



Solano Local Agency Formation Commission

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Staff Report

DATE: June 13, 2016

TO: Local Agency Formation Commission

FROM: Elliot Mulberg, Executive Officer
Michelle McIntyre

SUBJECT: **Legislative Report**

Recommendation: That the Commission receive and file this report.

At its March meeting, the Commission was informed by legal counsel of the 5th District Court of Appeal's recent case of City of Patterson v. Turlock Irrigation District, related to annexations following extensions of services. The Commission subsequently directed staff to send a letter to the CALAFCO Board requesting the Board consider any and all paths forward to amending §56653 to overcome the ruling in the City of Patterson case as described in the attached letter of March 29, 2016. Several other LAFCOs have sent similar letters to CALAFCO and the CALAFCO Board considered this issue at its regularly scheduled May 6, 2016 meeting. We recently received a letter from John Leopold (attached) with CALAFCO's response and an email from Pamela Miller stating Senator Wolk has agreed to add language to address this issue in SB 1318 and that it is now part of the June 1 version of the bill.

On other issues related to SB 1318, members of CALAFCO's Legislative Committee have been working with the author and sponsor to offer amendments to the bill. Some of the amendments that were included are the removal of the prohibition to LAFCO for annexing or extending services to an area if all DUCs in the area have not been served, it moves the DUC mapping requirements from the SOI/MSR section to the LAFCO Powers section. The meetings have been positive; however, as of the writing of this report, the some of the proposed amendments are not yet in writing.

CALAFCO remains OPPOSED to the bill and will continue to work to amend: (1) Provide funding to LAFCo for extensive studies and for agencies to implement the accessibility plan; (2) Clean up the requirements of the accessibility plan to remove items 5-7 in 56378.5 (8)(c); (3) Remove all

protest provisions; (4) Change the DUC definition for the purposes of this section; (5) Put back in the actions of the Water Board and Regional Board in terms of taking action.

As directed by the Commission Solano LAFCO has taken a watch position, which is neutral. The bill is currently in the Assembly where it was held at the desk and read for the first time.

The CALAFCO Legislative Committee met on May 20 to review and update various positions on bills of interest. The following includes a summary of the bills and CALAFCO's most recent position.

SB 1266 (McGuire) – Joint Power Authorities (CALAFCO Sponsored)

This is a CALAFCO sponsored bill. As amended, the bill requires all stand-alone JPAs, as defined in GC Section 56047.7, which includes a member that is a public agency as defined in GC Section 56054, and are formed for the purposes of delivering municipal services, to file a copy of their agreement (and a copy of any amendments to that agreement) with the LAFCo in each county within which all or any part a local agency member's territory is located. Further it requires the JPA to file with the LAFCo within 30 days of the formation of the JPA or change in the agreement, and should they not file adds punitive action that the JPA shall not issue bonds nor incur indebtedness. Both of the latter changes are consistent with existing JPA statute.

At the Commission's April Meeting, the Commission directed staff to send a letter of support. The bill has since passed through the Senate and was referred to the Assembly Local Government Committee (ALGC). The hearing is scheduled for June 15.

SB 1262 (Pavley) Land Use Planning and Water - (CALAFCO Watch with concerns)

As introduced, this complicated bill makes a number of changes to GC Section 66473.7 and Section 10910 of the Water Code. In 66473.7, in the definitions section, the bill adds definitions pertaining to the use of groundwater by a proposed subdivision as the source of water. It adds an adopted groundwater sustainability plan as optional substantial evidence that the water system has sufficient water supply to meet the demands of the subdivision project. The bill adds that a groundwater basin identified by the State Water Resources Control Board (SWRCB) as a probationary basin is not considered a viable water supply.

CALAFCO has several concerns with the bill. Since the Commission's last meeting, this bill has been amended to remove the requirement of a water supply assessment being done **after** LAFCO has denied the project rather than the assessment being done prior to LAFCO receiving the application. The other two issues raised by CALAFCO are still under consideration. They include the current threshold of 500 units as well as how to address phased development. The author continues discussions on these points with stakeholders.

The bill has been approved by the Senate and is now being considered in the Assembly.

Other Legislation of Interest
(6/6/16)

Finance

SB 817 (Roth D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Status: 6/1/2016 – In Assembly. Read for first time. Held at desk.

