



Solano Local Agency Formation Commission

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Staff Report

DATE: August 13, 2018
TO: Local Agency Formation Commission
FROM: Rich Seithel, Executive Officer
SUBJECT: Municipal Service Reviews – Ad Hoc Committee

RECOMMENDATION:

CONSIDER establishing a Municipal Service Review Ad Hoc Committee.

DISCUSSION:

A municipal service review (MSR) is a comprehensive study designed to better inform LAFCO, local agencies, and the community about the provision of municipal services. Service reviews attempt to capture and analyze information about the governance structures and efficiencies of service providers, and to identify opportunities for greater coordination and cooperation between providers. The service review is a prerequisite to a sphere of influence determination and may also lead a LAFCO to take other actions under its authority

The Cortese-Knox-Hertzberg Act (CKH Act), mandates that “On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.” [Government Code § 56425] In order to prepare and to update spheres of influence in accordance with Section 56425, **the commission shall conduct a service review of the municipal services** provided in the county or other appropriate area designated by the commission.” [Government Code § 56430]

With this mandate, SOIs and, by statute, MSRs have become a significant LAFCO work product and expense. Locally, Solano LAFCO’s 2018/19 Work Plan includes over 1,000

Commissioners

Harry Price, Chair • Jim Spering, Vice-Chair • Pete Sanchez • Nancy Shopay • John Vasquez

Alternate Commissioners

Len Augustine • Shawn Smith • Skip Thomson

Staff

Rich Seithel, Executive Officer • Michelle McIntyre, Analyst • P. Scott Browne, Legal Counsel

staff hours dedicated to MSR/SOI work plus a budget of \$120,000 for consulting contracts. Inherent to work product and expense issues are the following issues:

- Subject matter expertise: Many MSRs require (or should require) determinations that are informed by technical expertise regarding the municipal service being reviewed. This technical information perspective is more expensive than a “check the box” MSR. Also, not all firms consider a technical perspective as a necessity for an MSR.
- Lack of bidders: State-wide, LAFCOs’ are finding it more problematic to secure quotes for MSR RFPs. Within the last six months, Solano LAFCO has released two MSR RFPs. On both occasions only two consulting firms submitted a quote (four quotes total).
- Price escalation: Recently submitted bids are significantly higher than estimated which endangers budgets, five-year refresh cycles, and quality of decisions. Given a budgeted \$120,000 line-item for the preparation of two MSRs, a \$130,000 MSR contract for one is problematic.
- Clarity: Who pays? Responsibility? Local standards – review.
 - City/County expressed concern regarding paying LAFCO budget and special district MSRs.
 - “The commission shall conduct a service review...” [Govt Code § 56430]
 - LAFCO Resolution No. 03-03 (Attachment A)
- Senate Committee on Governance and Finance: The Senate Committee on Governance and Finance (Chaired by Senator Mike McGuire) in relation to AB 2258¹ (Caballero) (LAFCO Grant Program) has published comments regarding LAFCOs inability to carry out their MSR responsibilities (Attachment B). The Committee commented, *"A larger conversation may need to be had about the role for LAFCOs and the Legislature's expectations of them."* The Committee also stated, *"The Committee may wish to consider whether this bill strikes the appropriate balance between state and local responsibilities over boundaries, and if the level of local control afforded to LAFCOs is appropriate if the state is providing funding."* The Committee favors tying appropriations for LAFCO grant funding (AB 2258) to changing the Government Code by deleting the term "as necessary" to *"MSRs must be conducted for all services in each county every five years."*

¹ Solano LAFCO approved and submitted support letter April 9, 2018

Given the above issues as a backdrop and that one of Solano LAFCO's four foundational objectives in the FY 2018/19 Work Plan is meeting legislative/Government Code requirements², staff recommends that a Municipal Service Review Ad Hoc Committee be established to:

- Discuss Solano LAFCO's MSR policies
- Discuss MSR level of technical experience desired
- Discuss five-year cycle
- Discuss agency-centric versus service-centric format
- Developing options for MSR preparation
- Hear testimony from consultants and other LAFCOs

In summary, MSRs are an opportunity to provide a valuable decision-making tool for the Solano LAFCO Commissioners. Given the expense and time commitment, MSRs are being discussed and dissected state-wide. Assembly Bill 2258 has intensified the discussion and brought further attention to LAFCOs' role. Establishing an Ad-Hoc Committee will provide a timely, flexible, concentrated forum that is specific to MSR issues. The Ad Hoc Committee will report its findings and recommendations to the Commission.

Attachments:

- A – LAFCO Resolution 03-03 Adopting MSR Guidelines and LAFCO staff report dated March 3, 2003
- B - Senate Committee on Governance Finance Sen McGuire's Comments dated

² June 11, 2018 Commission Meeting, "Agenda Item 7A, Attachment #2"

ATTACHMENT B

RESOLUTION NO. 03-03

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF SOLANO COUNTY APPROVING THE ADOPTION OF MUNICIPAL SERVICE REVIEW GUIDELINES AND SCHEDULE FOR THE MUNICIPALITIES OF SOLANO COUNTY

WHEREAS, on September 26, 2000, Governor Gray Davis signed into law AB 2838 (Chapter 761, Statutes of 2000), authored by Assembly Speaker Robert M. Hertzberg; and

WHEREAS, the California Legislature has mandated as part of AB 2838 that Local Agency Formation Commissions shall conduct Municipal Services Reviews for all agencies that have a Sphere of Influence; and

WHEREAS, the Solano Local Agency Formation Commission has developed the City Municipal Service Review Guidelines and Schedule with the input of the Cities of Solano County, and

WHEREAS, this matter was noticed for public hearing on, March 3, 2003 at 10:00 a.m. at which time a full and impartial public hearing was held,

NOW, THEREFORE, THE COMMISSION MAKES THE FOLLOWING FINDINGS AND DETERMINATIONS:

1. The City Municipal Service Review Guidelines and Schedule, attached hereto as Attachment A, are hereby adopted to assist LAFCo and the Cities in implementing the requirements of Section 56430 of Cortese-Knox-Hertzberg.
2. The City Municipal Service Review Guidelines and Schedule are intended to replace in its entirety the existing contents of Part V of the Solano LAFCo Standards and Procedures pertaining to Comprehensive Annexation Plans which have now been replaced by municipal service reviews.

