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WILLIAM L. OWEN, Ret.

MEMORANDUM

TO: Sacramento Local Agency Formation Commission

FROM: Miller & Owen
General Counsel

DATE: May 13, 2014

RE: Question from April 2, 2014 LAFCo Meeting

Below is the text of the email response sent to Frederick Gayle, Jr. regarding his question from the April 2, 2014 LAFCo meeting:

Dear Mr. Gayle, Jr.,

This email is in response to your question from the April 2, 2014 Sacramento Local Agency Formation Commission ("LAFCo") meeting. You asked why local agency board members are allowed to simultaneously sit on the commission, while serving on another governing body.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 specifically requires that LAFCOs be comprised of commissioners who simultaneously sit on the governing body of other agencies. (See Gov. Code, § 56326.5.) It is the intent of the legislature that the composition of the commission strive to fairly represent the diversity of the cities and independent special districts in the county, with respect to population and geography. Under Government Code section 56326.5, the Sacramento County LAFCo shall consist of the following seven commission members:

- Two members from the county Board of Supervisors.
- One member from the Sacramento City Council.
- One member who is a mayor or council member of a city within the county.
- Two presiding officers or members of the legislative bodies of independent special districts.
- One member representing the general public.

Pursuant to Government Code section 56325.1, LAFCo commissioners are required by law to exercise their independent judgment to further the interests of the public as a whole. Any member appointed on behalf of local governments shall represent the interests of the public as a

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whole and not solely the interests of the appointing authority. (Gov. Code, § 56325.1.) Commissioners are not required to abstain on any matter, and their service on multiple governing bodies does not create a right of action in any person. (Gov. Code, § 56325.1.)

Furthermore, Government Code section 56336 provides that the representation by a commission member of a city or district shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the city or the district, and any regulation providing for the disqualification of a city or district representative for that reason is null and void.

To additionally secure independent judgment, LAFCo members are required to comply with ethics laws such as the Political Reform Act, which prohibits public officials from making governmental decisions that the official knows or has reason to know will result in a material financial effect on the official's economic interests. (Gov. Code, § 81000 et seq.) With these safeguards in place, having members from various local jurisdictions is beneficial in that it encourages decision-making regarding orderly growth and development matters from a varied, regional perspective and helps balance competing interests.

If you have additional questions about the membership of other public agency governing bodies, the staff or legal counsel of that agency should be able to provide specific information about the governing body's composition. Please feel free to contact LAFCo staff (916-874-6458) if any further information is needed on this matter. Thank you for your interest in LAFCo.

Best,

Maila Labadie

MILLER & OWEN

General Counsel, Sacramento LAFCo