

SAN MATEO

**LOCAL AGENCY FORMATION COMMISSION**

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March 11, 2015

To: LAFCo Commissioners
From: Martha Poyatos, Executive Officer
Subject: Proposed Adoption of Legislative Policies and Update on Pending Legislation of Interest to LAFCos

Recommendation

Review and consider adoption of the CALAFCO legislative policies and a policy that permits the Legislative Committee to take a position on pending legislation when the Commission's meeting schedule precludes a timely response.

Background

San Mateo LAFCo regularly receives reports on pending legislation affecting LAFCo and on occasion takes a position on legislation by vote of the Commission. The Commission then directs the Executive Officer to send a letter to the author of a bill stating LAFCo's position and/or concerns. At the November 19, 2014 meeting, the Commission appointed Chair Craig and Commissioners Horsley and Lohman to the San Mateo LAFCo Legislative Committee to advise staff in taking positions on pending legislation. At their meeting yesterday, the Committee considered a request that the Commission adopt the CALAFCO legislative policies and a policy that would allow the Committee to submit position letters on behalf of the Commission in circumstances when the Commission's every-other-month meeting cycle would preclude a timely position letter.

This report includes two sections. The first is discussion of the CALAFCO 2014 Legislative Policies and a draft Commission policy that would permit the Committee to send position letters when the position is consistent with adopted legislative policies and in the event the meeting cycle would prevent a timely position letter. In other instances the full Commission would consider position letters on pending legislation. The second section is a summary of key bills of interest to LAFCos. The Committee reviewed the policies and recommends approval. The Committee also reviewed pending legislation and recommends no action at this time.

Legislative Policies and Legislative Committee Process

The attached CALAFCO 2014 Legislative Policies includes policies and priorities, with the policies on Pages 1 and 2. In summary, they support legislation that enhances LAFCo authority and power to carry out the Cortese-Knox-Hertzberg Local Government Reorganization (CKH) Act based on local conditions. The policies oppose legislation that gives individual agencies special status or provides for circumvention of the LAFCo process.

San Mateo LAFCo does not have adopted legislative policies and could adopt the CALAFCO policies to provide guidance in evaluating legislation. At yesterday's meeting the Legislative Committee considered the attached policies and the following policy that would allow the Legislative Committee to take positions on bills when the LAFCo meeting cycle prohibits consideration by the full Commission in order to send a timely position letter.

Draft Policy Authorizing the San Mateo Legislative Committee to take a position on pending legislation

"In the event that the Legislative Committee finds that a bill of interest to LAFCo requires a letter of support, opposition or concern and the deadline for said letter is prior to the next regular LAFCo meeting, the Committee may authorize the Executive Office to send the Committee adopted position if the position is consistent with Adopted Legislative Policies of this Commission."

The Committee recommends adoption of both policies to facilitate thorough and timely consideration and attention to pending legislation.

Pending Legislation

The last day to introduce legislation was February 28, 2015. Of the many pending bills, staff calls your attention to the following top-tracked bills contained in the CALAFCO Quarterly Report. San Mateo LAFCo staff comments are in *italics*. The Committee reviewed and discussed the pending legislation and no action is recommended at this time.

AB 402 (Dodd) Service Extensions (CALAFCO Watch)

As written, this bill makes changes to Government Code Section 56133 relating to expanding LAFCo's existing authority to approve new and extended services beyond agencies' spheres of influence inclusive of public health and safety threats, only if LAFCo can make certain findings. CALAFCO previously considered (over an extensive period of time) amending Government Code Section 56133 and twice (in 2012 and again in 2014), the CALAFCO Board of Directors ultimately decided not to pursue those amendments. This is not a CALAFCO-sponsored bill. Assemblymember Dodd is a former Napa LAFCo

Commissioner. The Legislative Committee will consider a position at their March 20 meeting.

