SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
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September 1, 2010

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.

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, (Please see below.)

Staff will continue to track the bills, in collaboration with CALAFCO, and report back to the Commission.

PENDING LEGISLATION

CALAFCO Daily Legislative Report
as of 8/27/2010

AB 419 (Caballero D) Local government: change of organization or reorganization: elections.

Current Text: Chaptered: 7/7/2010 pdf html
Introduced: 2/23/2009
Last Amended: 5/17/2010
Status: 7/7/2010-Chaptered by Secretary of State - Chapter 35, Statutes of 2010.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would, beginning January 1, 2011, require the board of supervisors or the city council to take action, to order and place the item on the ballot, within 45 days of notification by the local agency formation commission, and would require the elections official to place the item on the ballot at the next regular election if the board of supervisors or the city council fails to take action within 45 days of the notification. This bill would also make conforming changes.

Position: Support
Subject: CKH General Procedures
CALAFCO Comments: This bill was a gut-and-amend to specify that a Board or Council has 45 days to place an item on the next general election ballot when requested by a LAFCo. Current law does not specify the number of days nor state what happens if the item is not placed on the ballot. If the Board or Council does not act within 45 days it requires the election official to place the item on the next General Election ballot. Adds a requirement that LAFCo must notify the election official as well as the Board or Council of an item to be placed on the ballot. It provides clarity to the process.

AB 853 (Arambula I) Local government: organization.
Current Text: Enrollment: 8/24/2010 pdf html
Introduced: 2/26/2009
Last Amended: 8/18/2010
Status: 8/24/2010-Assembly Rule 77 suspended. Senate amendments concurred in. To enrollment.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would require a board of supervisors, within 180 days of receiving a petition to apply for annexation to a city or reorganization that includes an annexation to a city, to adopt a resolution of application for an annexation to a city or reorganization that includes an annexation to a city if the affected territory meets specified conditions, thereby imposing a state-mandated local program. This bill contains other related provisions and other existing laws.
Attachments:
CALAFCO Letter of Concern
Letter of Opposition

CALAFCO Analysis of Concerns with Amended Bill
CALAFCO Watch Letter - 28 July 2010

Position: Watch
Subject: Annexation Proceedings, Service Reviews/Spheres, Environmental Justice, Municipal Services
CALAFCO Comments: This bill has been significantly amended several times. In the current 1 July 2010 version it requires LAFCos to identify disadvantaged inhabited communities when performing sphere reviews or updates of local agencies. In addition to identifying the communities, the bill requires LAFCo to inventory any water, wastewater or fire protection infrastructure deficiencies in those communities. It allows LAFCo discretion in identifying the size of a disadvantaged inhabited community. The bill also provides a mechanism for residents to petition a Board of Supervisors to be annexed to a city if they are within an existing city SOI. It requires the Board to send a resolution to LAFCo for the annexation and be responsible for the application costs. The bill takes effect on 1 July 2011. It creates an unfunded mandate for LAFCos by requiring this additional information. Those costs will have to be absorbed within a LAFCo budget and will likely result in an increased LAFCo allocation from cities, counties and special districts. Nonetheless the Legislative Committee felt that significant changes have been made in the bill to address the majority of CALAFCO concerns and changed the position to WATCH.

AB 1668 **(Knight R) Local government: city councils.**
Current Text: Chaptered: 7/7/2010 pdf html
Introduced: 1/20/2010
Last Amended: 5/24/2010
Status: 7/7/2010-Chaptered by Secretary of State - Chapter 38, Statutes of 2010.

2Year Bill	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Cons	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would require the city council to, within 60 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified. This bill contains other related provisions and other existing laws.

Position: Support
Subject: Incorporation Proceedings
CALAFCO Comments: This bill is nearly identical to AB 18 introduced by Assembly Member Knight in 2009. In addition to specifying the number of days a city council has to fill a vacancy, it clarifies the number of seats up for election at the first election following incorporation. CALAFCO supported AB 18. That bill was vetoed by the Governor because he felt current law was adequate on number of days to fill a vacancy. His veto was silent on number of seats at the first election. CALAFCO has also included the seats up for election as an Assembly Omnibus Bill item.

AB 1668 has been amended several times to make in consistent with both the Assembly and Senate Local Government committees omnibus bills. The author has been in discussions with the Governor's office to help insure a signature should it pass. If both AB 1668 and AB 2795 (Assembly Omnibus Bill) pass, their language will be subject to double-jointing by Legislative Counsel.

