

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
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May 5, 2004

TO: Sacramento Local Agency Formation Commission
FROM: Peter Brundage, Executive Officer
RE: Legislative Update
CONTACT: Donald J. Lockhart, AICP, Assistant Executive Officer (916)874-2937

RECOMMENDATION

Information only, no action is recommended. This is a status report on pending 2003-04 LAFCo related legislation.

SUMMARY

This memo is part of the ongoing effort to keep your Commission informed regarding various legislative matters. An ad-hoc committee appointed by the CALAFCO Board of Directors has considered and adopted positions on several bills. Staff will continue to track the bills, in collaboration with CALAFCO, and report back to your Commission.

LEGISLATION

AB 2634 (Canciamilla) Local government organization.

Status: 04/27/2004 Re-referred to Assembly Comm. on Local Government with author's 4/26/2004 amendments.

HEARING DATE 04/28/2004

Summary:

Existing law relating to local agency formation commissions requires, among other things, that commission determinations relating to changes of local organization or reorganization, actions to waive restrictions that result in isolated unincorporated areas or actions to waive the effect of annexing an assessment district be consistent with the spheres of influence of local agencies affected by those determinations. This bill would require that every determination made by a commission and every approval of a change

of organization or reorganization made by a commission shall be consistent with urban limit lines approved by the voters of the affected agencies.

CALAFCO Opposes this bill. The rationale notes that there are many types of urban growth boundaries throughout the state. The "one-size fits all" model in this bill could cause confusion regarding the application of an agency's Sphere of Influence. CALAFCO has conveyed to the author that LAFCos already are required to give emphasis to the consistency of proposals to affected agency general plans -- and that general plans reflect community standards, and may include urban growth boundaries.

SB 1266 (Torlakson) Annexation.

Status: 04/15/2004 From committee with author's amendments. Read second time. Amended. Re-referred to committee. Senate Local Government Comm.

HEARING DATE: 05/05/2004

Summary:

Under existing law, the local agency formation commission in each county has specified powers and duties concerning the review and approval and disapproval of proposals for changes of organization or reorganization of cities and districts within the county. However, a commission may not disapprove an annexation of contiguous territory to a city initiated by resolution of the city governing body if the commission finds that the territory meets any of a number of specified conditions. One of these conditions is that the territory is surrounded or substantially surrounded by the city or by the city and a county boundary or the Pacific Ocean, is substantially developed or developing, is not prime agricultural land, as defined, is designated for urban growth by the general plan of the city, and is not within the sphere of influence of another city. This bill would revise that condition under which the commission may not disapprove the annexation to specify that: (1) not less than 51 percent of the exterior boundary of the territory to be annexed is surrounded by the annexing city, by that city and a county boundary or the Pacific Ocean, or that city and another city, (2) the territory is either developed or designated for urban growth by the general plan of the annexing city, (3) sewer service, structural fire protection service, streets and roads, and domestic water service will be available upon annexation, and (4) the territory does not exceed 1,000 acres.

CALAFCO Opposes this bill. As proposed, the bill would lower the threshold for mandatory approval of city initiated, substantially surrounded annexations. It establishes a definition for "substantially surrounded" as 51%. There is no definition in the code at this time, and at least four LAFCos have much higher standards. No rationale is provided for offered for the selection of a standard of 51%.

SB 1607 (Machado) Local agency formation.

Status: Senate Local Government Comm.

HEARING DATE: 05/05/2004

Summary:

Existing law requires a local agency formation commission to develop, determine, and adopt a sphere of influence of each local government agency within the county. This bill would prohibit the commission from approving or conditionally approving a change to

the sphere of influence of a local government agency of territory that is part of the “primary zone,” as defined, of the Sacramento-San Joaquin Delta, if that local government agency provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads to the territory.

CALAFCO Opposes this bill. As proposed, this bill would restrict the use of spheres in the Delta. It would be more appropriate to restrict the ability of agencies to provide the enumerated services in the stated area than to limit the use of a planning tool by the affected LAFCos (primarily Sacramento and San Joaquin).

AB 2306 (Richman) Local agency formation.