Summary: As amended, this bill is identical to SB 25 (Roth, 2015) and SB 69 (Roth, 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 2016/17 year for cities that incorporated between January 1, 2004 and January 1, 2012. The bill passed out of the Senate Appropriations Committee on a 7-0 vote.

CALAFCO Position: Support

AB 2277 (Melendez R) Local government finance: property tax revenue allocation: vehicle license fee adjustments.

Status; Dead. 5/27/2016-In committee: Held under submission by the Assembly Appropriations Committee.

Summary: As introduced, this bill is identical to SB 817 (Roth, 2016) except that it does not incorporate changes to the R&T Code Section 97.70 related to AB 448 (Brown, 2015). 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 2016/17 year for cities that incorporated between 1-1-2004 and 1-1-2012.

CALAFCO Position: Support

Water

SB 1263 (Wieckowski D) Public water system: permits.

Status: Hearing scheduled for 6/14/16 in Assembly Environmental Safety and Toxic Materials Committee.

Summary: As introduced, this bill would prohibit an application for a permit for a new public water system from being deemed complete unless the applicant has submitted a preliminary technical report to the state board, as specified, and would allow the state board to impose technical, financial, or managerial requirements on the permit. The bill would prohibit a public water system not in existence on January 1, 1998, from being granted a permit unless the public water system demonstrates that the water supplier also possesses adequate water rights to ensure the delivery safe drinking water, and would specify that the prohibition applies to any change in ownership of the public water system, including the consolidation of a public water system. The bill would allow the state board to deny the permit if the state board determines that the service area of the public water system can be served by one or more currently permitted public water systems. Finally, the bill would prohibit a local primacy agency from issuing a permit without the concurrence of the state board.

CALAFCO Position: Watch

Special Districts

AB 1362 (Gordon D) Mosquito abatement and vector control districts: board of trustees: appointment of members.

Status: 2/4/2016-Referred to Senate Com. on GOV. & F.

Summary:

Would authorize a city council, located in an existing or newly formed district as specified, to adopt a resolution requesting that appointments of persons to the board of trustees instead be made by a city selection committee, established pursuant to specified provisions of law, and conditioned upon a majority of authorized city councils adopting their respective resolutions. This bill would authorize the city selection committee to decrease the total number of appointments to be made by the committee if a majority of city councils within the district make this request in their respective resolutions.

CALAFCO Position: Watch

AB 2389 (Ridley-Thomas D) Special districts: district-based elections: reapportionment.

Status: Hearing scheduled for 6/8/2016 1:30 p.m. - Room 3191 SENATE ELECTIONS AND CONSTITUTIONAL AMENDMENTS, ALLEN, Chair.

Summary:

Would authorize a governing body of a special district, as defined, to require, by resolution, that the election of the members of its governing body be elected using district-based elections without being required to submit the resolution to the voters for approval.

CALAFCO Position: Watch

Administration

AB 1707 (Linder R) Public records: response to request.

Status: Dead. 4/22/2016-Failed Deadline pursuant to Joint Rule 61(b)(5). (Last location was A. L. GOV. on 3/29/2016)

Summary:

As introduced, this bill would require LAFcos, when responding to a Public Records Request for which a determination has been made to deny the request, to include in the written response the title (or other identification) of each record that was requested and not provided, and the specific exemption that applies to that record.

CALAFCO Position: Oppose

AB 2257 (Maienschein R) Local agency meetings: agenda: online posting.

Subject: LAFCo Administration

Status: 5/23/2016-In Senate. Read first time. To Com. on RLS. for assignment.

Summary:

As introduced, this bill amends GC Section 54954.2 pertaining to the online posting of a local agency's

meeting agenda. The bill requires that online posting to have a prominent and direct link to the current agenda itself from the local agency's homepage. This means that LAFCo's will have to post a prominent link on their website's homepage, directly taking the user to the meeting agenda.

CALAFCO Position: Watch

AB 2801 (Gallagher) Local Government: fees and charges: written protest.

Status: 5/26/2016-In Senate. Referred to Com. on GOV. & F.

Summary: The original bill would have removed the 60 day statute of limitations on bringing a validation action to court for any public agency, including LAFCo. Gut and amended on April 4, 2016, the bill now focuses on amending GCS 53755 and relates to fee increases to property owners by an agency providing property related services.

CALAFCO Position: Watch

SB 971 SB 972 SB 973 (Committee on Governance and Finance) Validations.