AB 1859 **(Norby R) Local government: change of organization or reorganization.**
Current Text: Amended: 4/8/2010 pdf html
Introduced: 2/12/2010
Last Amended: 4/8/2010

Status: 4/23/2010-Failed Deadline pursuant to Rule 61(b)(5). (Last location was L. GOV. on 4/21/2010)

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would include within a local agency formation commission' s powers the power to approve, disapprove, or approve conditionally, a request by a redevelopment agency to establish, extend, or expand a project area. The bill would include within the definition of "change of organization" a proposal to establish, extend, or expand a project area, and would define the term "project area." By expanding a local agency formation commission's duties, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: Annexation Proceedings
CALAFCO Comments: This bill would have placed Redevelopment Agency Project Areas under CALAFCO review. It added to LAFCo the power to review and approve, deny or conditionally approve a new project area or the expansion of an existing project area. It died in Committee.

AB 2795 **(Committee on Local Government) Local government: organization.**
Current Text: Chaptered: 7/7/2010 pdf html
Introduced: 3/24/2010
Last Amended: 5/27/2010
Status: 7/7/2010-Chaptered by Secretary of State - Chapter 47, Statutes of 2010.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would define "divestiture of power" as used in the act and would make additional changes to clarify and maintain the consistency of the act. This bill contains other related provisions and other existing laws.

Position: Sponsor
Subject: CKH General Procedures
CALAFCO Comments: This is the Assembly Local Government Committee Omnibus bill. The bill is prepared and sponsored by CALAFCO and makes technical, non-significant changes to C-K-H.

SB 194 **(Florez D) Community Equity Investment Act of 2010.**
Current Text: Amended: 8/2/2010 pdf html
Introduced: 2/23/2009
Last Amended: 8/2/2010
Status: 8/26/2010-In Senate. To unfinished business.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar:
8/27/2010 #29 SENATE UNFINISHED BUSINESS
Summary:
Would enact the Community Equity Investment Act of 2010. The bill would make legislative findings and declarations relating to disadvantaged unincorporated communities. The bill would specify how funds received pursuant to the federal State Community Development Block Grant Program are expended at the local government level and would impose various requirements on a local government in

receipt of those funds that would, among other things, ensure the representation and participation of citizens of disadvantaged unincorporated communities.
Attachments:

Position: Watch
Subject: Municipal Services, Planning
CALAFCO Comments: This bill is intended to provide municipal services and infrastructure investment to disadvantaged unincorporated communities. The bill would direct Federal State Community Development Block Grants (CDBG) towards infrastructure improvements in disadvantaged communities within cities and the unincorporated county. It requires the creation of a citizens advisory panel on the use of funds and notification of residents in disadvantaged communities of the availability of funds and to encourage input on their use.

SB 894 **(Committee on Local Government) Local Government Omnibus Act of 2010.**
Current Text: Enrolled: 8/23/2010 pdf html
Introduced: 1/25/2010
Last Amended: 6/7/2010
Status: 8/19/2010-Senate concurs in Assembly amendments. (Ayes 35. Noes 0.) To enrollment.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	**Enrolled**	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would repeal this requirement. This bill contains other related provisions and other existing laws.

Position: Support
Subject: Annexation Proceedings, CKH General Procedures
CALAFCO Comments: This is the Senate Local Government Committee Omnibus Bill. It contains two items related to LAFCo: 1) clarifies the statute of limitations for challenges to a LAFCo city boundary change and eliminates an antiquated conflicting section; and 2) cleans up language in various local government laws to clarify that judges can resolve land use and environmental lawsuits through mediation before it goes to trial.

AB 155 **(Mendoza D) Local government: bankruptcy proceedings.**
Current Text: Amended: 8/20/2010 pdf html
Introduced: 1/26/2009
Last Amended: 8/20/2010
Status: 8/24/2010-From committee: Be re-referred to Com. on APPR pursuant to Senate Rule 29.10. (Ayes 3. Noes 1.) Re-referred to Com. on APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	**Fiscal**	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would provide that a local public entity may only file under federal bankruptcy law with the approval of the California Debt and Investment Advisory Commission, except as specified. The bill would also provide an alternative procedure for a local entity to file under federal bankruptcy law by submitting specific analyses regarding its financial position to the State Auditor who would be required to audit the analyses and financial position of the local entity. The public entity would be authorized to file a

petition under federal bankruptcy law after the State Auditor has notified the public entity of completion of its audit work and made public the findings of that audit.

Position: None at this time
Subject: Financial Viability of Agencies
CALAFCO Comments:

AB 711 **(Calderon, Charles D) Local agency formation commissions: cost of incorporation proceedings.**
Current Text: Chaptered: 6/7/2010 pdf html
Introduced: 2/26/2009
Last Amended: 4/22/2010
Status: 6/7/2010-Chaptered by the Secretary of State, Chapter Number 25, Statutes of 2010

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would transfer $45,000 from the Environmental Enhancement and Mitigation Program Fund to the General Fund, and appropriate that amount from the General Fund to the Controller for allocation to the Los Angeles County Local Agency Formation Commission for a loan to the East Los Angeles Residents Association, as specified. The bill would make findings and declarations regarding the need for a special statute. This bill contains other related provisions.

