

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
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November 7, 2007

TO: Sacramento Local Agency Formation Commission
FROM: Peter Brundage, Executive Officer **PB**
RE: Legislative Update

CONTACT: Don Lockhart, AICP, Assistant Executive Officer (916) 874-2937

RECOMMENDATION

Information only, no action is recommended. This is a status report on 2007-08 LAFCo related legislation. *The position and level of priority information reflects action taken by the CALAFCo Board of Directors.*

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 745(Silva) Local agency formation commissions.

Last Amend: 06/26/2007

Status: 07/20/2007-Chaptered by the Secretary of State, Chapter Number 109, Statutes of 2007

Location: 07/20/2007-A CHAPTERED

Summary: *This bill was discussed more fully as Item 3 on your Agenda this evening.* The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires specified procedures to be followed for the submission of a proposal for a change of organization or reorganization to the local agency formation commission. Existing law requires the disclosure of expenditures for political purposes related to a change of organization or reorganization proposal that has been submitted to a local agency formation commission, and contributions in support of or in opposition to those measures. This bill would require expenditures for political purposes made in connection with a proposal that will be submitted to a local agency formation commission, and

contributions in support of or in opposition to those proposals, and expenditures for political purposes made in connection to proceedings for a change of organization or reorganization, and contributions in support of or in opposition to those proceedings, to be disclosed and reported to the same extent and subject to the same requirements of the Political Reform Act of 1974 as provided for local initiative measures.

Position: Support

Priority: 1

Notes: The amended bill requires contributions and expenditures on boundary changes approved by LAFCo to be disclosed and reported subject to the same requirements that the Political Reform Act provides for local initiatives. Further, it amends the state law that already requires contributions and expenditures on boundary change petitions to LAFCOs to clarify those provisions and insert a cross-reference to the Political Reform Act. It also clarifies the current law that allows LAFCOs to adopt more stringent local disclosure policies.

AB 1262(Caballero) Spheres of influence.

Last Amend: 06/11/2007

Status: 07/30/2007-Chaptered by Secretary of State - Chapter No. 167, Statutes of 2007

Location: 07/30/2007-A CHAPTERED

Summary: This bill revises the meet and confer procedure to, among other things, delete the time periods by which a city and county may reach an agreement. It also deletes the January 1, 2008, limitation provision, thereby making the revised procedure permanent. This bill contains other related provisions and other existing laws. The law requires a commission to develop and determine the sphere of influence of each local governmental agency within the county. The law requires, that at least 30 days prior to submitting an application to the commission for a determination of a new sphere of influence or to update an existing sphere of influence for a city, representatives from the city meet with county representatives to discuss the proposed sphere and its boundaries, and to explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere, as specified. If an agreement is reached, it is required to be submitted to the commission, which shall give it great weight in the final determination of the city's sphere of influence. If no agreement is reached, the commission shall consider the applicant city's sphere of influence consistent with specified policies of the commission.

Notes: The bill removes the sunset provision. Amendments are under consideration which will remove the 30-day language. By removing the sunset, this provision will become a permanent CKH requirement. By removing the 30-day language and the 30-day extension language, the bill eliminates confusion on the timeframes and would simply state that "prior to a city submitting and application..." the meeting must occur. Proposed amendments will also clarify that this provision is only applicable when a city submits an application, and that the agreement must be in writing.

AB 1263(Caballero) Local agency formation commissions: statement.

Last Amend: 05/21/2007

Status: 06/07/2007-In committee: Set, first hearing. Hearing canceled at the request of author.

Location: 05/21/2007-S L. GOV.

Summary: This bill will implement the changes recommended by the Legislative Committee, based on the CALAFCo survey and discussions among member LAFCos.

Position: Sponsor

Priority: 1

Notes: This bill is sponsored by CALAFCO and contains all the recommended changes to MSR/SOI determinations. The changes were based on several surveys of LAFCos and a number of workshops and discussions with LAFCo staff and commissioners around the state. CALAFCO and OPR are seeking an amendment which would eliminate the requirement for OPR to prepare MSR Guidelines. Because this bill has encountered no opposition, its contents are expected to be Amended into the Omnibus Bill, AB 1744.