ATTACHMENT B

- 3. Adoption of City Municipal Service Review Guidelines and Schedule is exempt under Code Section 15206 – Information Collection (Guidelines for Implementation of the California Environmental Quality Act).

NOW, THEREFORE, BE IT FURTHER RESOLVED AND ORDERED by the Local Agency Formation Commission of Solano County that Chapter V of the Solano LAFCo Standards and Procedures is hereby repealed and replaced in its entirety by the attached City Municipal Service Review Guidelines and Schedule.

I, **SHAUN PRITCHARD**, Executive Officer of the Local Agency Formation Commission of County, California, do hereby certify that the above and foregoing resolution was regularly introduced, passed, and adopted by said Commission at a regular meeting thereof held March 3, 2003, by the following vote:

AYES:	Commissioners:	Commissioners Kondylis, Messina, Spring, Kromm, Chairman Saunderson
NOES:	Commissioners:	None
ABSENT:	Commissioners:	None
ABSTAINED:	Commissioners:	None

WITNESS my hand for the said Local Agency Formation Commission on this 3rd day of March, 2003.

Shaun Pritchard, Executive Officer
Local Agency Formation Commission

By Bobbi Farrior
Bobbi Farrior, LAFCO Secretary

LAFCO STAFF REPORT

March 3, 2003

Agenda Item No. 6 a

PROPOSAL:

Adoption of City Municipal Service Review Guidelines and Schedule, with inclusion of the Solano LAFCo's current Comprehensive Annexation Guidelines within the new guidelines.

BACKGROUND:

In 1997, the State Legislature enacted AB 1484, establishing the Commission on Local Governance for the 21st century (CLG). The members of the CLG were appointed by the Governor and represented a broad spectrum of constituent groups and perspectives including counties, cities, special districts, educators, industry, and elected officials. "The Commission was asked to assess governance issues and make appropriate recommendations, directing special attention to the Cortese-Knox Local Government Reorganization Act of 1985, the 57 Local Agency Formation Commissions (LAFCOs) governed by the Act, and citizen participation in local government (GWB, p. ES-1)."

The results of those efforts were published in *Growth Within Bounds* (GWB), which was published in January 2000. In *GWB*, the Commission reported that a LAFCO's legislated:

Directives imply that each LAFCO has comprehensive knowledge of the services available within its county, the current efficiency of providing service within various areas of the county, future needs for each service, and expansion capacity of each service provider. Although some LAFCOs may have access to such essentials, many do not, and the Cortese-Knox Act offers no mechanism for assisting and encouraging them to gather the basic necessary information. The Commission believes that such provision should be added to the statute.

Information on public service capacity could be gathered as part of the implementation of a new requirement for periodic service reviews. LAFCOs could conduct such reviews prior to or in conjunction with amendments to spheres of influence. A service review would encompass a comprehensive study of each identifiable public service provided by counties, special districts, and the cities in the region. The review would not focus exclusively on an individual jurisdiction to determine its future boundary or service areas. Rather, it would require LAFCO to look broadly at all agencies within a geographic region that provide a service. The review would also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers. LAFCOs should be provided flexibility in designating the geographic area to be analyzed, the timing of conducting particular reviews, and the scope of the reviews (*GWB*, pp. 98-99).

The State Legislature recognized the validity of the Commission's findings and codified a tool that could be used to collect information and evaluate service provision from a broader perspective. The tool for conducting service reviews is provided in Section 56430 of Government Code. Section 56430 requires "that in order to prepare and to update SOP's in accordance with section 56425; LAFCOs are required to conduct a service review of the municipal services provided in the county or other appropriate designated area. LAFCOs must include in the area designated for service review the county, the region, the sub-region, or other geographic area as is appropriate for an analysis of the service or services to be reviewed and, as noted previously, must prepare a written statement of its determination with respect to each of the following:

- (1) Infrastructure needs or deficiencies;
- (2) Growth and population projections for the affected area;
- (3) Financing constraints and opportunities;
- (4) Cost avoidance opportunities;
- (5) Opportunities for rate restructuring;
- (6) Opportunities for shared facilities;
- (7) Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
- (8) Evaluation of management efficiencies; and
- (9) Local accountability and governance.

Service Review Subcommittee:

In the Spring of 2002 a LAFCo Subcommittee, comprised of Duane Kromm and Nancy Shopay, was tasked with identifying a means by which to comply with the State's mandate for the conduct of service reviews. The Subcommittee quickly arrived at the conclusion that addition of a full-time staff person would be needed if the studies were to be completed in-house. The resultant LAFCo proposed budget reflected the Subcommittees recommendation for an increase in LAFCo staffing.

An increase in LAFCo staffing met with opposition from a number of Solano Cities. The Commission then directed the Executive Officer to present to both the Mayors' Conference and the City Managers Conference on the mandate associated with Municipal Service Reviews. As a result of these meetings the Executive Officer and the Cities came to an agreement in draft that would call for the Cities to prepare and submit the Municipal Service Reviews to LAFCo. This proposal was accepted by the Commission in April of 2002, with the Commission reserving the right to find another solution if the City proposal did not prove fruitful.

LAFCo and City Staff Proposal:

At the September 16, 2002 meeting of Solano LAFCo, Solano's Cities presented an outline for creating Municipal Service Review Guidelines. At that meeting, LAFCo Staff sought and received authority from the Commission to work with the Cities on the Guidelines and to incorporate the Comprehensive Annexation Guidelines into the new document. LAFCo Staff met with planning staff from the Cities of Fairfield, Suisun City and Vacaville over the course of several months to arrive at the version of the Guidelines before the Commission today.

