



Solano Local Agency Formation Commission

675 Texas St. Ste. 6700 • Fairfield, California 94533

(707) 439-3897 • FAX: (707) 438-1788

Legislative Committee

Members: Commissioner Price and Alternate Commissioner Thomson

Location

Solano County Government Center

675 Texas Street Ste. 6700

Fairfield, CA 94533

February 15, 2017

2:30 PM

Public parking is available on the second floor of the parking garage adjacent to the Solano County Government Center. Vehicular entrance to the parking garage is on Delaware St.

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the LAFCO staff, at (707) 439-3898, by e-mail to mmcintyre@solanolafco.com. Requests must be made as early as possible, and at least two business days before the start of the meeting.

If you or your agent has made a contribution of \$250 or more to any Commissioner or Alternate during the 12 months preceding the decision, you and the Commissioner are obligated to disclose the contribution and that Commissioner or Alternate must disqualify himself or herself from the decision. However, disqualification is not required if the Commissioner or Alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings.

If you wish to speak on an agenda item, green speaker cards are provided. The cards must be completed and returned to the Commission's Clerk. The Commission limits speaker comments to three (3) minutes. The Commission may extend the time as necessary.

Commissioners

Harry Price, Vice-Chair

Pete Sanchez • Jim Spering • John Vasquez

Alternate Commissioners

Len Augustine • Nancy Shopay, Chair • Skip Thomson

Staff

Roseanne Chamberlain, Interim Executive Officer • Michelle McIntyre, Analyst • P. Scott Browne, Legal Counsel

A G E N D A

1. Call To Order

2. Roll Call

3. Public Comments

Opportunity for the public to speak to the Commission on any subject matter within the Commission's jurisdiction but not appearing on today's agenda.

4. Legislative Update

Receive an update on CALAFCO sponsored legislation.

- a. Annexations – GCS 56653
- b. CSDA – Special District seating on LAFCOs

5. Regional Park and Open Space District

Discuss proposed special legislation to establish a regional park and open space district in Solano County.

6. Adjournment

Commissioners

Harry Price, Vice-Chair

Pete Sanchez • Jim Spering • John Vasquez

Alternate Commissioners

Len Augustine • Nancy Shopay, Chair • Skip Thomson

Staff

Roseanne Chamberlain, Interim Executive Officer • Michelle McIntyre, Analyst • P. Scott Browne, Legal Counsel

**Legislative Committee Meeting
27 January 2017**

**Agenda Item 5
CALAFCO Sponsored Legislation**

DESCRIPTION

56653 Legislation

At the request of Butte LAFCo and after meeting with Assembly member Gallagher and his staff, he has agreed to author this bill, and Assembly Leader Chad Mayes has agreed to be a principal co-author. We continue to look for a Democratic co-author. We are waiting for the bill language to come out of Leg Counsel for introduction.

In the interim, the Assembly member's staff as well as Assembly Local Government (ALGC) staff have requested additional back-up data from us in support of the need for this change. A request for this information was sent to all Executive Officers by Steve Lucas and the results will be collated and provided as requested.

As a way to remind the Committee of what was approved, the proposed change is included as attachment 5a.

Streamline seating of Special Districts on LAFCo

CSDA is still trying to secure an author for this bill. Senator McGuire declined as his plate was already full, so they are reaching out to several other Legislators on whom we have agreed would make a good author. They have also submitted unbacked (no author) spot bill language to Leg Counsel, as January 17 was the last day to submit language. CALAFCO and CSDA will work together on crafting draft language to be vetted by this Committee (and CSDA's leg team), hopefully for the February meeting.

ATTACHMENT

5a – Proposed language for changes to 56653

5b – CSDA/CALAFCO Fact Sheet for streamlining seating of special districts on LAFCo

This page intentionally left blank.

The 5th District Court of Appeal issued a decision in the case of *City of Patterson v. Turlock Irrigation District* June 26, 2014 Cite as 14 C.D.O.S. 7193. In that case the City of Patterson (the City) applied to Stanislaus LAFCo to require annexation of territory into Turlock Irrigation District (TID) already receiving electrical service but at a higher rate because they were outside the district boundaries. TID adopted a resolution to terminate the proceedings as authorized by 56857 and the City sued TID to invalidate the resolution terminating proceedings. The Court of Appeal ruled against the City, but never addressed the invalidity of the TID resolution. Rather the Court of Appeal decided that the City's annexation application was invalid and therefore it did not reach the issue of TID's resolution. The Court of Appeal appears to take the position that no annexation application can be made to annex territory into a district unless there is a plan for services. That is fine as far as it goes but the Court also goes on to say that an annexation application must propose to "extend services" and that therefore an application to annex territory already served is prohibited under the express language of 56653.

The Court states:

"Therefore, we conclude that an application for the annexation of territory must include a plan for providing services to the affected territory, and that plan must describe the services to be extended to the affected territory. If the application does not propose to extend services to the affected area, then it is unable to satisfy the mandatory terms of section 56653 and, therefore, cannot be considered a valid and complete application. (See § 56658, subds. (c) & (g) [incomplete applications].)

Because the City's application, in the form presented, does not comply with the statute, and it appears that the City will not be able to cure the noncompliance by providing the required plan, nothing useful could be accomplished by this court issuing a writ of mandate directing TID to set aside its resolution requesting termination. Such a writ could not lead to Stanislaus LAFCo validly approving the City's application proposing an annexation of territory by TID because the application fails to comply with the Reorganization Act. (*Wilson v. Blake*, supra, 169 Cal. at p. 454.)"