The amendments to Section 56133 recommended in AB 402 are attached including Executive Officer comments. Staff agrees with a provision to remove reference to LAFCo approval of a service contract or agreement versus approval of the extension. The original intent of the legislation focused on service extension not the content of the contract or agreement. Staff does not support a provision that remove the principal LAFCo in reviewing service extensions and would only defer to the LAFCo where the parcel to be served is located. Language regarding allowing service extension when future annexation is not feasible or "desirable" based on adopted policies of the Commission merit discussion but this provision could substantially weaken the intent of CKH which is to encourage annexation of areas needing urban services.

AB 448 (Brown) Vehicle License Fee (VLF) (CALAFCO Watch)

This bill is identical to AB 1521 (Fox) from 2014, which passed the legislature unanimously but was vetoed by the Governor. The Legislative Committee will consider a position at the March 20 meeting. *San Mateo LAFCo took a position of support on the previous bill.*

AB 851 (Mayes) Disincorporations (CALAFCO Sponsor)

This bill cleans up various provisions concerning the disincorporation process.

SB 25 (Roth) Vehicle License Fee (VLF) (CALAFCO Support)

This bill is identical to SB 69 (Roth, 2014) that was passed unanimously by the legislature and vetoed by the Governor. *San Mateo LAFCo took a position of support on the previous bill.*

SB 239 (Hertzberg) Service Extensions (CALAFCO Watch)

This was introduced as a spot bill relating to Government Code Section 56133. Not much is known about the author's intent for this bill. However, we do know that the sponsor is the California Association of Professional Firefighters (CAPF). CALAFCO is watching the bill very closely and waiting to hear from the author's office. The Legislative Committee will consider a position at the March 20 meeting should the bill be amended by then.

AB 3 (Williams) Isla Vista Community Service District (CSD)(CALAFCO Watch)

As introduced, this bill gives legislative authority for the creation of the Isla Vista CSD . This authority would completely bypass the LAFCo process in the creation of this special district. CALAFCO sent a letter of concern to the author in December.

SB 272 (Hertzberg) Public Records Act, Local Agencies Inventory (CALAFCO Watch)

As written, this bill requires all local agencies (including LAFCo) to conduct an inventory of all data gathered by the agency that includes (1) what the data is, (2) who collects it, and (3) the frequency with which it is collected. This bill is an unfunded mandate on public agencies. The Legislative Committee will consider a position at the March 20 meeting.

Staff will be prepared to discuss the draft policy and pending legislation at the March 18, 2015 meeting.

Recommended Action

Following consideration and public comment, adopt CALAFCO legislative policies and the policy permitting the Legislative Committee to submit position letters on pending legislation when the Commission's meeting schedule would preclude a timely response.



CALAFCO 2014 Legislative Policies

As adopted by the Board of Directors on 7 February 2014

1. LAFCo Purpose and Authority

- 1.1. Support legislation which enhances LAFCo authority and powers to carry out the legislative findings and authority in Government Code §56000 et seq.
- 1.2. Support authority for each LAFCo to establish local policies to apply Government Code §56000 et seq. based on local needs and conditions, and oppose any limitations to that authority.
- 1.3. Oppose additional LAFCo responsibilities which require expansion of current local funding sources. Oppose unrelated responsibilities which dilute LAFCo ability to meet its primary mission.
- 1.4. Support alignment of responsibilities and authority of LAFCo and regional agencies which may have overlapping responsibilities in orderly growth, preservation, and service delivery, and oppose legislation or policies which create conflicts or hamper those responsibilities.
- 1.5. Oppose grants of special status to any individual agency or proposal to circumvent the LAFCo process.
- 1.6. Support individual commissioner responsibility that allows each commissioner to independently vote his or her conscience on issues affecting his or her own jurisdiction.

2. LAFCo Organization

- 2.1. Support the independence of LAFCo from local agencies.
- 2.2. Oppose the re-composition of any LAFCo to create special seats and recognize the importance of balanced representation provided by cities, the county, the public, and special districts in advancing the public interest.