Position: Watch
Subject: Incorporation Proceedings
CALAFCO Comments: This would be the first time legislation has been introduced to provide funds for the State Controller to allocate to fund incorporation studies as provided in CKH. The legislation is specific that the process must be consistent with CKH law.

AB 2530 **(Nielsen R) Local government: Williamson Act: contracts.**
Current Text: Amended: 8/25/2010 pdf html
Introduced: 2/19/2010
Last Amended: 8/25/2010
Status: 8/26/2010-Read second time. To third reading.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar:
8/27/2010 #157 SENATE ASSEMBLY BILLS-THIRD READING FILE
Summary:
Would beginning January 1, 2011, and until January 1, 2015, authorize a county, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue is less than 1/2 of the participating county' s actual foregone general fund property tax revenue, to revise the term for new contracts and require the assessor to value the property, as specified, based on the new contract. The bill would provide that a landowner may choose to nonrenew and begin the cancellation process. The bill would also provide that any increased revenues generated by properties under a new contract shall be paid to the county .

Position: Watch
Subject: Ag Preservation - Williamson

CALAFCO Comments: This bill is sponsored by a coalition of organizations working to preserve the Williamson Act. CALAFCO supports the work of the Coalition.

SB 1023 **(Wiggins D) Special districts: consolidation and reorganization.**
Current Text: Chaptered: 7/9/2010 pdf html
Introduced: 2/11/2010
Last Amended: 4/27/2010
Status: 7/9/2010-Chaptered by Secretary of State - Chapter 68, Statutes of 2010.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would until January 1, 2018, authorize the local agency formation commission to approve or conditionally approve an expedited reorganization of specified districts into a community services district, with the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the district proposed to be dissolved, unless the governing body of the district proposed to be dissolved files a resolution of objection with the commission, as specified. This bill contains other related provisions and other existing laws.

Position: Support
Subject: Special District Consolidations
CALAFCO Comments: This bill provides an expedited process for the conversion of Resort Improvement Districts and select Municipal Improvement Districts to Community Service Districts or a Recreation and Park District. CALAFCO and the affected LAFCos and districts have been consulted on this legislation.

SB 1174 **(Wolk D) Land use: general plan: Future Sustainable Communities Pilot Project.**
Current Text: Amended: 6/24/2010 pdf html
Introduced: 2/18/2010
Last Amended: 6/24/2010
Status: 8/13/2010-Set, second hearing. Held in committee and under submission.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would establish the Future Sustainable Communities Pilot Project. The bill would authorize a city or county with a disadvantaged unincorporated community, as defined, inside or near its boundaries to apply to the Strategic Growth Council, as specified, to receive the financial assistance necessary to update its general plan to facilitate the transformation of the disadvantaged unincorporated community into a sustainable community. The bill would require the Strategic Growth Council to choose 5 cities and 5 counties with a disadvantaged unincorporated community inside or near their boundaries to receive financial assistance. The bill would require, upon receipt of the financial assistance from the council, the city or county to review, prepare, and adopt amendments to one or more elements of its general plan, as necessary to include data and analysis, goals, implementation measures, policies, and objectives to address the presence of unincorporated island, unincorporated fringe, or unincorporated legacy communities, as respectively defined, inside or near its boundaries, and to incorporate into the general plan specified purposes relating to the establishment of sustainable communities. The bill would also require the updated general plan to include specified information. This bill would further require the city or county to make a diligent effort to involve all members of the public in preparing the review and update of the general plan. This bill contains other existing laws.

Position: Watch
Subject: Annexation Proceedings, Service Reviews/Spheres, Growth Management, Environmental Justice, Planning
CALAFCO Comments: As amended in June, this bill directs the Strategic Growth Council to fund up to ten pilot planning projects for disadvantaged communities. These projects include general plan updates identifying how the infrastructure in the community would be brought up to contemporary standards. Five cities and five counties could apply to be pilot projects.

AB 827 **(De La Torre D) Local public employees.**
Current Text: Amended: 8/18/2010 pdf html
Introduced: 2/26/2009
Last Amended: 8/18/2010
Status: 8/19/2010-Read second time. To third reading. Re-referred to Com. on RLS. pursuant to Senate Rule 29.10 (c).

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar:
8/27/2010 Anticipated Hearing SENATE THIRD READING, Not in daily file.
Summary:
Would notwithstanding that provision, on and after January 1, 2011, prohibit an employment contract for a local excluded employee, as defined, from including any clause that provides for an automatic renewal, an automatic compensation increase, a severance payment greater than 12 months' salary, or an automatic raise in excess of a cost-of-living adjustment. The bill would also require a performance review of any unrepresented individual who is or will be employed by, and report directly to, the legislative body of the local agency, before a raise in excess of a cost-of-living adjustment may be implemented for that individual. The bill would also require the vote to increase that person's salary in excess of a cost-of-living adjustment to be made in open session. By expanding the duties of local officials, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: LAFCo Administration
CALAFCO Comments: This bill will likely affect LAFCo Executive Officers and other exempt employees who have contracts with their commissions. Places sever restrictions on contract renewal and compensation increases.