The final draft contains the essentials elements required by the State and institutes a schedule for completion of the Service Reviews. Cites will adopt Service Reviews and submit the reviews to LAFCo. LAFCo Staff will prepare a report on the information and request additional information if deemed warranted. The Commission will then make written determinations as the final component of the Service Review process.

Countywide and District Specific Service Reviews:

LAFCo Staff will bring a schedule to the Commission in May for completion of the remaining Service Reviews. In addition, Staff will be seeking direction from the Commission on how to geographically structure the remaining Service Reviews, i.e. countywide vs. district specific reviews of agencies. Staff will rely heavily upon the previous work of the Service Review Subcommittee in bring a proposal forward.

STAFF RECOMMENDATIONS

- A) Adopt the City Municipal Service Review Guidelines and Schedule Resolution, Attachment B.

SOLANO LAFCO CITY MUNICIPAL SERVICE REVIEW AND COMPREHENSIVE ANNEXATION PLAN GUIDELINES

I. PURPOSE

To provide guidance to the Cities and Solano Local Agency Formation Commission (LAFCO) in preparing and conducting municipal service reviews.

II. BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO to review municipal services. The service review provides LAFCO and cities with a tool to comprehensively study existing and future public service conditions and to evaluate organizational options for accommodating growth, preventing urban sprawl while supporting California's anticipated growth, and ensuring that critical services are efficiently and cost-effectively provided.

III. The Function of City Municipal Service Reviews

Effective January 1, 2001, Government Code Section 56430 requires LAFCO to conduct municipal service reviews and prepare a written statement of determination with respect to each of the following:

- A. Infrastructure needs or deficiencies;
- B. Growth and population projections for the affected area;
- C. Financing constraints and opportunities;
- D. Cost avoidance opportunities;
- E. Opportunities for rate restructuring;
- F. Opportunities for shared facilities;
- G. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
- H. Evaluation of management efficiencies; and Local accountability and governance.

The municipal service review process does not require LAFCO to initiate changes of organization based on service reviews; it only requires that LAFCO make determinations regarding the provision of public services per the provisions of Government Code Section 56430. However, LAFCO, local agencies, and the public may subsequently use the determinations to pursue changes to services, local jurisdictions, or spheres of influence. Service Reviews are intended to provide a broad analysis of service provision. In addition, Service reviews must be completed in order to update agency Sphere of Influence (SOI) boundaries. The State has mandated that SOI updates must be completed by January 1, 2006.

IV. WHEN PREPARED

LAFCO will determine when municipal service reviews are necessary. Generally, reviews will be prepared prior to sphere of influence studies or updates; however, service reviews may also be conducted independent of the sphere of influence process. LAFCO may conduct service reviews independent of the sphere of influence updates based on a number of factors, including but not limited to, concerns of affected agencies, the public or LAFCO; public demand for a service review; public health, safety or welfare issues; service provision issues associated with areas of growth and/or development.

Minor amendments to a sphere of influence, as determined by LAFCO, will not require a municipal service review. An amendment to the sphere of influence of any agency may be processed and acted upon by the Commission if all of the following are met:

1. The requested amendment, considered along with all other amendments approved in the last 12 months for the agency in aggregate, are less than 40 acres.
2. There are no objections from other agencies that are authorized to provide the services the subject agency provides and whose SOI underlies or is adjacent to the subject territory.
3. The Commission finds that the proposed amendment would not significantly interfere with the development of the updated sphere of the agency.

V. ENVIRONMENTAL DETERMINATION

Cities that submit municipal service review proposals to LAFCO will be considered lead agencies for purposes of environmental review and should approve whatever environmental determination is appropriate under the California Environmental Quality Act (i.e., exemption, negative declaration, environmental impact report).

CITY MUNICIPAL SERVICE REVIEW AND COMPREHENSIVE ANNEXATION PLAN REQUIREMENTS

Cities may consult with the LAFCo Executive Officer during preparation of the draft Municipal Service Reviews. City Municipal Service Reviews shall be adopted by the City prior to LAFCo review. Upon adoption, LAFCO will review the document and shall accept or reject Municipal Service Reviews for the completeness of data required by on the criteria listed below. LAFCO shall review, comment, and make determinations through resolution as to the consistency of the Municipal Service Reviews with these Standards, the Cortese-Knox-Hertzberg Act, and other considerations as appropriate.

Solano LAFCo has adopted the following schedule and deadlines for completion of the first round of City Municipal Service Reviews. At the request of a city, the Executive Officer may amend the schedule, as long as all service reviews are completed by December 2005.

SCHEDULE FOR COMPLETION OF CITY SERVICE REVIEWS

<u>City</u>	<u>SUBMITTAL TO LAFCO</u>
Fairfield	December 2003
Suisun City	July 2004
Benicia	July 2004
Dixon	July 2004
Rio Vista	July 2004
Vallejo	July 2004
Vacaville	December 2004

Factors for Review

The Cities shall provide information and Solano LAFCo shall provide written determinations, including requests for additional information, relevant to the topics listed below.

A. Growth and Population

Purpose: To evaluate service needs for the sphere of influence based upon existing and anticipated growth patterns and population projections based upon adopted growth policies of the jurisdiction, with the horizon year identified in the jurisdiction's current General Plan.

1. City background
 - (a) Annexations since 1980
 - (b) Sphere of Influence changes since 1980
 - (c) Map of existing City Limits and existing sphere of influence

2. Population Information
 - (a) Past growth trends
 - (b) Future projections based upon current General Plan or ABAG Projections
 - (c) Employment projections
 - (d) Jobs to housing ratio, current and projected

3. Urban Growth Strategy - The urban growth strategy explains the city's expansion plans, documenting growth potential, identifying planned annexations, geographic areas of special significance as determined by the city and showing the timing relationship between planned annexations and capital improvements plans. It is recognized that projections beyond five years will tend to be more conceptual and less reliable than near-term estimates.
 - (a) Population and housing projections for the first ten-year period or the horizon year of the General Plan
 - (b) The location of planned growth areas
 - (c) Probable annexations within each time increment and identification of annexation interdependencies necessitating either sequenced or concurrent annexation approvals
 - (d) Identification of areas of critical concern

4. Agricultural Preserve Strategy - The agricultural preservation strategy shall include documentation identifying prime agricultural lands and lands under agricultural preserve contracts within the city's Sphere of Influence, and shall contain specific provisions and policies for guiding future growth away from such land. This strategy does not apply to lands under agricultural preserve within the existing city limits.