Status: 5/27/2016- Chaptered by Secretary of State - Chapter 15, Statutes of 2016.

Summary:

Would enact the First Validating Act of 2016, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill would declare that it is to take effect immediately as an urgency statute.

CALAFCO Position: Support

SB 974 (Committee on Governance and Finance) Local government: omnibus.

Status: 6/15/16 Hearing in Assembly Com. on L. GOV

Summary:

The Planning and Zoning Law requires that the safety element be reviewed and updated, in the case of flooding and fire hazards, upon the next revision of the housing element after specified dates or, in the case of climate adaptation and resilience strategies, upon either the next revision of a local hazard mitigation plan after a specified date or on or before January 1, 2022, as applicable. This bill would instead require a planning agency to review and revise the safety element to identify new information, as described above, only after to address flooding and fires. This bill is the Senate Governance & Finance Committee's annual Omnibus bill.

CALAFCO Position: Watch

SB 1292 (Stone R) Grand juries: reports.

Status: Dead. 5/27/2016 Held in Senate Finance Committee under submission.

Summary:

Sponsored by CSDA, there are amendments pending to this bill. Those amendments would require the Grand Jury to conduct an exit interview with report subjects to discuss and share findings. They may also provide a copy of the subject's report. The subject will have no less than 5 working days to provide written comments back to the Grand Jury for their consideration before the report is public. One the Grand Jury report is approved by a judge, the Grand Jury is required to provide a copy of the section

pertaining to the subject to that entity no later than 6 working days prior to the reports public release. The subject entity can submit a preliminary response to the report to the Grand Jury, who is then required to make those prelim comments public at the time the report is made public.

This will allow LAFcos, when they are the subject of a Grand Jury report, to meet with the Grand Jury and hear their findings, and for the LAFco to respond to those findings and offer additional information or corrections. Further, it allows the LAFco to provide preliminary comments that are required to be posted with the report when it is made public.

CALAFCO Position: Support

SB 1436 (Bates R) Local agency meetings: local agency executive compensation: discussion of final action taken.

Status: 6/15/16 Hearing in Assembly Com. on L. GOV

Subject: LAFco Administration

Summary:

As amended, this bill requires public agencies, including LAFcos, when taking final action on salary for the agency's executive, to be made as a separate discussion agenda item rather than a content calendar item on the agenda..

CALAFCO Position: Watch

Attachment: Letter from CALAFCO Board re §56653.



June 1, 2016

Chair John Saunderson
Solano LAFCo
675 Texas Street, Suite 6700
Fairfield, CA 94533

Dear Chair Saunderson:

On behalf of the Board of Directors of the California Association of Local Agency Formation Commissions (CALAFCO), I want to thank you for your letter dated March 29, 2016 regarding CALAFCO legislative priorities, and specifically addressing Government Code Section 56653. As you know, the Board invests as much of our organization's resources as possible into our legislative work, and we are proud of our strong Legislative Policies.

Each year the Board carefully considers the many legislative matters that come before it, and judiciously deliberates each one. In addition, we must reflect on the greater legislative picture and allow ample space and time for work on legislative matters introduced throughout the coming year that affect our members.

As you and several other LAFCos requested, the Board discussed your request to reconsider pursuing changes to §56653 this legislative year during our May 6, 2016 meeting. Given the current full legislative plate of the organization, and the late timing of the current legislative year, there was one option identified for CALAFCO to pursue.

CALAFCO is currently in deliberations with Senator Wolk and her staff of SB 1318, a bill which CALAFCO strongly opposes in its current format. As CALAFCO works on amendments with the Senator, we have included the required changes to §56653 in our overall requested amendments to SB 1318.

We believe this is a good solution to the problem we face in obtaining any immediate fix to §56653. Should the Senator ultimately not accept the amendments, or should the bill, with the amendments included, not pass the legislature, the CALAFCO Board has agreed to add changes to §56653 to the list of potential legislation for consideration and discussion for inclusion in our 2017 legislative platform.

Thank you again for reaching out to CALAFCO with your concerns. We value your membership and strive to continuously improve the value we create for you, our members. We will provide the membership ongoing legislative updates which will include our progress in shepherding this amendment through the legislature.

Please do not hesitate to contact me or our Executive Director, Pamela Miller, with any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "John Leopold". The signature is written in a cursive, flowing style.

John Leopold
Chair of the Board