AB 1955 **(De La Torre D) Local government: compensation.**
Current Text: Amended: 8/20/2010 pdf html
Introduced: 2/17/2010
Last Amended: 8/20/2010
Status: 8/20/2010-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would require the Controller to determine , based on a review of public records or reported salary information, whether a city is an excess compensation city, as defined. The bill would authorize a city to request a hearing, as specified, to contest the Controller's determination. The bill would require the Controller, if the city does not request a hearing or if the Attorney General concurs with the Controller's determination after a hearing , to notify the Franchise Tax Board and the

redevelopment agency in the city of the city's status as an excess compensation city, as prescribed. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: LAFCo Administration
CALAFCO Comments: Sets limits on compensation for city councils. May be expanded to cover other local agencies.

AB 1987 (Ma D) **Public retirement: final compensation: computation: retirees.**
Current Text: Amended: 8/23/2010 pdf html
Introduced: 2/17/2010
Last Amended: 8/23/2010
Status: 8/23/2010-Senate Rule 29.3 suspended. Re-referred to Com. on RLS. From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would generally provide, effective July 1, 2011, that any change in salary, compensation, or remuneration principally for the purpose of enhancing a member's benefits would not be included in the calculation of a member's final compensation for purposes of determining that member's defined benefit. The bill would require the board of each state and local public retirement system to establish, by regulation, accountability provisions that would include an ongoing audit process to ensure that a change in a member's salary, compensation, or remuneration is not made principally for the purpose of enhancing a member's retirement benefits. This bill would limit the calculation of a member's final compensation to an amount not to exceed the average increase in compensation received within the final compensation period and the 2 preceding years by employees in the same or a related group as that member. This bill would also require a board of each state and local public retirement system to establish, by regulation, a requirement that a person who retires on or after January 1, 2012, may not perform services for any employer covered by a state or local retirement system until that person has been separated from service for a period of at least 180 days. This bill would provide for the implementation of the changes under the applicable retirement laws that apply to counties and cities. This bill contains other related provisions.

Position: Watch
Subject: LAFCo Administration
CALAFCO Comments: Affects 1937 Act retirement plans.

AB 2064 (Huber D) **State and local government: salary disclosure.**
Current Text: Amended: 8/20/2010 pdf html
Introduced: 2/18/2010
Last Amended: 8/20/2010
Status: 8/23/2010-Read second time. To third reading. Re-referred to Com. on RLS. pursuant to Senate Rule 29.10(c).

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would require each general law or charter city, county, city and county, special district, school district, and joint powers agency to post on its official Internet Web site, if it maintains one, and annually update, annual salary information pertaining to specified persons, including, among others, each elected or appointed official of that entity, thus imposing a state-mandated local program. The bill would provide that this

provision not become operative if a specified condition occurs. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: LAFCo Administration
CALAFCO Comments: Requires posting of local agency elected official compensation and the chief executive compensation. Does not specify LAFCo.

AB 2776 **(Huffman D) Transfers of water: agricultural use to municipal use.**
Current Text: Amended: 7/15/2010 pdf html
Introduced: 3/1/2010
Last Amended: 7/15/2010
Status: 8/10/2010-From committee without further action pursuant to Joint Rule 62(a).

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:
Would prohibit the department, with respect to a contractual entitlement to water from the State Water Project, and the state board, with respect to any other transfer of water or water rights, from approving the transfer of surface water or water rights, or a portion of a contractual entitlement to water from the State Water Project, from agricultural use to municipal use for a period of 20 years or more, unless the water user provides to the department or the state board, as applicable, a written evaluation of the economic, social, and environmental effects of the transfer upon the service area from which the water is to be transferred. The bill would prohibit a water user from replacing specified surface water that is transferred from agricultural use to municipal use with groundwater, unless the groundwater basin of the service area from which the water is to be transferred is monitored and managed in accordance with specified requirements. The bill would require the department and the state board to charge specified fees to a water user that is subject to these provisions. This bill contains other existing laws.

Position: None at this time
Subject: Water
CALAFCO Comments: This bill would severely restrict participants in the State Water Project from transferring water allocations from agricultural to municipal uses. The current bill resulted in a gut and amend of a placeholder bill on 28 June.