AB 1744(Committee on Local Government) Local government reorganization.

Last Amend: 07/05/2007

Status: 09/06/2007-Enrolled and to the Governor at 6 p.m.

Location: 09/06/2007- CHAPTERED

Summary: Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, defines "prime agricultural land" to mean an area of land that has not been developed for a use other than an agricultural use, and that, among other qualifications, supports livestock used for the production of food and fiber, and that has an annual carrying capacity equivalent to at least one animal unit per acre, as defined in the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July 1967. This bill instead uses the National Range and Pasture Handbook, Revision 1, December 2003, to provide at least one animal unit per acre, as specified. It would also make various technical, nonsubstantive changes to the act. This bill contains other related provisions and other existing laws.

Notes: This is the Assembly Omnibus Bill for 2007, which contains technical, non-controversial changes to Cortese-Knox-Hertzberg. All of these items (to date) were submitted by the CALAFCO Legislative Committee. Only those items which receive a consensus of various stakeholders (outside of CALAFCO) will appear in the bill. CALAFCO has submitted 14 potential items. Items will be amended into the bill prior to its hearing at the Senate Local Government Committee on 20 June.

SB 162(Negrete McLeod) Local government: organization.

Last Amend: 03/05/2007

Status: 09/06/2007-Enrolled. To Governor at 4 p.m.

Location: 09/06/2007- CHAPTERED

Summary: Existing law, the Cortese-Knox-Hertzberg Act, specifies the factors that a local agency formation commission is required to consider in the review of a proposal for a change of organization or reorganization including the comments of any affected local agency and information or comments from the landowner or owners, as specified. This bill would also require a local agency formation commission to consider information or comments from voters or residents of the affected territory and the extent that the proposal will promote environmental justice, as defined, thus creating a state-mandated local program. This bill contains other related provisions and other existing laws.

Notes: The CALAFCO Board has taken a watch position on this bill and requested that it be amended from "promote environmental justice" to "affect environmental justice."

SB 301(Romero) Local governments: cities.

Last Amend:

Status: 05/14/2007-Failed Deadline pursuant to Rule 61(a)(3). Last location was RLS.

Location: 05/14/2007-S 2 YEAR

Summary: Existing law governs the organization and reorganization of local governments. This bill would express the intent of the Legislature to enact legislation that would provide a resource to interested residents who want to commission a study on the logistics and costs of incorporating a city.

Position: Watch

Priority: 1

Notes: This bill did not make it out of committee and has become a two-year bill. It would declare the Legislature's intent to create a fund to assist community organizations with funding the studies (CFA, CEQA) associated with incorporations.

SB 819(Hollingsworth) Local government: consolidation.

Last Amend: 05/30/2007

Status: 07/20/2007-Chaptered by the Secretary of State, Chapter Number 98, Statutes of 2007

Location: 07/20/2007-S CHAPTERED

Summary: Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes procedures for the organization and reorganization of cities and special districts. With respect to the consolidation of special districts, until January 1, 2005, the law required all of the districts to have been formed pursuant to the same principal act. Existing law, until July 1, 2008, permits the consolidation of 2 or more special districts not formed pursuant to the same principal act if certain procedures are followed. This bill deletes that July 1, 2008, expiration date on the authorization to consolidate 2 or more special districts not formed pursuant to the same principal act. This bill contains other related provisions and other existing laws.

Notes: This bill was sponsored by CALAFCO. It removes the sunset on AB 2067 (Harman) that gave LAFCo the authority to consolidate districts formed under different statutes. That authority is currently sunsets on 1 July 2008. This bill will make the statute a permanent provision of Cortese-Knox-Hertzberg. This bill also provides LAFCo with a new authority to initiate a proposal to form a successor district. The bill has been amended to address a conflict between two districts. Legislative Counsel believes the amendment has no affect, but has been included for political purposes. CALAFCO continues to support the bill as amended.

AB 1019(Blakeslee) Land use: annexation: housing.

Last Amend: 07/03/2007

Status: 07/30/2007-Chaptered by Secretary of State - Chapter No. 165, Statutes of 2007

Location: 07/30/2007-A CHAPTERED

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes local governments to annex portions of territory to other local governments, as specified. This bill authorizes a similar mutually acceptable agreement on a revised determination of regional housing needs if an annexation of unincorporated land to a city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation. This bill contains other existing laws.