- 2.3. Support representation of special districts on all LAFCos in counties with independent districts and oppose removal of special districts from any LAFCo.
- 2.4. Support communication and collaborative decision-making among neighboring LAFCos when growth pressures and multicounty agencies extend beyond a LAFCo's boundaries.

3. Agricultural and Open Space Protection

- 3.1. Support legislation which clarifies LAFCo authority to identify, encourage and insure the preservation of agricultural and open space lands.
- 3.2. Encourage a consistent definition of agricultural and open space lands.
- 3.3. Support policies which encourage cities, counties and special districts to direct development away from prime agricultural lands.
- 3.4. Support policies and tools which protect prime agricultural and open space lands.
- 3.5. Support the continuance of the Williamson Act and restoration of program funding through State subvention payments.

4. Orderly Growth

- 4.1. Support the recognition and use of spheres of influence as a management tool to provide better planning of growth and development, and to preserve agricultural, and open space lands.
- 4.2. Support recognition of LAFCo spheres of influence by other agencies involved in determining and developing long-term growth and infrastructure plans.

- 4.3. Support orderly boundaries of local agencies and the elimination of islands within the boundaries of agencies.
- 4.4. Support communication among cities, counties, and special districts through a collaborative process that resolves service, housing, land use, and fiscal issues prior to application to LAFCo.
- 4.5. Support cooperation between counties and cities on decisions related to development within the city's designated sphere of influence.

efficient and cost effective services. Support legislation which provides LAFCo with additional opportunities to encourage shared services.

5. Service Delivery and Local Agency Effectiveness

- 5.1. Support the use of LAFCo resources to review Regional Transportation Plans, including sustainable communities strategies and other growth plans to ensure reliable services, orderly growth, sustainable communities, and conformity with LAFCo's legislative mandates. Support efforts that enhance meaningful collaboration between LAFCos and regional planning agencies.
- 5.2. Support LAFCo authority and tools which provide communities with local governance and efficient service delivery options, including the authority to impose conditions that assure a proposal's conformity with LAFCo's legislative mandates.
- 5.3. Support the creation or reorganization of local governments in a deliberative, open process which will fairly evaluate the proposed new or successor agency's long-term financial viability, governance structure and ability to efficiently deliver proposed services.
- 5.4. Support the availability of tools for LAFCo to insure equitable distribution of revenues to local government agencies consistent with their service delivery responsibilities.
- 5.5. Support collaborative efforts among agencies and LAFCOs that encourage opportunities for sharing of services, staff and facilities to provide more

2014 Legislative Priorities

Primary Issues

Viability of Local Services Support legislation that maintains or enhances LAFCo's ability to review and act to determine the efficient and sustainable delivery of local services and the financial viability of agencies providing those services to meet current and future needs including those identified in regional planning efforts such as sustainable communities strategies.. Support legislation which provides LAFCo and local communities with options for local governance and service delivery, including incorporation as a city, formation as a special district, or reorganizations or dissolutions to ensure efficient, effective, and quality service delivery. Support efforts which provide tools to local agencies to address aging infrastructure, fiscal challenges and the maintenance of services.

Authority of LAFCo Support legislation that maintains or enhances LAFCo's authority to condition proposals to address any or all financial, growth, service delivery, and agricultural and open space preservation issues. Support legislation that maintains or enhances LAFCo's ability to make decisions regarding boundaries and formations, and to enact recommendations related to both the delivery of services and the agencies providing them including consolidations, reorganizations or dissolutions.

Agriculture and Open Space Protection Preserve prime agriculture and open space lands that maintain the quality of life in California. Support policies that recognize LAFCo's mission to protect and mitigate the loss of prime agricultural and open space lands and that encourage other agencies to coordinate with local LAFCOs on land preservation

and orderly growth. Support efforts that encourage the creation of habitat conservation plans.