SB 501 **(Correa D) Local government: compensation disclosure.**
Current Text: Amended: 8/20/2010 pdf html
Introduced: 2/26/2009
Last Amended: 8/20/2010
Status: 8/23/2010-Assembly Rule 69(d) suspended.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar:
8/27/2010 #134 ASSEMBLY SENATE THIRD READING FILE
Summary:
Would require filers , as defined, to annually file a compensation disclosure form, as specified. This bill would require the Secretary of State to develop the form, which would provide for the disclosure of, among other things, salaries and stipends , automobile and equipment allowances, and incentive and bonus payments . This bill would also require a county, city, city and county, school district, special district, or joint powers agency that maintains an Internet Web site to post the information contained on the filed form on that Internet Web site, as specified. The bill would

authorize a district attorney or any interested person to commence an action by mandamus to enforce the provisions of the bill, as specified. The duties imposed on local departmental agencies by the bill would create a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: LAFCo Administration
CALAFCO Comments: May limit compensation of LAFCo staff or require disclosure of LAFCo compensation.

SB 1425 **(Simitian D) Public retirement: final compensation: computation: retirees.**
Current Text: Amended: 8/19/2010 pdf html
Introduced: 2/19/2010
Last Amended: 8/19/2010
Status: 8/19/2010-Read third time. Amended. To third reading.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar:
8/27/2010 #124 ASSEMBLY SENATE THIRD READING FILE
Summary:
Would provide that any change in salary, compensation, or remuneration principally for the purpose of enhancing a member's benefits would not be included in the calculation of a member's final compensation for purposes of determining that member's defined benefit. The bill would generally require the board of each state and local public retirement system to establish, by regulation, accountability provisions that would include an ongoing audit process to ensure that a change in a member's salary, compensation, or remuneration is not made principally for the purpose of enhancing a member's retirement benefits. This bill would revise the definition of "creditable compensation" and would limit the calculation of a member's final compensation to an amount not to exceed the average increase in compensation received within the final compensation period and the 2 preceding years by employees in the same or a related group as that member. This bill would also require a board of each state and local public retirement system to establish, by regulation, a requirement that a person who retires on or after January 1, 2012, may not perform services for any employer covered by a state or local retirement system until that person has been separated from service for a period of at least 180 days. This bill would provide for the implementation of these required changes under the laws that govern PERS and STRL. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: LAFCo Administration
CALAFCO Comments: Affects PERS retirement plans.

CALIFORNIA
ASSOCIATION OF
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7 May 2009

Assembly Member Juan Arambula
Honorable Anna Caballero, Chair
Assembly Local Government Committee
P.O. Box 942849
Sacramento, CA 94249-0028

RE: **AB 853 Letter of Concern**

Dear Assembly Member Arambula:

Thank you for the opportunity to work with you and the sponsors to improve the language in your legislation, Assembly Bill 853. We appreciate the efforts reflected in the 4 May amendments. We look forward to continue working with you and all involved to address issues which additional attention before we believe the intent of this legislation could be properly implement by local agency formation commissions.

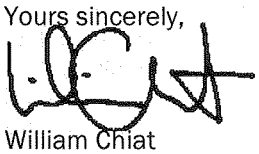
There remains five key areas of concern for CALAFCO that we would like to continue working with you to resolve:

1. **Definitions.** The amended language eliminates the definition of islands; however it contains a different definition of "unincorporated fringe community" from SB 194. In 853 it is identified as an inhabited unincorporated area that is within 1.5 miles of a city or within or adjacent to a city's SOI. CALAFCO is concerned that this will contribute to leapfrog development and sprawl by allowing cities to extend services through uninhabited territories; increasing the likelihood that other development will occur in agricultural or open spaces. In addition, this compromises the LAFCo SOI process by allowing annexations outside of the sphere of influence. The language here should be consistent with SB 194.
2. **LAFCo Discretion**. AB 853 requires a LAFCo to approve the annexation unless it finds, based on a preponderance of evidence that the change of reorganization will not result in a net benefit to the public health of the communities. It specifically excludes financial impact as a consideration. Financial considerations are just one of the 15 factors a LAFCo must consider in evaluating an application (GC §56668). There may be other significant issues – including the financial ability of the annexing city to provide services – that a LAFCo should consider, and should have the discretion to deny the application if the annexation would significantly affect the delivery of local services or conflict with other legislative mandates in the Cortese-Knox-Hertzberg Local Government Reorganization Act.
3. **Prezoning**. AB 853 requires the city to amend its general plan after LAFCo approval, rather than the current requirements of prezoning prior to a LAFCo consideration of an application. As in any annexation application, prezoning should be a requirement.

4. **Affect on Special Districts**. The bill is silent about affected special districts. It is unclear what happens to districts that may be currently providing services that would be provided in the future by the city. Under the current language there is no opportunity for LAFCo to deny an application if the city does not have the capacity to provide water, sewer or other municipal service. In fact the bill does not address the preparation of a plan for services (i.e. what services would be provided by the city; whether a special district will remain to provide certain services, etc.). Typically that is a requirement of the application. In addition there is no opportunity to address the remaining special districts' ability to provide services to their territory that was not detached in the annexation. LAFCo should retain the discretion to deny an annexation if a plan for services has not been prepared which adequately assesses and addresses the ability of all affected local agencies to continue to provide efficient municipal services.
5. **No Protest Process**. The legislation refers to GC §57080(a) with the intent that the annexation would occur without protest. Therefore this bill essentially requires the annexation of inhabited territory based only on a petition of 25% of the registered voters. The majority of the residents never have an opportunity to be engaged in the decision. In addition, as currently written both the board of supervisors and LAFCo have very limited discretion in the decision. Perhaps there is a way to balance LAFCo discretion with a modified protest process. This is an important area for continued discussion.

