



Solano Local Agency Formation Commission

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Staff Report

DATE: April 13, 2015
TO: Local Agency Formation Commission
FROM: Elliot Mulberg, Executive Officer
SUBJECT: **Legislative Report**

Recommendation: That the Commission receive and file this report and direct staff to write letters of support for CALAFCO sponsored bills AB 1532 and AB 851.

Discussion:

Our legislative report is broken up into five subject areas. They each include bills that CALAFCO is supporting or bills of interest to Solano LAFCO.

There are a couple bills relating to 56133, out of area service agreements. AB 402 (Dodd) would create another avenue for a district or city to provide out of area services. The bill adds three criteria 1) the deficiency of services was identified in an MSR; 2) the extension of service will not result in adverse impacts on open space or agricultural lands or have growth inducing impacts; and 3) a later change of organization is not feasible or desirable based on adopted commission policies.

The other bill, SB 239 (Hertzberg), would provide that extending fire service outside district boundaries should be considered a change of organization for LAFCO purposes. In addition before submitting the application to LAFCO the agency must receive written agreement from the labor unions. This bill essentially gives veto power to unions for out of area services. Typically automatic aid and mutual aid agreements have not been before LAFCO.

CALAFCO has sponsored AB 851 (Mayes) and AB 1532 (Committee on Local Government). AB 851 updates CKH on the disincorporation process. AB 1532 is the CALAFCO omnibus bill which proposes non-controversial changes to CKH such as making the language more consistent throughout the act. CALAFCO requests we send a letter supporting these bills. Sample letters supporting AB 851 and AB 1532 are included in the attachment. Our support letters will be similar to those in the attachment.

Two bills address financial viability of agencies. AB 448 (Brown) and SB 25 (Roth) both deal with Vehicle License Fees (VLF) reinstatement. AB 448 is identical to AB 1521 (Fox) from last year. This bill reinstates

the VLF payment and changes the way that the growth in the VLF adjustment amount is calculated starting in FY 2015-16 to include the growth of assessed valuation in an annexed area from FY 2004-05 to FY 2015-16. SB 25 is identical to SB 69 (Roth) from 2014, the bill calls for reinstatement of the VLF through ERAF for cities that incorporated between January 1, 2004 and January 1, 2012. CALAFCO has taken a support position on both bills.

Other bills relate to water issues. AB 656 (Garcia, Cristina) allows mutual water companies to enter in joint powers agreements with other agencies. Solano County has one mutual that might be affected, Cresta Mesa Parque Mutual Water Company, located north of Rockville Rd. between Green Valley Rd. and Suisun Valley Rd.

Other proposed legislation further defines the process of how to comply with last year's groundwater management legislation. LAFCOs were not given any responsibility or authority under the 2014 legislation so SB13 (Pavley) and SB 226 (Pavley) are included in case Commissioners want to follow the process.

As of March 31, 2015

Out of Area Service Agreements

AB 402 (Dodd D) Local agency services: contracts.

Status: 3/2/2015-Referred to Com. on L. GOV.

Summary:

Would allow a local agency formation 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 make technical and conforming changes.

CALAFCO Comments: As written, this bill expands 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 three findings at a noticed public hearing. These findings involve determining the extension: (1) was evaluated in a municipal service review; (2) will not result in adverse impacts on open-space and agricultural lands or growth; and (3) a later change of organization is not expected or desired based on local policies. Further, the bill clarifies LAFCo's sole authority in determining the application of the statute, and deemphasizes the approval of contracts and emphasizes the approval of service extensions.

Position: Watch

SB 239 (Hertzberg D) Local services: contracts: fire protection services.

Current Text: Amended: 3/23/2015

Status: Hearing April 15. SENATE GOVERNANCE AND FINANCE, HERTZBERG, Chair

Summary: SB 239 reclassifies the act of contracting for the extension of fire protection services outside of the district's service area as a "change of organization" for LAFCO purposes, and requires the LAFCO to conduct a fiscal analysis. Prior to submitting an application to LAFCO, the agency must obtain a written agreement from the recognized employee organization that represents firefighters.