Water Availability

Promote the adequacy of water supplies and infrastructure planning for current and planned growth. Support policies that assist LAFCo in obtaining accurate and reliable water supply information to evaluate current and cumulative water demands for service expansions and boundary changes including impacts of expanding water company service areas on orderly growth, and the impacts of consolidation or dissolution of water companies providing services.

Adequate Municipal Services in Inhabited Territory

Expedited processes for inhabited annexations should be consistent with LAFCo law and be fiscally viable. To promote environmental justice for underserved inhabited communities, funding sources should be identified for extension of municipal services, including options for annexation of contiguous disadvantaged unincorporated communities. Promote the delivery of adequate, sustainable, efficient, and effective levels of service through periodic updates of Municipal Service reviews, Spheres of Influence, and other studies.

Issues of Interest

Housing Provision of territory and services to support housing plans consistent with regional land use plans and local LAFCo policies.

Transportation Effects of Regional Transportation Plans and expansion of transportation systems on future urban growth and service delivery needs, and the ability of local agencies to provide those services.

Flood Control The ability and effectiveness of local agencies to maintain and improve levees and protect current infrastructure. Carefully consider the value of uninhabited territory and the impact to public safety of proposed annexation to urban areas of uninhabited territory which is at risk for flooding. Support legislation that includes assessment of agency viability in decisions involving new funds for levee repair. Support efforts that encourage the creation of habitat conservation plans.

ASSEMBLY BILL

No. 402

Introduced by Assembly Member Dodd

February 19, 2015

An act to amend Section 56133 of the Government Code, relating to local agency formation.

LEGISLATIVE COUNSEL'S DIGEST

AB 402, as introduced, Dodd. Local agency services: contracts.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation and change of organization of cities and special districts. Existing law permits a city or district to provide extended services, as defined, outside its jurisdictional boundaries only if it first requests and receives written approval from the local agency formation commission in the affected county. Under existing law, the commission may authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances, including when responding to an impending threat to the public health or safety of the residents in the affected territory where specified requirements are met.

This bill would additionally allow a commission to authorize a city or district to provide new or extended services outside its jurisdictional boundaries to support existing or planned uses involving public or private properties, subject to approval at a publicly noticed hearing where the commission makes specified determinations. The bill would also authorize the commission to delegate to its executive officer review and approval of requests to provide new or extended services outside a city or district's boundary that are made in anticipation of a later

change of organization, or to respond to an existing or impending threat to the public health or safety of the residents of the affected territory. The bill would also make technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56133 of the Government Code is
2 amended to read:

3 56133. (a) A city or district may, *as described in this section*,
4 provide new or extended services by contract or agreement outside
5 its jurisdictional ~~boundaries~~ *boundary* only if it first requests and
6 receives written approval from the ~~commission in the affected~~
7 ~~county~~ *commission*. *The commission may delegate review and*
8 *approval of requests made pursuant to subdivision (b) and*
9 *paragraph (1) of subdivision (c) to the executive officer.*

10 (b) The commission may authorize a city or district to provide
11 new or extended services outside its jurisdictional ~~boundaries~~
12 *boundary* but within its sphere of influence in anticipation of a
13 later change of organization.

14 (c) ~~The~~ *If consistent with adopted policy, the* commission may
15 authorize a city or district to provide new or extended services
16 outside its jurisdictional ~~boundaries~~ *boundary* and outside its sphere
17 of influence ~~to respond to an existing or impending threat to the~~
18 ~~public health or safety of the residents of the affected territory if~~
19 ~~both of the following requirements are met:~~ *to do either of the*
20 *following:*

21 (1) *Respond to an existing or impending threat to the public*
22 *health or safety of the residents of the affected territory, if both of*
23 *the following requirements are met:*

24 (1)

25 (A) The entity applying for the ~~contract~~ approval has provided
26 the commission with documentation of a threat to the health and
27 safety of the public or the affected residents.

28 (2)

29 (B) The commission has notified any alternate service provider,
30 including any water corporation as defined in Section 241 of the
31 Public Utilities Code, ~~or sewer system corporation as defined in~~

This contradicts current practice that "principal" LAFCo has authority even if the annexation is of territory in another county. Staff recommends joint approval.