5. Infill Strategy - The purpose of Infill Strategy is to facilitate the Commission's determination as to whether a proposed annexation will significantly affect a city's ability to meet its infill goals. It is appropriate in some situations for municipalities to reserve lands for a needed use for which there is not now a market. For example, there is a need for high density and rental housing, but finance costs inhibit construction. A significant inventory of property zoned for these uses should not necessarily be a bar to annexation. Similarly, the existence of policies to promote infill may support a determination that the proposed annexation will not result in the premature conversion of open space because the city is taking effective measures to develop existing vacant lands. The ability to assess progress on Infill Goals, in conjunction with other appropriate

considerations will further assist LAFCO in determining whether particular annexation proposals are premature.

In requiring Infill Goals it is not LAFCO's intent to base annexation decisions solely on the vacancy factor or the effectiveness of infill policies. Nor is it required that every unit projected for construction for a given year be actually built. Moreover, the Infill Goal is only one factor in the overall Comprehensive Annexation Plan which will be used to determine compliance with Standard No. 8. The significance of incorporated vacant lands will depend on the particular circumstances of each city.

The infill strategy shall include the following:

- (a) An inventory and extent of vacant lands larger than 5 acres by land use designations and the number of units in residential designations.
 - (1) Location and extent of vacant lands larger than 5 acres by land use designation and the number of units in residential designations.
 - (2) Approved – but as yet not built – projects, including tentative maps, final maps, master plans, and site plans for developments larger than five acres or accommodating more than 20 dwelling units.
 - (3) Agricultural preserve contracts within the city limits and their status.
- (b) Factors which may impede the development of vacant land already within the city limits.
- (c) Past practices, existing policies, and future options to eliminate obstacles and to promote infill development.
- (d) Numerical goals for residential units of infill construction for each of the first five years of the plan. Infill goals will be based on the Growth Strategies, vacant land data, and other particular circumstances within each affected city.

B. Infrastructure Needs and Deficiencies

Purpose: To evaluate each municipal service which serves both existing and future City development, identifying infrastructure needs and deficiencies. If any of the services are not provided by a city, the city may choose to either provide the information or defer to the Municipal Service Review of the service provider.

1. Water Supply and Distribution
 - (a) Service area boundary in relationship to existing City limit and sphere of influence service provider.
 - (b) Supply and demand information for, including description of amount of entitlement (include copies of all water entitlement documentation in appendices) from each source, existing and buildout of General Plan
 - (c) Distribution, treatment and storage system needs
 - (d) Ability to provide service to existing and new growth
 - (e) Opportunities for shared facilities

2. Wastewater Treatment
 - (a) Service area boundary in relationship to existing City limit and sphere of influence, service provider
 - (b) Treatment capacity, Permit Capacity, and wastewater flow information, existing and buildout of General Plan
 - (c) Collection system needs
 - (d) Ability to provide service to existing and new growth
 - (e) Opportunities for shared facilities
- 3 Storm Drainage and Flood Control Capacity
 - (a) Service area boundary in relationship to existing City limit and sphere of influence, service provider
 - (b) Drainage system capacity and need for improvements, existing and buildout of General Plan
 - (c) Ability to provide service to existing and new growth
 - (d) Opportunities for shared facilities
4. Solid Waste Disposal Capacity
 - (a) Service area boundary in relationship to existing City limit and sphere of influence, service provider
 - (b) Solid waste disposal capacity and need for improvements, existing and buildout of General Plan
 - (c) Ability to provide service to existing and new growth
 - (d) Opportunities for shared facilities
5. Circulation and Transportation
 - (a) Service area boundary in relationship to existing City limit and sphere of influence, service provider
 - (b) Existing and projected levels of service for major roadways and need for improvements, existing and buildout of General Plan
 - (c) Ability to provide service to existing and new growth
 - (d) Opportunities for shared facilities
6. Public Safety
 - (a) Service area boundary in relationship to existing City limit and sphere of influence, service provider
 - (b) Existing and projected response time for emergency (Police and Fire) service and need for improvements, existing and buildout of General Plan
 - (c) Ability to provide service to existing and new growth
 - (d) Opportunities for shared facilities
7. Parks and Recreation
 - (a) Service area boundary in relationship to existing City limit and sphere of influence, service provider
 - (b) Existing and projected services and need for improvements, existing and buildout of General Plan
 - (c) Ability to provide service to existing and new growth
 - (d) Opportunities for shared facilities

C. Financing Constraints and Opportunities

Purpose: To evaluate factors that affects the financing of needed improvements and services

- (1) The cities shall demonstrate that is has/or will have financing ability to fund existing and/or future municipal infrastructure and services.

D. Cost-Avoidance Opportunities

Purpose: To identify practices or opportunities that may help eliminate unnecessary costs

- (1) The cities shall identify overlapping/duplicative services with other agencies

E. Opportunities for Rate Restructuring

Purpose: To identify opportunities to positively impact rates without decreasing service levels.

- (1) The cities shall evaluate the cost of services versus revenue

F. Government Structure Options

Purpose: To consider the advantages and disadvantages of different government structures that could provide public services.