CALAFCO Comments: As amended, this bill will circumvent local District Board and LAFCO authority on service extensions relating to fire protection services by allowing unions the authority to approve/disapprove the service contracts. Further, as written, these changes will require CEQA review. The bill sets a precedent for fire unions to have the final authority to approve fire-related service extensions, thereby opening the door for all other service-related unions to have the same authority. In addition, the bill requires a comprehensive fiscal analysis for service extensions, which is now only required for incorporations. Finally, the proper government code section relating to service extensions is 56133, which is where any changes to service extension process should be addressed.

Position: Oppose

CKH General Procedures

AB 851 (Mayes R) Local government: organization: disincorporations.

Status: 3/16/2015-Referred to Com. on L. GOV.

Summary: Would, in the case of a disincorporation or reorganization that includes a disincorporation, require the plan for services to include specific provisions, including, among others, an enumeration and description of the services currently provided by the city proposed for disincorporation and an outline of current retirement obligations, as specified. This bill contains other related provisions and other existing laws.

CALAFCO Comments: Sponsored by CALAFCO. As introduced, this bill addressed the long-outdated statutes relating to disincorporation. Although many other areas of CKH have been updated over the past 52 years, the areas pertaining to disincorporations remain in their original format as written in 1963. The most recent disincorporation through the LAFCO process was for the City of Cabazon in 1972.

This bill does the following: (1) Clarifies the expectation for assignment of responsibility for debt that will continue in existence after disincorporation; (2) Establishes the parameters and requirements for the submission of the Plan for Service for a disincorporation proposal which outlines existing services, the proponent's plan for the future of those services, and whether or not a bankruptcy proceeding has been undertaken; (3) Establishes the responsibilities of LAFCOs in preparing a Comprehensive Fiscal Analysis for disincorporations, the determination of the transfer of property tax revenues previously received by the proposed disincorporating City, and the determination of the transfer of debt to a successor agency or agencies. Further, the bill retains LAFCOs existing authority to impose terms and conditions on a proposed disincorporation as well as the election requirements necessary for approval of disincorporation. The proposed disincorporation statutory changes use the incorporation provisions as a template to propose changes in the disincorporation process.

Position: Sponsor

AB 1532 (Committee on Local Government) Local government: omnibus.

Status: 3/24/2015-From printer. May be heard in committee April 23.

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, requires a local agency formation commission to notify specified state agencies having oversight or regulatory responsibility over, or a contractual relationship with, a local health care district when a proposal is made for any of specified changes of organization affecting that district. This bill would update obsolete references to a "hospital" district and replace outdated references to the State Department of Health Services with references to the State Department of Public Health and the State Department of Health Care Services.

CALAFCO Comments: This is the annual Omnibus bill for the Cortese-Knox-Hertzberg Reorganization Act of 2000. This bill makes non-substantive technical clean-up corrections to the Act.

Position: Sponsor

Financial Viability of Agencies

AB 448 (Brown D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Status: Hearing 4/15/2015 ASSEMBLY LOCAL GOVERNMENT, MAIENSCHIN, Chair

Summary: Current property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction shall be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. This bill would modify these reduction and transfer provisions, for the 2015-16 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

CALAFCO Comments: As introduced, this bill is identical to AB 1521 (Fox) from last year. This bill reinstates the VLF payment (through ERAF) and changes the way that the growth in the VLF adjustment amount (property tax in lieu of VLF) is calculated starting in FY 2015-16 to include the growth of assessed valuation, including in an annexed area, from FY 2004-05 to FY 2015-16. Beginning in FY 2016-17, the VLF adjustment amount would be the jurisdiction's annual change in the assessed valuation.

Position: Support

SB 25 (Roth D) Local government finance: property tax revenue allocation: vehicle license fee adjustments.

Status: Hearing April 8. SENATE GOVERNANCE AND FINANCE, HERTZBERG, Chair

Summary: Would modify specified reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2014-2015 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation. This bill contains other related provisions and other existing laws.

CALAFCO Comments: Identical to SB 69 (Roth) from 2014, the bill calls for reinstatement of the VLF through ERAF for cities that incorporated between January 1, 2004 and January 1, 2012. There are no provisions for back payments for lost revenue, but the bill does reinstate future payments beginning in the 2014/15 year for cities that incorporated between 1-1-2004 and 1-1-2012.