Status: To Assembly Local Government Comm. 04/22/2004 with author's amendments.

HEARING DATE: 04/28/2004

Summary:

Existing law authorizes the local agency formation commission to make any change of organization or reorganization of cities or special districts subject to one or more of various terms and conditions. Existing law authorizes the local agency formation commission to make any change of organization or reorganization of cities or special districts subject to one or more of various terms and conditions but prohibits the imposition of certain conditions. This bill would prohibit the commission from imposing a condition that requires an annexing local agency to *initiate proceedings for a change of organization or reorganization of* territory that was not contained in the annexation proposal submitted to the commission by the local agency.

CALAFCO Opposes this bill. This bill emanates from a local dispute between the City of Simi Valley and Ventura LAFCo, regarding local LAFCo policies to encourage island annexations. LAFCo’s often impose conditions upon annexations in order to ensure that the Legislature’s policies, the LAFCo’s policies, and the policies of the affected agencies, are met to the greatest degree possible. Whether a LAFCo will approve a proposal often depends on its ability to impose conditions and make modifications that balance the competing interests and issues of local agencies and property owners. Without this flexibility, a LAFCo would be left to merely approve or deny annexation proposals. Restricting these standard practices of LAFCos, as the amended AB 2306 proposes to do, may give LAFCos no choice but to deny many more proposals.

AB 2779 (Maze) Local agency.

Status:

03/11/2004 - ASM L. GOV. Referred to Assembly Comm. on Local Government.

Summary:

Existing law authorizes a local agency formation commission to approve an annexation to a city of island territory without an election or waive a protest hearing under specified conditions. Among those conditions is that the island territory does not exceed 75 acres in area. This bill would provide instead that the island territory does not exceed 80 acres in area.

CALAFCO is using this bill as a Placeholder. Staff will continue to monitor the bill.

AB 1936 (Berg) Local government organization.

Status: 04/20/2004 to Assembly Comm. on Local Government with author's amendments.

HEARING DATE : 04/28/2004

Summary:

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, specifies procedures for the organization and reorganization of local government and defines related terms including consolidation. This bill would change the definition of consolidation to include the uniting or joining of a county and all the cities within that county into a single new successor city and county.

*CALAFCO will continue to **Watch** this bill. This bill was introduced to allow Del Norte LAFCo to process a proposed consolidation of Crescent City and the County of Del Norte. Past practice has been for the legislature to create special legislation to allow such proposals to go before the voters of the affected communities. The bill has been amended consistent with past practice.*

SB 558 (Ducheny) Local residential zoning: vacant land.

Status:

01/29/2004 - ASM DESK In Assembly. Read first time. Held at Desk.

Summary:

The Planning, Zoning and Development Law requires a city or county to adopt a general plan for land use development that includes, among other things, a housing element. In exercising its authority to plan for land uses, a city or county is also required to identify an inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and to designate and zone sufficient vacant land for residential use with appropriate standards in relation to zoning for nonresidential use and to growth projections of the general plan in order to identify the total housing needs in the element. This bill would declare the Legislature's intent to require each city, county, and city and county to make available sufficient land to accommodate the jurisdiction's 20-year need for housing.

*CALAFCO Position: Watch in current form; **Oppose** if amended to reinstate mandates from previous version.*

This bill originally proposed to mandate that local planning authorities set aside territory to accommodate the 20-year housing needs projected for the area. The bill would have allowed the agency to set aside land in the sphere of influence for this purpose, which might have put pressure on LAFCos to expand spheres. However, as of January 16, 2004, the bill has been "guttled" and replaced with intent language. The Legislative Counsel's comments are a bit misleading, as the bill now says that agencies should make land available for housing needs over the next 20 years. It does not say that the Legislature intends to require that local agencies do this. It no longer speaks to spheres of influence.

AB 2067 (Harman) Local government reorganization: special district consolidation.

Status: 04/19/2004 Re-referred to Assembly Comm. on Local Government with Author's amendments.