Notes: This bill was introduced at the request of Santa Barbara County to address regional housing needs allocation number issue.

SB 343(Negrete McLeod) Local agencies: open meetings: documents.

Last Amend: 06/21/2007

Status: 09/06/2007-Enrolled. To Governor at 4 p.m.

Location: 09/06/2007-S CHAPTERED

Summary: The Ralph M. Brown Act requires that any meeting of a legislative body of a local agency be open and public and all persons be permitted to attend. The act requires the body to post an agenda at least 72 hours before a regular meeting and provides that agendas and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a meeting of the body are public records subject to the public disclosure requirements of the California Public Records Act. This bill provides that if a writing that is a public record under these provisions, and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection at a public office or location that the agency shall designate for this purpose. It requires each local agency to list the address of the office or location on the agendas for all meetings of the legislative body of that agency. It also authorizes a local agency to post a writing that is a public record under these provisions on the agency's Internet Web site. It would make these provisions effective on July 1, 2008.

Notes: This bill has been significantly amended to provide more flexibility for posting new information available within 72 hours of a meeting by allowing posting of the material on the LAFCo website or other designated location. LAFCo Clerks should review the bill to ensure current practices align with the legislation.

SB 375(Steinberg) Transportation planning: travel demand models: preferred growth scenarios: environmental review.

Last Amend: 07/17/2007

Status: 09/12/2007- From Committee

Location: 09/12/2007-A APPR

Summary: Existing law requires certain transportation planning activities by the Department of Transportation and by designated regional transportation planning agencies, including development of a regional transportation plan. Existing law authorizes the California Transportation Commission, in cooperation with the regional agencies, to prescribe study areas for analysis and evaluation. This bill would require the commission, by April 1, 2008, to adopt guidelines for travel demand models used in the development of regional transportation plans by certain transportation planning entities. The bill would require the Department of Transportation to assist the commission, on request, in this regard, and would impose other related requirements. This bill contains other related provisions and other existing laws.

Priority: 2

SB 806(Hollingsworth) Governmental reorganization: fire agencies: San Diego County.

Last Amend:

Status: 05/02/2007-Failed Deadline pursuant to Rule 61(a)(2). Last location was L. GOV.

Location: 05/02/2007-S 2 YEAR

Summary: Existing law provides for the reorganization of fire protection districts pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This bill would provide for the consolidation of districts into the consolidated regional fire agency or entity in San Diego County, to be funded commencing July 1, 2008, by an allocation by the auditor of the County of San Diego of an amount equal to 1% of the countywide ad valorem property tax revenue. This bill contains other related provisions and other existing laws.

Position: Watch

Priority: 2

Notes: This has become a two-year bill. It is supported by the San Diego LAFCo.

SB 964(Romero) Local agencies.

Last Amend: 05/10/2007

Status: 09/06/2007-Enrolled. To Governor at 4 p.m.

Location: 09/06/2007-S VETOED

Summary: The Ralph M. Brown Act requires that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend unless a closed session is authorized. The act prohibits any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item, with an exception for an authorized teleconference. An appellate court in *Wolfe v. City of Fremont* (2006) 144 Cal.App.4th 533 held that a violation of this prohibition occurs only if a series of meetings by members of a body results in a collective concurrence. This bill would instead prohibit a majority of members of a legislative body of a local agency from using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. It also would state the Legislature's declaration that it disapproves the holding of the court in the case named above to the extent it construes the prohibition on serial meetings and would state its intention that the changes made by this bill supersede that holding. This bill contains other related provisions and other existing laws.

Notes: This bill has been prepared in response to a court decision last year which rejected some of the provisions of the Brown Act. As written it essentially reestablishes the status quo. It is not expected to change the requirements or restrictions on communication with commissioners or communication among commissioners outside of LAFCo meetings.

SB 1046(Committee on Environmental Quality) California Environmental Quality

Act: fees and notices: recreational uses of reservoirs.