Again, we appreciate your willingness to engage CALAFCO in the process and work to address our concerns. This will contribute to a law that conforms to existing law in Cortese-Knox-Hertzberg and contributes to streamlining the annexations that are the intent of your legislation. We look forward to continue working with you and the sponsors on the language.

Yours sincerely,



William Chiat

c: Members, Assembly Local Government Committee
Debbie Michael, Consultant, Assembly Local Government Committee
William Weber, Assembly Republican Caucus

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9 June 2010

Assembly Member Juan Arambula
California State Assembly
State Capitol Room 2141
Sacramento, CA 95814

RE: **Opposition to AB 853**

Dear Assembly Member Arambula:

The California Association of Local Agency Formation Commissions respectfully must oppose your bill AB 853 as amended, which provides a process for disadvantaged unincorporated communities to seek annexation to a city and requires local agency formation commissions (LAFCo) to adopt comprehensive plans to address infrastructure deficiencies.

The bill amendments introduced this week significantly change the legislation. We appreciate the opportunity to have met with your staff and the sponsors on this legislation over the last year. However the amendments are considerably different than anything discussed with us to date. While we are still reviewing the amended language provided this week, our analysis has raised several concerns on which this opposition is based:

1. **Could promote sprawl.** By creating a new definition of "unincorporated fringe community" in §56375.6 within 1.5 miles of a city or within or adjacent to a sphere of influence this bill will foster sprawl and leapfrog development. Since LAFCos are prohibited from noncontiguous city annexations this provision could result in significant annexations of undeveloped lands in order to reach fringe communities. Often these lands are prime agricultural lands which would be lost to development.

2. **Places a major new unfunded mandate on LAFCo outside the legislative mission of commissions.** The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 specifies that commissions exist for the logical formation and modification of the boundaries of local agencies. As amended this bill requires commissions to prepare comprehensive infrastructure plans for every affected city before a sphere can be changed. The plan includes a feasibility of organizational options, funding plan and a timeline for each action. While the municipal service reviews do evaluate organizational options and may be a resource, this mandate goes well beyond the LAFCo boundary mission by requiring the commission to prepare service delivery plans including funding sources and timelines for areas of potential annexation ahead of any proposal being submitted, and then holding local agencies accountable to implement the plans even when funding may not be available. Under current or proposed law, commissions do not have the fiscal or legal resources and tools to prepare or enforce such plans. If implemented, this new process will add major new costs and time delays to sphere changes and annexation applications. Since LAFCos are required by law to review and update spheres every five years, this legislation will result in either no sphere changes or

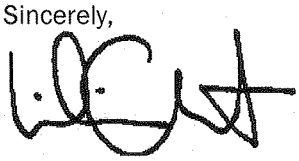
require significant new costs for LAFCo budgets to fund the studies. Those costs will have to be funded by all cities, counties and special districts in each county.

3. **Special districts ignored.** In much of California special districts provide key services – particularly water, and wastewater – not cities. In addition in many places investor-owned utilities, private companies and mutual companies provide water and wastewater services. The later three are not subject to LAFCo review. Proposed contradictory language makes it unclear if annexations or sphere changes to special districts are subject to the comprehensive plan provisions nor how special districts are integrated into the plans and enforcement of the plans.
4. **No effective dates.** The amendments are silent as to when and how the legislation would be implemented. As commissions are well into their five-year process for the 2013 sphere updates, it would be impossible to complete comprehensive plans for the current sphere reviews. Further, it is unclear when communities would be able to petition a Board for an annexation and how a commission would process that annexation without a comprehensive plan.

We recognize the intent of the bill to address the infrastructure deficiencies that exist in disadvantaged unincorporated communities across California. However at the end of the day, this bill will result in the expenditure of millions of dollars to create plans, potentially delay planned and needed development in many regions, and provide little if any actual improvements in infrastructure. There simply are not enough resources available from any current source in local government to fund the improvements. Further, this bill does not address the fundamental barrier for any annexation. If the city and county do not agree to a property tax exchange agreement, the commission cannot process the application.

CALAFCO remains committed to work with you and the sponsors on finding a solution that can work with the resources available. Because AB 853 as amended places a major new planning responsibility on LAFCo, could promote sprawl, and has not been adequately vetted to ensure a clear process we must respectfully oppose this bill.