HEARING DATE: 04/28/2004

Summary:

Existing law establishes procedures for the organization and reorganization of cities and special districts. With respect to the consolidation of special districts, existing law requires that all of the districts to have been formed pursuant to the same principal act. This bill would delete that requirement and would authorize the local agency formation commission to approve a proposal for reorganization that includes the consolidation of 2 or more special districts not formed pursuant to the same principal act if specified conditions are met. Among those conditions would be that the commission is able to designate a successor agency or agencies to deliver all of the services provided by the consolidating districts at the time of consolidation and that for any power for which no successor agency is designated the commission determines that there will be no adverse effect to public health or safety.

CALAFCO Sponsored this bill to allow consolidation of districts formed under different principal acts. CALAFCO and the Association of California Water Agencies are discussing alternative language to address certain concerns of ACWA.

Support:

SB 1820 (Machado) Land conservation contracts.

Status: 04/27/2004 Read second time. Amended. Re-referred to Senate Comm. on Appropriations

Summary:

Existing law makes the current fair market valuations required to determine the cancellation fee for removing land from a Williamson Act conservation subject to appeal to the county board of equalization. This bill instead would require the Department of Conservation, if it determines those current fair market valuations are inaccurate, to so inform the board of supervisors or city council considering the cancellation petition, and specifies the formula for the basis of the valuation for the cancellation penalty. (2) Existing law provides that when a city annexes land that is subject to a Williamson Act land conservation contract between the landowner and the county, the city may exercise an option to not succeed to rights, powers, and duties of the county under the contract in specified circumstances. This bill would repeal that option on January 1, 2006, and require that the city succeed to the contract when land under contract is annexed to the city. This bill contains other related provisions and other existing laws.

CALAFCO Supports this bill. This bill addresses the practice of using annexation to terminate Williamson Act contracts. It is consistent with the LAFCo mission to preserve agricultural and open space lands.

AB 392 (Montanez) Environmental justice and community-based transportation planning grants.

Status:

02/17/2004 - Referred to Senate Comm. on Transportation

Summary:

Existing law states that it is the intent of the Legislature to allocate \$10,000,000 annually to the Environmental Enhancement and Mitigation Program Fund. Under these provisions, local, state, and federal agencies and nonprofit entities may apply for and receive grants for environmental enhancement and mitigation projects related to the environmental impact of modifying existing transportation facilities or for the design, construction, or expansion of new transportation facilities. This bill would create the Environmental Justice Subaccount and the Community-Based Transportation Planning Subaccount in the State Highway Account, which would be funded from funds transferred to the subaccounts from the local assistance program of the State Highway Account . Under the bill, local agencies, nonprofit entities, metropolitan planning organizations, regional transportation organizations, Native American tribal governments, community-based organizations, public universities, local transportation commissions, port authorities, airport commissions, and similar entities would be authorized to apply for and receive grants from funds for these purposes , not to exceed \$300,000 for any single grant, to undertake environmental justice projects and community-based transportation planning projects meeting specified requirements. The bill would require the Department of Transportation to evaluate proposals and prepare a list of proposals recommended for funding .

CALAFCO Watch list.

Establishes the Environmental Justice Fund and Community Based Transportation Fund for grants to federal, state, local, and non-profit agencies for specified projects. States the Legislature's intent to allocate not less than \$6 million annually to those funds. The bill may struggle to get out of Appropriations, but signals the Legislatures growing interest in environmental justice.

AB 1195 (Cohn) Midpeninsula Regional Open Space District: annexation project: eminent domain.

Status: 04/01/2004 Chaptered by Secretary of State – Chapter 27, Statutes of 2004

Summary:

Existing law establishes procedures for the formation of park and open-space districts, and prescribes the powers, functions and duties of those districts. Existing law authorizes a district to take by grant, appropriation, purchase, gift, devise, condemnation, or lease, and to hold, use, enjoy, and lease or dispose of real personal property of every kind, and rights in real and personal property within or without the district, to the full extent of its powers. This bill would, notwithstanding those provisions, prohibit the Midpeninsula Regional Open Space District from exercising the power of eminent domain to acquire any real property or interest in real property in the San Mateo County Coastal Annexation Area, as defined in a specified resolution adopted by the Board of Directors of the

district. The bill would make legislative findings and declarations with respect to the need for special legislation in the district. This bill contains other related provisions.