Last Amend: 06/26/2007

Status: S CHAPTERED

Summary: Existing law requires the Department of Fish and Game to impose and collect filing fees, in prescribed amounts, to defray the costs of managing and protecting fish and wildlife trust resources, including, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, developing monitoring requirements for purposes of the California Environmental Quality Act (CEQA), consulting, and other activities protecting specified trust resources. Existing law requires a local agency to pay a filing fee for a project for which it prepares a negative declaration pursuant to CEQA, or for a project with an environmental impact report (EIR) pursuant to CEQA, to the county clerk at the time of filing a notice of determination. Existing law requires a state agency to pay a filing fee for a project for which it prepares a negative declaration, or for a project with an EIR, to the Office of Planning and Research at the time of filing a notice of determination. This bill requires a local agency, upon collecting a filing fee from the project applicant, to remit it to the county clerk at the time of filing a notice of determination. The bill requires a state agency to collect and remit the filing fee to the office at the time of filing a notice of determination. This bill contains other related provisions and other existing laws.

AB 5(Wolk) Flood protection.

Last Amend: 06/21/2007

Status: CHAPTERED

Summary: Existing law requires any person who intends to offer subdivided lands for sale or lease to file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire. The notice of intention is required to contain certain information about the subdivided lands and the proposed offering. This bill requires, as to any subdivision located in a flood hazard zone, the notice of intention to include a specified statement related to the risk of flooding but for the protection provided by a levee. This bill contains other related provisions and other existing laws.

AB 162(Wolk) Land use: water supply.

Last Amend: 08/31/2007

Status: CHAPTERED

Summary: The Planning and Zoning Law requires a city or county general plan to include specified mandatory elements, including a land use element that designates the proposed general distribution and general location and extent of the uses of the land for various purposes and a conservation element that considers, among other things, the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations, and provides that the conservation element may also cover, among other things, flood control. The bill requires the land use element to identify and annually review those areas covered by the general plan that are subject to flooding as identified by floodplain mapping prepared by the Federal Emergency Management Agency or the Department of Water Resources. The bill also requires, upon the next revision of the housing element, on or after January 1, 2009, the conservation element of the general plan to identify rivers, creeks, streams, flood corridors, riparian habitat, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management. By imposing new duties on local public officials, the bill creates a state-mandated local program. This bill contains other related provisions and other existing laws.

AB 224(Wolk) Water supply planning.

Last Amend: 08/01/2007

Status: 08/30/2007-In committee: Set, first hearing. Held under submission.

Location: 08/30/2007-S APPR. SUSPENSE FILE

Summary: Under existing law, various state and local agencies engage in water resource planning. This bill would enact the Climate Change and Water Resource Protection Act of 2007. The bill would require the Department of Water Resources, as part of its statewide water resource management responsibilities, to include an analysis of the potential effects of climate change, to the extent applicable, in reports or plans that the department is required to prepare. The bill would prohibit the department from approving

a request for a specified grant, submitted after January 1, 2010, unless certain requirements are met. The department would be required, by July 1, 2008, to identify available peer-reviewed information, or the best available scientific information, regarding climate change and water resources for the state and each of the state's hydrologic regions for specified uses. The bill, on and after January 1, 2009, would require an urban water supplier and an agricultural water supplier that is required to prepare a water management plan to take certain action relating to specified climate change information. This bill contains other related provisions.

Position: Watch

Priority: 3

AB 665(DeSaulnier) Growth management.

Last Amend: 09/07/2007

Status: VETOED

Summary: Existing law provides that the Office of Planning and Research within the Governor's office serves as the state's comprehensive planning agency in the formulation, evaluation, and updating of, among other things, long-range goals and policies for land use, population growth and distribution, urban expansion, development, open space, resource preservation and utilization, air and water quality, and other factors that shape statewide development patterns and significantly influence the quality of the state's environment. The bill would request, to the extent that funding is available, that the University of California produce a report on the best practices of transportation-land use planning and growth management, that includes specified criteria. This bill contains other related provisions.

SB 5(Machado) Flood management.

Last Amend: 09/05/2007

Status: CHAPTERED

Summary: The existing Disaster Preparedness and Flood Prevention Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance and sale of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. That existing act requires the compilation of a state plan of flood control. This bill makes legislative findings and declarations regarding the necessity of developing a comprehensive integrated flood policy and flood management program that addresses all aspects of flood management, clarifying the roles and responsibilities of the state, local flood management agencies, cities and counties, developers, and property owners as part of an integrated flood policy, and integrating the flood-related funding authorized by those bond acts with the integrated flood policy and flood management program. This bill contains other related provisions and other existing laws.