This is disturbing in that LAFCo's regularly annex areas into districts that are already being served by the district under contract. The Appellate Court's decision suggests LAFCos cannot do so. We believe the Court of Appeal has misconstrued the meaning of "extension of services". Our proposal corrects what the Court believes is an omission in the statute.

56653. (a) If a proposal for a change of organization or reorganization is submitted pursuant to this part, the applicant shall submit a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

(1) An enumeration and description of the services, *currently provided or* to be extended to the affected territory.

(2) The level and range of those services.

(3) An indication of when those services can feasibly be extended to the affected territory, *if new services are proposed.*

(4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

(5) Information with respect to how those services will be financed.

(c) (1) In the case of a change of organization or reorganization initiated by a local agency that includes a disadvantaged, unincorporated community as defined in Section 56033.5, a local agency may include in its resolution of application for change of organization or reorganization an annexation development plan adopted pursuant to Section 99.3 of the Revenue and Taxation Code to improve or upgrade structures, roads, sewer or water facilities, or other infrastructure to serve the disadvantaged, unincorporated community through the formation of a special district or reorganization of one or more existing special districts with the consent of each special district's governing body.

(2) The annexation development plan submitted pursuant to this subdivision shall include information that demonstrates that the formation or reorganization of the special district will provide all of the following:

(A) The necessary financial resources to improve or upgrade structures, roads, sewer, or water facilities or other infrastructure. The annexation development plan shall also clarify the local entity that shall be responsible for the delivery and maintenance of the services identified in the application.

(B) An estimated timeframe for constructing and delivering the services identified in the application.

(C) The governance, oversight, and long-term maintenance of the services identified in the application after the initial costs are recouped and the tax increment financing terminates.

(3) If a local agency includes an annexation development plan pursuant to this subdivision, a local agency formation commission may approve the proposal for a change of organization or reorganization to include the formation of a special district or reorganization of a special district with the special district's consent, including, but not limited to, a community services district, municipal water district, or sanitary district, to provide financing to improve or upgrade structures, roads, sewer or water facilities, or other infrastructure to serve the disadvantaged, unincorporated community, in conformity with the requirements of the principal act of the district proposed to be formed and all required formation proceedings.

(4) Pursuant to Section 56881, the commission shall include in its resolution making determinations a description of the annexation development plan, including, but not limited to, an explanation of the proposed financing mechanism adopted pursuant to Section 99.3 of the Revenue and Taxation Code, including, but not limited to, any planned debt issuance associated with that annexation development plan.

(d) This section shall not preclude a local agency formation commission from considering any other options or exercising its powers under Section 56375.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.



**California Special
Districts Association**
Districts Stronger Together



EFFICIENT, EFFECTIVE, AND FLEXIBLE LAFCO REPRESENTATION

Purpose:

Under current law, to acquire representation on a local agency formation commission (LAFCO), a majority of all special districts in a county must pass a board resolution supporting such action within a one-year period. This proposal would amend this bureaucratic process by mirroring the existing election process for appointment of LAFCO commissioners through the county's independent special districts selection committee. The change would allow special district representation on LAFCO to be achieved through a more streamlined process while still allowing for each district to "vote" on the matter.

Simplifying the LAFCO representation process would empower special districts to more effectively consider their participation on LAFCO, as well as their associated role in the governance and boundaries of special districts and other local agencies. Moreover, LAFCOs would be better equipped to efficiently facilitate the process for garnering special district participation. In cases where special districts choose to participate, special district representation on LAFCO may provide a more diverse and stable decision-making and budgetary foundation to the LAFCO. Special districts are often instrumental in solving communities' service deficiencies and their input in these processes is of great value.

By mirroring the existing independent special district selection committee process for LAFCO commissioner elections, this proposal would uphold the principle of local flexibility. Every independent special district would have the opportunity to participate in the election process, either in-person or by mail, whereby each district may cast one vote for or against the question. A quorum of all independent special districts in the county would be required, and a majority of those present and voting would prevail.

Background:

This proposal, co-sponsored by CSDA and CALAFCO, offers a reasonable, proactive step local agencies can take to better facilitate participation and representation on LAFCOs.

Special districts have obtained LAFCO representation in 30 of the 58 counties in California, since the process to do so was created by the State Legislature in 1972. This proposal would maintain the local flexibility for special districts to determine the best course of action for their constituents and their community, while recognizing the need to modernize the process and reduce costly red-tape. Seating on LAFCO does establish a funding commitment proportionally shared by the local agencies within the affected county. However, it is important to note current law allows for each LAFCO to negotiate the budgetary formula for local agency apportionments, thus making it possible for special districts to seek alternative formulas that make such representation less of a fiscal strain.

Improving the LAFCO representation process also benefits the upcoming redevelopment agency (RDA) oversight board nomination process. On July 1, 2018, the 37 counties with multiple RDA oversight boards must each consolidate its boards into a *countywide* RDA oversight board. As part of this process, the LAFCOs must facilitate the appointment of an independent special district representative to the new countywide RDA oversight board via the independent special district selection committee. In 11 counties slated to form such a board, the respective LAFCO does not currently have special district representation and will need to convene an independent special district selection committee for the first time.

This proposal would allow LAFCOs to combine the questions of countywide RDA oversight board appointment, special district representation on LAFCO, and LAFCO commissioner elections on the same ballot. Therefore, it presents a unique opportunity to maximize the time and resources of all stakeholders by addressing multiple important matters by way of a single, local process. Enactment of this legislation, effective January 1, 2018, will allow for more informed and effective decisions through a proven and more efficient approach than the existing mechanisms.