Position: Support

Water

AB 656 (Garcia, Cristina D) Joint powers agreements: mutual water companies.

Status: 3/9/2015-Referred to Com. on L. GOV.

Summary: Current law authorizes local public entities, as defined, to enter into a joint powers agreement for the purposes of providing risk-pooling, as specified. This bill would specifically authorize 2 or more mutual water companies, or 2 or more mutual water companies and one or more public agencies that operate a public water system, to participate in joint powers agreement for risk-pooling, technical support, and other similar services.

CALAFCO Comments: As written, the bill gives the ability to two or more mutual water companies, or a mutual water company and a public agency to enter into a joint powers agreement. The bill limits the purpose of such a joint powers agreement to either risk-pooling or the provision of technical support, continuing education, safety engineering, operational and managerial advisory assistance to be provided to the members of that joint powers agency.

Position: Watch

SB 13 (Pavley D) Groundwater.

Last Amended: 2/24/2015

Status: 3/24/2015-From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 1.) (March 24). Re-referred to Com. on APPR.

Summary: Would specify that the State Water Resources Control Board is authorized to designate a high- or medium-priority basin as a probationary basin. This bill would provide a local agency or groundwater sustainability agency 90 or 180 days, as prescribed, to remedy certain deficiencies that caused the board to designate the basin as a probationary basin. This bill would authorize the board to develop an interim plan for certain probationary basins one year after the designation of the basin as a probationary basin. This bill contains other related provisions and other existing laws.

CALAFCO Comments: While this bill has no direct effect on LAFcos, the formation of groundwater management agencies and groundwater management is of interest, therefore CALAFCO will watch the bill.

Position: Watch

SB 226 (Pavley D) Sustainable Groundwater Management Act: groundwater rights.

Status: Hearing April 14 SENATE NATURAL RESOURCES AND WATER, PAVLEY, Chair.

Summary: Would provide, under the Sustainable Groundwater Management Act, that a groundwater sustainability plan or coordinated groundwater sustainability plans establishes a timely method for determining rights to groundwater in furtherance of the objectives of the act. This bill would require the process to be available to any court of competent jurisdiction. This bill would require the boundaries of a basin to be as identified in Bulletin 118, unless other basin boundaries are established, as specified.

CALAFCO Comments: This is a spot bill to address groundwater rights relating to the new Sustainable Groundwater Management Agencies.

Position: Placeholder – monitor

Other

AB 707 (Wood D) Agricultural land: Williamson Act contracts: cancellation.

Status: Hearing 4/15/2015 ASSEMBLY AGRICULTURE, PEREA, Chair

Summary: Current law provides for the procedure to cancel a contract entered into under the provisions of the California Land Conservation Act of 1965 and provides that the landowner and the Department of Conservation may agree on the cancellation value of the land. This bill would repeal the authorization for the landowner and the department to agree on the cancellation value of the land.

Position: Watch

Subject: Ag Preservation - Williamson

SB 272 (Hertzberg D) The California Public Records Act: local agencies: inventory.

Status: Hearing April 15 SENATE GOVERNANCE AND FINANCE, HERTZBERG, Chair.

Summary: Would require each local agency, in implementing the California Public Records Act, to conduct an inventory of data gathered by the agency that discloses what data is maintained by the agency, by whom, and with what frequency it is collected. The bill would require the inventory to be available to the public. Because the bill would require local agencies to perform additional duties, it would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

CALAFCO Comments: 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.

Position: Watch

Subject: LAFCo Administration, Public Records Act

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March 17, 2015

Assembly Member Chad Mayes
California State Assembly
State Capitol, Room 4144
Sacramento, CA 95814

RE: AB 851 (Mayes) – Local Government: Organizations: Disincorporations – SUPPORT

Dear Assembly Member Mayes:

The California Association of Local Agency Formation Commissions (CALAFCO) is pleased to support and sponsor Assembly Bill 851. The bill makes long overdue updates to the statutes relating to disincorporations of cities.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act) establishes a Local Agency Formation Commission (LAFCo) in each California County to oversee proposed changes of organization for cities and districts throughout the state. Further, LAFCo is the entity that receives and processes proposals and applications for disincorporations. The statutes within the Act addressing the disincorporation process have not been updated since their creation in 1963.