Sincerely,



William Chiat
Executive Director

c: Members and Staff, Senate Local Government Committee

A Quick Review of the Amendments to AB 853

9 June 2010

MAJOR CALAFCO CONCERNS

This bill will result in upending the Cortese-Knox-Hertzberg Local Government Act of 2000 by halting most annexations to cities and special districts and stymie LAFCos ability to perform Sphere of Influence reviews and updates. At the same time it assigns LAFCo new responsibilities and unfunded mandates far outside of its legislative mission and expertise and provides no authority, resources or tools for LAFCo to meet the requirements. It would result in NO infrastructure improvements in disadvantaged communities.

1. 56375.6 – Definition of "Unincorporated fringe community" would **create leapfrog development** opportunities by allowing annexations of communities within 1.5 miles of a city OR within or adjacent to a city sphere. Some of these "fringe communities" are many miles from a current city boundary, yet adjacent to a sphere. Assures that all the lands between current boundary and fringe community will be developed. Inconsistent with 56741 which allows only contiguous lands to be annexed. Will result in an unintended and significant loss of prime agricultural and open-space lands throughout the state.

   NOTE: According to a conversation with the author's staff, this definition will be made consistent with CKH – adjacent to and within the SOI of a city.

2. 56435 (d) – Requires LAFCo to **adopt a "comprehensive plan" with no resources** or applicant to prepare the plan. This plan would be required for any change of an SOI of a city whether by application from a city or as part of the regular required sphere review. **Who pays for this?** Perhaps the city if it is part of an application for a change of sphere. The amendments claim this is not an unfundedmandate because LAFCo has the ability to charge fees. Therefore it is the cities, county – and for those LAFCos with special districts – the districts that will be required to pay for these studies through their LAFCo assessments.

   This expands LAFCo responsibility to service planning; service financing; and service complaince – a major expansion of duties significantly outside of LAFCos mission to encourage orderly growth, present sprawl, preserve agricultural lands and evaluate effective service delivery.

   LAFCos do not have the resources to gather the required data and with little or no expertise in assessing "feasibility." Unclear if this is physical feasibility, financial feasibility or both. Some municipal services are not provided by local agencies and others are outside of LAFCo purview (private providers, mutual companies).

   Requires plan to **include funding sources**. LAFCo has no mandate, expertise, or ability to suggest, assess or evaluate the funding potentials. This is outside of LAFCo's legislative mission.

   Requires LAFCo to include "**unincorporated legacy communities**" in the study. These are currently undefined or mapped by any agency, and LAFCo has little ability and no resources to prepare – let alone enforce – any type of reasonable study.

3. 56435 (f) – Requires all **local agencies to comply with plan**. LAFCo has no authority to force compliance and is not an agency set up to monitor or evaluate plan compliance. LAFCo has no enforcement staff and little or no staff ability to assess local agency compliance. Appears to include cities, counties AND special districts.
4. **Lumps Special Districts in with Cities** on requirements. While this is focused on city annexations, as written it appears to require comprehensive plans for district SOI reviews and district annexations, and for district compliance with comprehensive plans. In many cases a city annexation will affect district boundaries and spheres as often in is disticts that provide the municipal services, not cities.
5. Implementation and affective dates are unclear. Appears to require "comprehensive plans" to **be adopted before the next round of SOI reviews are completed by January 1, 2013**. An impossible timeframe. The author stated it left it vague, but LAFCos are considering sphere changes on an on-going basis.
6. Appears to **essentially halt all city sphere changes and annexations** if a fringe, island or legacy community exists anywhere nearby. It adds two conflicting sections related to approving annexations: 56425(i3) and 56435(e). What if the city does not provide these services?

   Does not differentiate a major annexation from a parcel or two annexation. Will have the unintended consequence of adding significant costs and time delays to simple district or city annexations requested by citizens.
7. Does not address the fundamental annexation barrier: if the city and county cannot agree to a **property tax exchange** then LAFCo cannot process the application. Is the intent to force cities/districts to accept unfeasible annexations in order to process desired annexations in the future?

ADDITIONAL CALAFCO CONCERNS

A. There is no definition for what is meant by "**inhabited**." Is it the CKH definition? If so communities of as little as 12 or more registered voters would qualify.

B. How and who determines "**80% of statewide annual median household income**"? It refers to an unidentified community household survey with no indication who conducts and pays for that survey.

C. In several places the language refers to "**infrastructure deficiencies**" without defining what those deficiencies are or what constitutes a threshold for the purpose of this legislation. Public works directors (and community members) in virtually ALL California cities and counties would argue that they suffer under infrastructure deficiencies: roads with severe deferred maintenance; poor wastewater collection systems (think Marin wastewater agencies) or treatments systems; poor water treatment systems or lack of adequate water resources; poor flood control or levy systems. This could apply to virtually all of California.

D. Confusing definitions: In 56375.6 the reference is "**Unincorporated fringe community**" (implying it's on the edge) while in 56435(c) the reference is to "**Unincorporated legacy community**" with a similar definition.