Staff supports this change. The leg. history is that approval was about extension not provisions of contract.

1 ~~Section 230.6 of the Public Utilities Code~~, that has filed a map and
 2 a statement of its service capabilities with the commission.
 3 (2) *Support existing or planned uses involving public or private*
 4 *properties, subject to approval at a noticed public hearing in which*
 5 *the commission makes all of the following determinations:*
 6 (A) *The extension of service of services deficiency was identified*
 7 *and evaluated in a review of municipal services prepared pursuant*
 8 *to Section 56430.*
 9 (B) *The extension of service will not result in adverse impacts*
 10 *on open space or agricultural lands, or have growth inducing*
 11 *impacts.*
 12 (C) *A later change of organization involving the subject territory*
 13 *and its affected agency is not feasible or desirable based on the*
 14 *adopted policies of the commission.*
 15 (d) The executive officer, within 30 days of receipt of a request
 16 for approval by a city or district ~~of a contract~~ to extend services
 17 outside its jurisdictional boundary, shall determine whether the
 18 request is complete and acceptable for filing or whether the request
 19 is incomplete. If a request is determined not to be complete, the
 20 executive officer shall immediately transmit that determination to
 21 the requester, specifying those parts of the request that are
 22 incomplete and the manner in which they can be made complete.
 23 When the request is deemed complete, the executive officer shall
 24 place the request on the agenda of the next commission meeting
 25 for which adequate notice can be given but not more than 90 days
 26 from the date that the request is deemed complete, unless the
 27 commission has delegated approval of ~~those~~ requests *made*
 28 *pursuant to this section* to the executive officer. The commission
 29 or executive officer shall approve, disapprove, or approve with
 30 conditions the ~~contract~~ for extended services. If the ~~contract~~ *is new*
 31 *or extended services are* disapproved or approved with conditions,
 32 the applicant may request reconsideration, citing the reasons for
 33 reconsideration.
 34 (e) This section does not apply to ~~contracts or agreements solely~~
 35 ~~involving~~ two or more public agencies where *the commission*
 36 *determines that* the public service to be provided is an alternative
 37 to, or substitute for, public services already being provided by an
 38 existing public service provider and where the level of service to
 39 be provided is consistent with the level of service contemplated
 40 by the existing service provider. ~~This~~

Merits discussion.
 there are
 sometimes
 topographic or
 other reasons that
 make annexation
 unlikely but service
 by this provider is
 only alternative

- 1 (f) *This section does not apply to ~~contracts for~~ the transfer of*
- 2 *nonpotable or nontreated water. ~~This~~*
- 3 (g) *This section does not apply to ~~contracts or agreements solely~~*
- 4 *involving the provision of surplus water to agricultural lands and*
- 5 *facilities, including, but not limited to, incidental residential*
- 6 *structures, for projects that serve conservation purposes or that*
- 7 *directly support agricultural industries. However, prior to extending*
- 8 *surplus water service to any project that will support or induce*
- 9 *development, the city or district shall first request and receive*
- 10 *written approval from the commission in the affected county. ~~This~~*
- 11 (h) *This section does not apply to an extended service that a city*
- 12 *or district was providing on or before January 1, 2001. ~~This~~*
- 13 (i) *This section does not apply to a local publicly owned electric*
- 14 *utility, as defined by Section 9604 of the Public Utilities Code,*
- 15 *providing electric services that do not involve the acquisition,*
- 16 *construction, or installation of electric distribution facilities by the*
- 17 *local publicly owned electric utility, outside of the utility’s*
- 18 *jurisdictional ~~boundaries~~. *boundary.**
- 19 (j) *This section applies only to the commission of the county in*
- 20 *which the extension of service is proposed.*

See note above.
This provision
should be carefully
considered. This
takes authority
away from principal
LAFCo.