This bill places limitations on the District after annexation. It does not place limitations on the principal LAFCo, San Mateo.

AB 1788 (Leslie) Sierra Nevada Conservancy.

Status: 04/26/2004 Re-referred to Assembly Comm. on Appropriations

Summary:

Existing law establishes various conservancies to acquire, manage, and direct the management of, and conserve public lands in the state. This bill would establish the Sierra Nevada Conservancy to acquire and direct the management of public lands within the Sierra Nevada Region, as defined, and would prescribe the membership, powers, and duties of the conservancy. The bill would specify that certain of its provisions would not become operative until the Legislature appropriates funds necessary to carry out those provisions, or until a bond act approved by the voters of this state includes an allocation of funds for the purposes of the bill.

CALAFCO Watch list

Establishes the Sierra Nevada Conservancy to acquire and manage public lands within the Sierra Nevada Region, consisting of 20 counties. Specifies that certain provisions are not operative until funds are allocated by the Legislature or a bond act. It is unclear what relationship this new agency would have to existing conservancies in the region.

SB 1089 (Johnson) State Water Pollution Control Revolving Fund.

Status: 04/27/2004 Read second time. Amended. Re-referred to Senate Comm. on Appropriations.

Summary:

Existing law continuously appropriates state and federal funds in the State Water Pollution Control Revolving Fund for the construction of publicly owned treatment works by a municipality, the implementation of a management program, the development and implementation of a conservation and management plan, and other related purposes in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. This bill would require the State Water Resources Control Board, for the purposes of administering that fund, to give preference, to the maximum extent possible, to capital improvement projects that are undertaken by a municipality that is subject to an administrative compliance order relating to its sanitary sewer collection system.

CALAFCO Watch list.

States the Legislature's intent that the State Water Resources Control Board, in administering the State Water Pollution Control Revolving Fund, give

preference to capital improvement projects undertaken by a municipality in response to an administrative compliance order for its sanitary sewer collection system. This change might have implications for some municipal service reviews.

SB 1272 (Ortiz) Special districts.

Status: 04/27/2004: Read second time. Amended. Re-referred to Senate Comm. on Appropriations. Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes

Summary: (1) Existing law requires the county auditor to either make or contract for an annual audit of the accounts and records of every special purpose district within the county for which an audit is not otherwise provided. This bill would require these audits to be performed in accordance with government auditing standards for financial and compliance audits and would impose various other requirements on these audits, *thus imposing a state-mandated local program*. The bill would require the Controller to review the audits under specified procedures and would make an annual appropriation to the Controller from the General Fund of up to \$600,000 for that purpose. (2) Existing law provides for the establishment and operation of various special districts, the composition of their governing boards, and the payment to governing board members for attending meetings and performing other duties. This bill would require special district governing boards to conduct legal and ethics orientation sessions that governing board members would be required to attend. This bill would also establish whistle-blower protections for members or employees who make protected disclosures of improper governmental activities, as specified. This bill would define the meetings for which compensation may be paid to members of governing boards of special districts and would limit travel expenses, as specified. This bill would require that for members who first take office on or after January 1, 2005, participation in group life insurance and health and welfare benefits shall be on a self-pay basis and provide that those members may not receive retirement benefits from the district. (3) Existing law provides that compensation of members of the governing board of any water district may not exceed \$100 per day for attendance at meetings *subject to a 5% annual adjustment*. This bill would repeal *those provisions*. (4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000. This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason. With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

CALAFCO Watch list.

This bill would place county auditors in a stronger oversight position with respect to special district accounting.

SB 1414 (Brulte) Local water agencies: consolidation.

Status:

03/04/2004 – To Senate Committee on Rules.

Summary:

Under existing law, various types of local water agencies provide water and perform other services on behalf of their customers. This bill would declare that it is the intent of the Legislature to enact legislation to consolidate certain local water agencies in southern California.

CALAFCO Watch list. San Bernardino LAFCo believes that this is related to issues in the Lake Arrowhead area. CALAFCO will watch this bill until the intent language is replaced with specific language. It is not clear if the legislature will mandate a consolidation or order a study.

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(Legislation May 5, 2004)