- (1) The cities shall identify opportunities to amend the sphere of influence to coincide with current or future planned municipal services
- (2) The cities shall identify non-city service providers of municipal services within the sphere of influence

G. Local Accountability and Governance

Purpose: To evaluate the accessibility of the governing body and public participation

- (1) The cities shall describe methods of public outreach and participation in the operation of municipal affairs

H. Evaluation of Management Efficiencies

Purpose: To evaluate the quality of public services in comparison to cost

- (1) The cities shall describe efforts to maintain and improve municipal operations

RESOLUTION NO. _____

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF SOLANO COUNTY APPROVING THE ADOPTION OF MUNICIPAL SERVICE REVIEW GUIDELINES AND SCHEDULE FOR THE MUNICIPALITIES OF SOLANO COUNTY

WHEREAS, on September 26, 2000, Governor Gray Davis signed into law AB 2838 (Chapter 761, Statutes of 2000), authored by Assembly Speaker Robert M. Hertzberg; and

WHEREAS, the California Legislature has mandated as part of AB 2838 that Local Agency Formation Commissions shall conduct Municipal Services Reviews for all agencies that have a Sphere of Influence; and

WHEREAS, the Solano Local Agency Formation Commission has developed the City Municipal Service Review Guidelines and Schedule with the input of the Cities of Solano County, and

WHEREAS, this matter was noticed for public hearing on, March 3, 2003 at 10:00 a.m. at which time a full and impartial public hearing was held,

NOW, THEREFORE, THE COMMISSION MAKES THE FOLLOWING FINDINGS AND DETERMINATIONS:

1. The City Municipal Service Review Guidelines and Schedule, attached hereto as Attachment A, are hereby adopted to assist LAFCo and the Cities in implementing the requirements of Section 56430 of Cortese-Knox-Hertzberg.
2. The City Municipal Service Review Guidelines and Schedule are intended to replace in its entirety the existing contents of Part V of the Solano LAFCo Standards and Procedures pertaining to Comprehensive Annexation Plans which have now been replaced by municipal service reviews.

ATTACHMENT B

- 3. Adoption of City Municipal Service Review Guidelines and Schedule is exempt under Code Section 15206 – Information Collection (Guidelines for Implementation of the California Environmental Quality Act).

NOW, THEREFORE, BE IT FURTHER RESOLVED AND ORDERED by the Local Agency Formation Commission of Solano County that Chapter V of the Solano LAFCo Standards and Procedures is hereby repealed and replaced in its entirety by the attached City Municipal Service Review Guidelines and Schedule.

I, **SHAUN PRITCHARD**, Executive Officer of the Local Agency Formation Commission of County, California, do hereby certify that the above and foregoing resolution was regularly introduced, passed, and adopted by said Commission at a regular meeting thereof held March 3, 2003, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAINED: Commissioners:

WITNESS my hand for the said Local Agency Formation Commission on this 3rd day of March, 2003.

Shaun Pritchard, Executive Officer
Local Agency Formation Commission

By _____
Bobbi Farnior, LAFCO Secretary

SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair
2017 - 2018 Regular

Bill No: AB 2258
Author: Caballero
Version: 4/23/18
Consultant: Favorini-Csorba

Hearing Date: 6/20/18
Tax Levy: No
Fiscal: Yes

LOCAL AGENCY FORMATION COMMISSIONS: GRANT PROGRAM

Establishes a grant program for local agency formation commissions that perform specified actions until December 31, 2023.

Background

Local government boundaries. The Legislature has the authority to create, dissolve, or otherwise modify the boundaries and services of local governments. Beginning in 1963, the Legislature delegated the ongoing responsibility to control the boundaries of cities, county service areas, and most special districts to local agency formation commissions (LAFCOs) in each county. The responsibilities and authority of LAFCOs have been modified in subsequent legislation, including a major revision of the LAFCO statutes in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (AB 2838, Hertzberg).

The courts often refer to LAFCOs as the Legislature’s watchdog over boundary changes. To plan for the future boundaries and service areas of the cities and special districts, a LAFCO must adopt a policy document for each city and district called a sphere of influence. The LAFCO’s boundary decisions must be consistent with the spheres of influence of the affected cities or districts. Spheres must be reviewed and updated at least every five years.

Local governments can only exercise their powers and provide services where LAFCO allows them to: within their boundaries (which are set by LAFCO), within their spheres of influence but outside their boundaries (with authorization by LAFCO), and outside their spheres to address a major threat to public health if the extension is consistent with LAFCO’s policies. In 2015, the Legislature approved AB 402 (Dodd), which established a pilot program in Napa County and San Bernardino County that allowed the extension of services outside a local agency’s sphere of influence to support existing or planned uses under specified conditions. A local government that wants to expand its territory must ask LAFCO to annex new territory into the local government’s boundaries.

Most boundary changes begin when a city or special district applies to LAFCO, or when registered voters or landowners file petitions with a LAFCO. In limited circumstances, LAFCO can initiate some special district boundary changes: consolidations, dissolutions, mergers, subsidiary districts, or reorganizations. Boundary changes require four (sometimes five) steps:

- First, there must be a completed application to LAFCO, including a petition or resolution, an environmental review document, an agreement on how property taxes will be

transferred, and a plan for services that describes what services will be provided at what level and how those services will be financed.

- Second, LAFCO must hold a noticed public hearing, take testimony, and may approve the proposed reorganization. The LAFCO may impose terms and conditions that spell out what happens to the assets and liabilities of affected local agencies. If LAFCO disapproves, the proposed reorganization stops.
- Third, LAFCO must hold another public hearing to count written protests in order to determine whether an election is needed. Although there are many exceptions, in most cases an election is required if 25 percent of the voters in a district, or voters representing 25 percent of the assessed value of land, submit written protests. However, the protest threshold is lowered to 10 percent in cases where the LAFCO initiates a change of organization—such as a dissolution or reorganization of a special district—instead of the local agency itself making the request. In nearly all cases, if a majority of voters or landowners protest, the reorganization also stops.
- Fourth, if an election is required, it occurs among the affected voters, requiring majority voter approval.
- Finally, LAFCO’s staff files formal documents to complete the reorganization.