E. We are not aware of any communities in California that are "... **lacking** wastewater, drinking water services ..." All communities have some services even if it is septic and wells.

F. If there is a "**serious infrastructure-related health hazard**" LAFCo already has the authority to extend services outside of boundaries under GC §56133.

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28 July 2010

Assembly Member Juan Arambula
California State Assembly
State Capitol Room 2141
Sacramento, CA 95814

RE: **Assembly Bill 853**

Dear Assembly Member Arambula:

On behalf of the California Association of Local Agency Formation Commissions I would like to thank you and your staff for working with CALAFCO on the various amendments to your bill. We understand an additional amendment will be offered when the bill is heard in Senate Appropriations returning the placement of "as necessary" in §56425(g) to its location in current law.

Based on this and the other amendments to AB 853, CALAFCO has moved its position from oppose to **WATCH**. We support the intent of the bill as a first step in identifying service deficiencies in unincorporated disadvantaged communities, and we see local agency formation commissions (LAFCo) as the best resource to identify those municipal service deficiencies.

Nonetheless, we continue to be concerned that AB 853 imposes an **unfunded mandate** on all LAFCos to prepare the required studies. By law LAFCo is forced to pass those costs on to cities, counties and many special districts which largely fund LAFCo operations. A number of LAFCos have taken an "oppose" position on AB 853 based on the unfunded mandate in the bill. Most cities and counties are facing severe budget shortfalls resulting in reduced service levels. They have no funds to pay for new services or requirements imposed by the state. One potential option to address the funding issue is to add LAFCos as an eligible agency to apply for Sustainable Community Planning Grants from the Strategic Growth Council. When SB 372 was under consideration in 2007 LAFCo was contemplated as an eligible agency, however that was later removed. As a potential source of funds, it may be helpful to amend Public Resources Code §75128 and 75129 to allow LAFCos to apply for funds and add the disadvantaged inhabited community service inventory as a potential project.

Again, thank you for all of your efforts to address the issues identified by CALAFCO. We look forward to continuing our work with you on this bill and issue.

Yours sincerely,

William Chiat
Executive Director

c: Members and Staff, Senate Appropriations Committee

CALIFORNIA
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16 March 2010

Honorable Steve Knight
California State Assembly
State Capitol, Room 2016
Sacramento, CA 95814

RE: **SUPPORT of AB 1668: Elections Following an Incorporation**

Dear Assembly Member Knight:

The California Association of Local Agency Formation Commissions is pleased to support your bill, AB 1668. This legislation among other things adds clarity to new city incorporations by revising the initial term of office for council members following an incorporation.

This bill brings consistency to the number of council members whose terms are up for election regardless of the election system chosen by voters at the time of incorporation. The Cortese-Knox-Hertzberg Local Government Reorganization Act provides for voters to decide during the incorporation process whether the new city council will be elected at-large, by district or from district. However based on which system is chosen the law is inconsistent as to the number of council members who serve partial or full initial terms of office. This law brings consistency to that number. In addition, because it specifies that two members will have the shorter terms regardless of the election system, it will add to the stability of the new city by assuring the majority of the council serves a full term.

Because this law brings consistency in council elections, eliminates a confusing element of the incorporation process for the community, and adds stability to a new city, CALAFCO is in support. Please feel free to contact me if I can provide additional information.

Yours sincerely,

William Chiat,
Executive Director

c: Honorable Paul Fong, Chair Assembly Elections and Redistricting Committee
Honorable Anna Caballero, Chair, Assembly Local Government Committee
Debbie Michael, Consultant, Local Government Committee
William Weber, Assembly Republican Caucus

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27 April 2010

Honorable Cameron Smyth, Chair
Assembly Local Government Committee
California State Assembly
State Capitol, Room 4098
Sacramento, CA 95814

RE: **SUPPORT of AB 2795: Local Government Committee Omnibus Bill**

Dear Assembly Member Smyth:

The California Association of Local Agency Formation Commissions is pleased to sponsor and support the Assembly Local Government Committee bill AB 2795 which makes a number of non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

This is an annual bill which makes technical changes to the Act which governs the work of local agency formation commissions. These changes are necessary as commissions implement the Act and small inconsistencies are found or clarifications are needed to make the law as unambiguous as possible. This legislation helps insure that the Cortese-Knox-Hertzberg Act remains a vital and practical law that is consistently applied around the state.

The Committee's bill adds clarity and transparency to the law and helps assure better implementation of the Act. We appreciate your Committee's authorship and support of this bill, and your support of the mission of local agency formation commissions. Please feel free to contact me if I can provide additional information.

Yours sincerely,

William Chiat,
Executive Director

c: Members, Assembly Local Government Committee
Debbie Michael, Consultant, Assembly Local Government Committee
William Weber, Assembly Republican Caucus