SB 17(Florez) Flood protection.

Last Amend: 06/04/2007

Status: CHAPTERED

Summary: Existing law establishes the 7-member Reclamation Board in the Department of Water Resources. Existing law requires the board members to be appointed and to serve at the pleasure of the Governor. Existing law prescribes compensation for each board member for time spent attending meetings of the board in the amount of \$100, except as specified. Existing law requires the board to elect one of its members as president. Existing law requires the board to appoint a secretary, who may be a board member, and authorizes the board to appoint a general manager, a chief engineer, and an assistant secretary. Existing law authorizes the board to employ certain other employees. This bill renames the Reclamation Board the Central Valley Flood Protection Board. The bill requires the board to act independently of the department. The bill states the intent of the Legislature to transfer the duties and corresponding funding allocated to the Reclamation Board as it exists on December 31, 2007, together with all necessary positions, to the board as it is reconstituted on and after January 1, 2008. The bill prohibits the department from overturning any action or decision by the board. The bill increases the membership of the board from 7 to 9 members. The bill requires 7 members to be appointed by the Governor, subject to Senate confirmation, 4 of whom would be required to meet specified eligibility requirements and 3 of whom would be designated as public members. The bill requires one board member to be appointed by the Senate Committee on Rules and one board member to be appointed by the Speaker of the Assembly and designates those 2 members as public members. The bill, with a certain exception, requires the board members to serve 4-year terms. The bill requires the board members to receive a salary identical to that received by members of the State Air Resources Board. The bill requires the Governor to select one of the board members as president. The bill repeals provisions relating to the appointment or employment of specified personnel and, instead, authorizes the board to appoint an executive officer and chief engineer and to employ legal counsel and other necessary staff. This bill contains other related provisions and other existing laws.

SB 378(Steinberg) Disaster Preparedness and Flood Prevention Bond Act of 2006.

Last Amend: 06/04/2007

Status: 06/19/2007-To Com. on W.,P. & W.

Location: 06/19/2007-A W.,P. & W.

Summary: The Disaster Preparedness and Flood Prevention Bond Act of 2006, which was enacted by the Legislature and approved by the voters at the November 7, 2006, statewide general election, authorizes the expenditure of \$4,090,000,000 in bond funds for specified disaster preparedness and flood prevention projects. Those projects include projects for the evaluation, repair, rehabilitation, reconstruction, or replacement of levees, weirs, bypasses, and facilities of the State Plan of Flood Control; improving or adding facilities to the State Plan of Flood Control to increase levels of flood prevention for

urban areas; reducing the risk of levee failure in the delta; and protection, creation, and enhancement of flood protection corridors and bypasses through specified actions. The bill would require the Department of Water Resources (department), when evaluating levees and facilities pursuant to a specified project, to include an evaluation of the risk of the levees and facilities failing due to a seismic event. In implementing the projects for the protection, creation, and enhancement of flood protection corridors and bypasses through specified actions, the bill would require the department to give priority for projects and expenditures that result in a systemwide reduction of flood risks and for projects that address the needs of disadvantaged communities, as the bill would define that term. A grant program that would provide bond funds to rehabilitate, reconstruct, replace, or improve existing flood levees, or construct new flood levees, or other management facilities that are a part of the State Plan of Flood Control would be required to comply with specified requirements. This bill contains other related provisions and other existing laws.

Position: Watch

Priority: 3

SB 862(Kuehl) Water resources.

Last Amend: 09/07/2007

Status: VETOED

Summary: Under existing law, the Department of Water Resources operates the State Water Project, which includes state water facilities, as defined. This bill would require the department, commencing in 2009, and every 2 years thereafter, to prepare and deliver to all State Water Project contractors, all city and county planning departments, and all regional and metropolitan planning departments within the project service area a report that accurately sets forth, under a range of hydrologic conditions, the then-existing overall delivery capability of the project facilities and the allocation of that capacity to each contractor. This bill contains other related provisions and other existing laws.