annex the disadvantaged community. They were open, however, to our concerns and invited us to propose some language. After consulting with a number of legislative committee members we submitted the following language proposal on 16 June:

(8) Except for those changes of organization or reorganization authorized under 56375.3, A a commission shall not approve an annexation of territory greater than 10 acres, or as determined by commission policy, to a city of any territory where there exists a disadvantaged unincorporated ~~inhabited~~ community that is contiguous to the area of proposed annexation unless the annexation application includes an separate application to annex the disadvantaged unincorporated ~~inhabited territory~~ community to the subject city has been filed with the executive officer.

This would exempt any island annexations and allows LAFCo the flexibility to establish higher or lower acreage limits. It also does not prohibit LAFCo from denying an annexation application based on its review. Further is separates the two applications so that if one is denied, withdrawn, or fails in a protest or election it does not affect the other application.

As of this writing I believe the sponsors and author are supportive of our proposed amendments to (8). The bill is scheduled to be heard at Assembly Local Government on 22 June and will likely be heard in Assembly Housing a week or two later. Assembly Local Government Committee does not accept amendments at their hearing, so if the sponsors agree to our language it will be amended before the bill is heard in Housing.

Our goal has been to reduce as much as possible the impact to workload and unfunded costs to LAFCo. To that end the sponsors have been flexible with our requests and it appears will adopt all of our proposed language. The bill is significantly improved from the LAFCo perspective from what was introduced this winter. The sponsors feel they have given a lot in order to address the objections from CALAFCO and the other stakeholders. Nonetheless should this legislation become law it will still add an unfunded mandate to LAFCos, and a number of our members – as well as CALAFCO Legislative Policy – oppose adding any unfunded responsibilities or mandates to LAFCo.

The sponsors have worked with us to address our concerns. Our current position on the bill is “watch with concerns and objections.” With the exception of the unfunded mandate, should our remaining amendment be accepted all of our requested changes have been made.

RECOMMENDATION: Should our remaining amendment be made, consider revising our position to “Remove Our Objections.” In addition to removing our objections, staff recommends that the letter also continue to express our concerns regarding the impact of any unfunded mandate when the agencies which fund LAFCo are so severely impacted in the current economic climate.

AB 119 (Committee on Budget) – LAFCo Mandate. This budget trailer bill includes provisions that remove the requirement for a special district to file written statements regarding functions and services with a LAFCo whenever the commission adopts, amends or updates a sphere of influence. Instead allows the LAFCo to require such written statements. A recent decision by the State Mandates Commission determined this was a state mandate. The Legislative Analyst released a report in late May recommending this mandate be removed, which this bill does. Since LAFCo has authority to request this information, it is not anticipated to have any actual change in process. The bill passed the Legislature as part of the budget on 15 June. Because the Governor vetoed the two main budget bills it is unclear whether this bill will be signed, vetoed or withdrawn by the Legislature.

AB 307 (Nestande) – Indian Tribes as a Public Agency for Joint Power Agreements. This bill would allow any federally recognized Indian tribe to be considered a public agency that may enter into a joint powers agreement. The bill is supported by a broad range of Indian tribes. CALAFCO has been tracking the bill, but had not taken a position. There has been no opposition to the legislation. Very recently one of the executive officers raised a concern that by entering into a JPA with a city or district, a tribe could circumvent that LAFCo process and municipal services extended to it with no LAFCo review. For example a tribe could build a casino and then enter into a JPA with a city or district for water or sewer and have it expended without LAFCo review. Counsel is currently studying this possibility and examining other options for LAFCo in such situations. Unfortunately as of this writing the bill has passed the Assembly (66-14) and is on the Third Reading on the Senate. It passed the policy committees unanimously. Unless the Governor vetoes it, this will likely become law.

ATTACHMENTS

- 4a. Current CALAFCO Legislation Update
- 4b. Legislative Committee Minutes – 20 May 2011 Meeting
- 4c. CALAFCO Support Letter – AB 912 (Gordon) – District Dissolutions

- 4d. CALAFCO Support Letter – AB 1430 (Assembly Local Government Committee) – Cortese-Knox-Hertzberg Omnibus Bill
- 4e. CALAFCO Support Letter – SB 436 (Kehoe) – Mitigation Lands
- 4f. CALAFCO Oppose Letter – SB 46 (Correa) – Compensation Disclosure
- 4g. CALAFCO Support Letter – AB 1265 (Nielsen) – Williamson Act