Municipal service reviews and special studies. To determine spheres of influence, LAFCOs must conduct a “municipal service review” (MSR) to inform their decisions. When conducting an MSR, a LAFCO must comprehensively review all of the agencies that provide services within an area designated by the LAFCO. MSRs must analyze and make determinations about seven topics:

- Growth and population projections;
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, including the water, sewer, and fire protection needs of disadvantaged unincorporated communities;
- Agencies’ financial abilities to provide services;
- Opportunities for sharing facilities;
- Accountability for community service needs;
- The location and characteristics of any disadvantaged unincorporated communities; and
- Other matters relating to effective or efficient services.

An MSR may also assess various alternatives for improving efficiency and affordability of infrastructure and services in the area in and around a sphere of influence. Because spheres must be reviewed every five years, MSRs must also be conducted on that schedule. LAFCO law also allows LAFCOs to perform special studies of existing government agencies to determine their maximum service area and service capacities.

Commission makeup. Each LAFCO is governed by a commission comprising local elected officials and one or two members of the public. With a few exceptions, every commission has either five or seven members, as follows: two members of the county board of supervisors, two members of city councils from cities within the county, and one member of the public, as well as two members of special district boards in the 30 counties where special districts have elected to be represented on LAFCOs. State law prescribes greater numbers of local officials to sit on the LAFCOs in Los Angeles, San Diego, and Kern counties, and counties with no cities—Alpine, Mariposa, and Trinity—have three members of the board of supervisors and two public members. State law requires local officials that sit on LAFCOs to exercise independent

judgment on behalf of the residents of the county as a whole, but also provides that those members do not have to recuse themselves on any matters and that this requirement does not create a right to sue.

Legislative history. Legislators have considered a number of measures to provide additional direction to LAFCOs in the years following the enactment of the Cortese-Knox-Hertzberg Act. In particular:

- SB 244 (Wolk, 2011) generally prohibits annexations of small areas to a city if a disadvantaged unincorporated community is contiguous with that area, with the aim of preventing cities from carving out disadvantaged communities in unincorporated areas. SB 244 also requires LAFCOs to include in the MSR a description of the location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence and to consider the water, sewer, or fire protection needs of disadvantaged unincorporated communities within the sphere when considering updates.
- SB 88 (Committee on Budget and Fiscal Review, 2015) took this effort a step further by authorizing the State Water Resources Control Board (board) to order a consolidation of neighboring drinking water systems where it is economically feasible in order to address public health threats. SB 88 established an elaborate process for consolidating water systems that requires multiple public hearings, as well as consultations with affected entities (such as the water system being subsumed, the receiving water system, domestic well owners, and the local government with land use authority over the area) and the LAFCO. The LAFCO must carry out the necessary actions to effectuate the board's order, as long as the board pays the LAFCO's costs.
- AB 2471 (Quirk, 2016) would have required Alameda County LAFCO to order the dissolution of the Eden Township Healthcare District, if the District met specified criteria, but did not pass the Senate.
- SB 1318 (Wolk, 2016) would have prohibited a LAFCO from updating the sphere of influence of, or authorizing the extension of services by, a city or qualified special district if nearby disadvantaged unincorporated communities lack safe drinking water or adequate wastewater services. SB 1318 was never heard in the Assembly.

Inactive districts. In addition, SB 448 (Wieckowski, 2017) requires the State Controller to publish a list of inactive special districts that have had no financial transactions, assets, debts, or liabilities in the past fiscal year. AB 448 also establishes a streamlined process for LAFCOs to dissolve those districts by requiring LAFCOs to initiate dissolution of inactive districts within 90 days of receiving the list from the Controller, holding only one public hearing, and exempting such a dissolution from the protest process.

Little Hoover Commission. In addition to Legislative interest in the subject, the state's Little Hoover Commission (LHC) issued a report in 2017 examining whether California taxpayers are well-served by special districts, and whether consolidation or dissolution of some special districts would improve local government operations and efficiency. As part of that review, LHC made recommendations regarding the role of LAFCOs. Among other recommendations, the LHC suggested that the Legislature provide one-time grant funding to pay for some LAFCO activities to encourage LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans. The LHC noted that participants in the LHC's hearings on the issue suggested that the Strategic Growth Council (SGC) administer such a program. The California

Association of Local Agency Formation Commissions (CALAFCO) wants the Legislature to implement this recommendation.

Proposed Law

Assembly Bill 2258 directs, until December 31, 2023, SGC to establish and administer a grant program for LAFCOs that perform specified actions, subject to appropriation by the Legislature. All LAFCOs are eligible for funding under the program. AB 2258 requires SGC to adopt guidelines and other administrative procedures for issuing grants after consulting with CALAFCO. The bill also exempts the development of these regulations from the Administrative Procedures Act.

AB 2258 requires SGC to award grants to local agencies to pay the costs of:

- Initiating dissolution of an inactive special district;
- Conducting special studies to identify efficiencies and alternatives for improving the efficiency and affordability of infrastructure and service delivery;
- Initiating a change of organization, other than the dissolution of an inactive special district, based on determinations found in a special study that has been approved by the commission;
- Developing and implementing reorganization plans with timelines for expected outcomes; and
- Incentivizing service providers to work with the LAFCO to develop and implement reorganization plans.

AB 2258 requires LAFCOs to supplement, not supplant, existing funding and staffing levels with the grant funds and prohibits the use of grant funds for conducting MSRs.

Inactive districts. In order to receive a grant for initiating a dissolution of an inactive special district, the LAFCO must submit to SGC an application requesting reimbursement for the costs of the dissolution proceedings. The application must include at least:

- The notification provided to the commission by the Controller of the inactive district(s) and the requirement to initiate dissolution proceedings;
- A full budget accounting for costs of the dissolution; and
- All reports and documents pertaining to the final dissolution action.

If all of the required documentation is in order, SGC must review and issue reimbursement within 60 days of receiving the application.

Special studies. In order to receive a grant to conduct a special study, the LAFCO must submit an application that includes at least:

- A resolution adopted by the LAFCO authorizing submission of the grant application and a commitment to review and consider the recommendations and potential actions contained in the study;
- A full budget accounting for estimated costs of the study to be performed;
- A full explanation of the reason for the study; and

- The most recent completed MSR or study in which determinations were made by the LAFCO indicating the agency to be studied is a candidate for a change of organization or reorganization.