The longer-term effects of the recession, the demise of redevelopment agencies, and the elimination of motor vehicle in-lieu fees for newly incorporated cities with SB 89 (2011, Committee of Budget and Fiscal Review) are having a substantial financial impact on cities throughout the State. In many instances this domino effect has rendered a number of cities insolvent. Many of those cities find themselves either having filed for bankruptcy or considering that path. As a last resort, some cities are considering disincorporation as an option.

A city can be disincorporated either through State legislative statute or by going through a local process. Prior to the Act, seventeen cities have disincorporated, each of which ended up reincorporating at a later time. Since the inception of the Act, only two cities have disincorporated. The City of Hornitos was disincorporated by State statute in 1973, and the City of Cabazon in 1972, who went through the disincorporation process as prescribed in the Act.

Much has changed in State law since 1972 when the statutes were last used and there is no current precedent for a disincorporation. As LAFCos are approached by cities inquiring about the disincorporation process, the Commissions and LAFCo staff determined that the statutes are out-of-date and in some cases no longer legal. As the agency that is required to process the proposal or application for disincorporation, LAFCos have a vested interest in ensuring the processes are up-to-date, legal, consistent across codes, and fair and reasonable for all entities involved.

Assembly Member Chad Mayes
Re: ABB 851
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This bill brings the statutes into compliance with the mandates of Propositions 13 and 218 and uses the incorporation provisions as a template to propose changes in the disincorporation process. Further, the bill:

- Clarifies the expectation for assignment of responsibility for debt that will continue in existence after disincorporation;
- Establishes the parameters and requirements for the submission of the Plan for Service for a disincorporation proposal which outlines existing services, the proponent's plan for the future of those services, and whether or not a bankruptcy proceeding has been undertaken;
- Establishes the responsibilities of LAFCoS in preparing a Comprehensive Fiscal Analysis for disincorporations; the determination of the transfer of property tax revenues previously received by the proposed disincorporating City; and the determination of the transfer of debt to a successor agency or agencies; and
- Retains LAFCoS existing authority to impose terms and conditions on a proposed disincorporation as well as the election requirements necessary for approval of disincorporation.

This bill is not intended to promote the use of the disincorporation process, nor is it intended to encourage cities to consider this as an option to relieve their fiscal emergencies. The ultimate success or failure of a proposal for disincorporation remains with the registered voters of the City proposed to be disincorporated. The process of taking the final decision to a vote of the people will not change. This bill merely clarifies the required process to get to that point. CALAFCO has and will continue to meet with stakeholders in an effort to receive feedback and work through points of concern.

Because AB 851 provides the necessary clean-up of outdated statutes relating to the process of disincorporation, CALAFCO supports this bill. We thank you for authoring this important legislation and look forward to continuing to work with you, your staff and stakeholders in creating a piece of legislation that works for all interested parties.

Yours sincerely,



Pamela Miller
Executive Director

cc: Members, Assembly Local Government Committee
Misa Lennox, Associate Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus

April 2, 2015

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Honorable Brian Maienschein, Chair
Assembly Local Government Committee
California State Assembly
State Capitol, Room 4139
Sacramento, CA 95814

RE: **SUPPORT of AB 1532: Local Government Committee Omnibus Bill**

Dear Assembly Member Maienschein:

The California Association of Local Agency Formation Commissions (CALAFCO) is pleased to sponsor and support the Assembly Local Government Committee Bill **AB 1532** which makes technical, non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act).

This annual bill includes 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. **AB 1532** makes several minor technical changes, corrects obsolete and incorrect code references, and makes minor updates to outdated sections. CALAFCO is grateful to the members of our Legislative Committee and to your Committee and staff, all of whom worked diligently on this language to ensure there are no substantive changes while creating a significant increase in the clarity of the Act for all stakeholders.

This legislation helps insure the Cortese-Knox-Hertzberg Act remains a vital and practical law that is consistently applied around the state. We appreciate your Committee's authorship and support of this bill, and your support of the mission of local agency formation commissions. As always I am happy to provide any additional information needed.

Yours sincerely,



Pamela Miller
Executive Director

cc: Members, Assembly Local Government Committee
Misa Lennox, Associate Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus

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