The SGC must review the applications and select program participants based on criteria that further the purposes of the bill. The SGC must then notify selected program participants within two months of receiving the application and issue funds to the LAFCO within 60 days of the notification. A LAFCO that receives funding for a study must start the study within 30 days and must complete it within two years. After the LAFCO completes its study, it must provide the SGC:

- The full study conducted;
- The resolution making determinations as adopted by the local agency formation commission;
- A full budget accounting report of the funds used;
- A reimbursement of any unexpended funds;
- The local agency formation commission's plan for future action based on the study's conclusions; and
- Any other information requested by the SGC.

Other changes of organization. In order to receive funding to initiate other changes of organization, develop reorganization plans, or incentivize reorganization, a LAFCO must submit an application to SGC that contains:

- A resolution adopted by the LAFCO defining the purposes of the grant;
- Change of organization or reorganization plans with timelines for expected outcomes;
- A full budget accounting for estimated costs of the action to be performed; and
- The most recent completed study, including an MSR or similar study that is less than five years old, in which the LAFCO made determinations that the agency should be reorganized or dissolved.

The SGC must review the applications and select program participants based on criteria that further the purposes of the bill. The SGC must then notify selected program participants within two months of receiving the application and issue funds to the LAFCO within 60 days of the notification. A LAFCO that receives funding to initiate other changes of organization, develop reorganization plans, or incentivize reorganization must take the action within 30 days.

AB 2258 also changes the protest threshold for a change of organization that is funded by an SGC grant. Specifically, under current law, if a LAFCO initiates a change of organization that does not implement a prior determination by the LAFCO in an MSR or special study, the LAFCO must hold an election on the proposal if more than 10 percent of voters or landowners protest. AB 2258 instead establishes a 25 percent protest threshold for such an action if it is funded by a grant from the SGC. AB 2258 also includes cross references to the majority protest requirement under existing LAFCO law for changes of organization that are initiated by a LAFCO to carry out a determination in an MSR or special study, as well as to the existing laws governing dissolution of inactive special districts.

Once the LAFCO takes the action, it must provide the SGC:

AB 2258 (Caballero) 4/23/18

- The final action taken by the LAFCO;
- If proceedings were terminated as a result of protest, information necessary to support that fact;
- All reports and documents pertaining to the final action or protest action;
- A full accounting of the funds used;
- The reimbursement of any unexpended funds; and
- Any other information requested by the SGC.

AB 2258 includes findings and declarations to support its purposes.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, “Consistent with a recommendation made in the 2017 Little Hoover Commission report, AB 2258 would provide LAFCOs, or Local Agency Formation Commissions, with a one-time small infusion of grant-like monies to focus efforts on streamlining local government and improving efficiency in service delivery. There is a need for LAFCOs to conduct more in-depth studies of local agency service providers that could result in more options for greater efficiencies, the elimination of non-functioning organizations, or reorganization actions. AB 2258 would establish a grant-like funding program, administered by the Strategic Growth Council, to provide LAFCOs with funding to conduct studies and analyses of local government agencies and services for the purpose of streamlining the delivery of local government services. Through AB 2258, LAFCOs would be able to address known service and governance concerns that could potentially save California taxpayers money. Grant funds will be used specifically to conduct special studies to identify and support opportunities to create greater efficiencies in the provision of municipal services, and to potentially initiate actions based on those studies that remove or reduce local costs thus incentivizing local agencies to work with the LAFCO in developing and implementing reorganization plans. The grant program would sunset on December 31, 2023.”

2. With great power comes great responsibility. The Legislature delegated its authority to create and abolish local governments and adjust their boundaries to LAFCOs through the Cortese-Knox-Hertzberg Act. In doing so, the Legislature granted local officials much greater leeway in setting their own boundaries by establishing commissions comprising local officials. This is an important responsibility—they are tasked with ensuring that local services are provided efficiently, and are supposed to set aside their roles as local elected officials. However, it is unclear whether LAFCOs are living up to this responsibility. Specifically, the Legislature has enacted several measures in recent years to direct LAFCOs to take specific actions. While some bills sidestepping LAFCOs have done so because supporters think it’s easier than going through LAFCOs, other bills have emerged because constituents are concerned—and the Legislature has agreed—that LAFCOs have been falling down on the job. For example, the Legislature enacted SB 88 in part because LAFCOs weren’t pursuing consolidations as aggressively as the Legislature wanted in cases of chronically unsafe drinking water. Supporters of AB 2258 argue that this bill provides an opportunity for LAFCOs to show that they can do more of the types of activities the Legislature wants to see if they are provided the funding. But other obstacles to LAFCOs fulfilling the Legislature’s vision of LAFCOs may persist, including whether local

officials can successfully set aside their prior convictions when they sit on LAFCOs and take action to consolidate or dissolve local agencies that may put fellow local officials out of a job. AB 2258 raises significant questions about LAFCO's responsibilities and how they carry them out. A larger conversation may need to be had about the role for LAFCOs and the Legislature's expectations of them. The Committee may wish to consider whether AB 2258 is premature and instead convene a working group in the fall to better answer these questions and others.

3. Guns and butter. While LAFCOs' overall budgets will increase as a result of the grant program, the increase is unlikely to fully go towards expanded services, regardless of the prohibition contained in the bill. Specifically, under current law, MSRs can—but are not required to—assess various alternatives for improving efficiency and affordability of infrastructure and service delivery within and contiguous to the sphere of influence, including, but not limited to, the consolidation of governmental agencies. Some LAFCOs include this information in their MSRs; others do not. In addition, LAFCOs already argue that MSRs are not in fact required to be updated every five years, but only “as necessary.” A 2011 report by the Legislative Analyst's Office found that “the LAFCO executives we spoke with reported that they are not up to date on having all spheres of influence and municipal service reviews updated every five years, as required by law.” AB 2258 requires SGC to give grants out for special studies that assess alternatives for improving efficiency and affordability of infrastructure and service delivery—the same activity that LAFCOs can *choose* to include in their MSRs. Since that the bill allows LAFCOs to apply for funding for studies that in practice should be conducted as part of a comprehensive MSR, some LAFCOs may scale back future MSRs performed with their own funds to exclude these studies of efficiency and affordability in anticipation of receiving grant money to conduct special studies. To guard against the funds displacing LAFCOs' existing funds, the Committee may wish to consider amending AB 2258 to:

- Clarify that MSRs indeed must be conducted for all services in each county every five years; and
- Delete the requirement for SGC to provide grant funds for special studies.

4. Show me the money. Many LAFCOs do not receive adequate funding to carry out the full range of actions that the Legislature has directed LAFCOs to perform. For example, a 2015 survey by CALAFCO found that just over half of LAFCOs felt they were adequately funded to perform their activities. However, LAFCOs already possess a powerful mechanism for securing funding: after a LAFCO adopts a budget, it forwards that budget to the county auditor to be apportioned among cities, counties, and, in those counties with special district representation on LAFCO, special districts. If those entities do not provide their share of funding, the auditor can appropriate property tax or other revenue to the LAFCO. Accordingly, the underfunding of LAFCOs may be due to a lack of political will on the part of the commissions themselves. AB 2258 provides state funding to commissions populated with local representatives that are given the authority to take actions that affect local agencies. The Committee may wish to consider whether this bill strikes the appropriate balance between state and local responsibilities over boundaries, and if the level of local control afforded to LAFCOs is appropriate if the state is providing funding.

Moreover, AB 2258 establishes a grant program to be funded by SGC, but the source of funds for the program is currently unknown. The 2018-19 Budget recently passed by the Legislature does not contain funding for such a purpose, despite a request by the author, and prior attempts to make LAFCOs eligible for existing sources of SGC funds have been unsuccessful.

Specifically, AB 2624 (Smythe, 2012) and AB 453 (Mullin, 2013) would have made LAFCOs eligible recipients of funds allocated to SGC in the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84), which made available \$5.4 billion in bond funds for natural resources purposes. Both bills were held in the Senate Appropriations Committee. The Committee may wish to consider whether this bill will achieve its intended goals without a state funding source, particularly when LAFCOs already possess the ability to fund their operations from local sources at whatever level is approved by the LAFCO.

Other changes to the LAFCO statute to enhance local contributions to LAFCO—such as providing clearer statutory direction to the commissions themselves on the level of funding they should be requesting from local agencies—may be a more appropriate solution to LAFCOs current lack of funding. If, on the other hand, state funding for LAFCO operations is deemed appropriate, the Committee may wish to consider amending AB 2258 to only authorize funding for those actions that benefit residents of disadvantaged communities who may be suffering from inadequate services and lack the funds to pay for consolidations or actions that benefit them.

5. The lady doth protest too much. AB 2258 raises the threshold for consolidations and other changes of organizations that have not been identified in a previous MSR or special study, from 10 percent to 25 percent. Representatives of special districts cite the protest requirement as necessary to prevent LAFCOs from taking actions to dissolve or consolidate agencies against the will of local residents. They note that protests are relatively rare, and further argue that the source of funding should not change what threshold applies. However, LAFCOs often cite the specter of a protest and subsequent election—which a LAFCO would have to fund—as one reason that they do not initiate more actions of their own volition. LAFCOs also argue that a higher protest threshold is needed to ensure that state funds are not wasted on a process that is ultimately stalled by a small portion of the population. More generally, LAFCO law contains approximately 20 different combinations of actions that require varying protest thresholds. Should the Legislature revisit what level of protest threshold is appropriate in a comprehensive manner?

6. Double referral. The Senate Rules Committee has ordered a double-referral of AB 2258—first to the Senate Governance & Finance Committee, which has jurisdiction over bills relating to LAFCOs, and then to the Senate Natural Resources and Water Committee, to hear issues related to the Strategic Growth Council.

7. Related legislation. SB 1215, which the Committee passed at its April 25th hearing on a 5-0 vote, allows the State Water Resources Control Board to order provision of service to disadvantaged communities served by onsite wastewater treatment systems by directing LAFCOs to take the necessary actions. SB 1318 (Wolk, 2016) would have prohibited a LAFCO from updating the sphere of influence of, or authorizing the extension of services by, a city or qualified special district if nearby disadvantaged unincorporated communities lack safe drinking water or adequate wastewater services. SB 1318 passed the Senate Governance and Finance Committee on a 5-1 vote, but later died without hearing in the Assembly.

Assembly Actions

Assembly Local Government Committee: 6-3
Assembly Appropriations Committee: 13-3
Assembly Floor: 57-19

Support and Opposition (6/15/18)

Support: Alameda LAFCO; Association of California Water Agencies; Butte LAFCO; Calaveras LAFCO; California Association of Local Agency Formation Commissions; California State Association of Counties; Contra Costa LAFCO; Colusa LAFCO; El Dorado County Board of Supervisors; El Dorado LAFCO; Fresno LAFCO; Humboldt LAFCO; Imperial LAFCO; Kern LAFCO; Lake LAFCO; Lassen LAFCO; Marin LAFCO; Mendocino LAFCO; Merced LAFCO; Modoc LAFCO; Monterey LAFCO; Napa LAFCO; Plumas LAFCO; Riverside LAFCO; Sacramento LAFCO; San Benito LAFCO; San Bernardino LAFCO; San Luis Obispo LAFCO; San Mateo LAFCO; Santa Clara LAFCO; Santa Cruz County Board of Supervisors; Santa Cruz County LAFCO; Solano LAFCO; Sonoma LAFCO; Sutter LAFCO; Urban Counties of California; Yolo LAFCO; Yuba LAFCO;

Opposition: California Special Districts Association; McKinleyville Community Services District.

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