

# LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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**DATE:** MARCH 9, 2016

**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer  
SAMUEL MARTINEZ, Assistant Executive Officer



**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** Agenda Item 10 – Review and Consideration of Policy Updates  
Related to Approval of AB 402 – Special Provisions for Review of Out  
of Agency Contracts Outside a Sphere of Influence Within San  
Bernardino County

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## **RECOMMENDATION:**

Staff recommends that the Commission:

1. Approve the new policy regarding service(s) outside an agency's boundary and sphere of influence pursuant to Government Code Section 56133.5 as shown below:

*“A proposal by a city or district to provide new or extended services outside the agency's boundaries and outside the agency's sphere of influence would come under the provisions of Government Code Section 56133.5, which will require Commission approval at a noticed public hearing prior to the signing of an agreement/contract for the provision of the service.”*

2. Approve the revisions and amendments to the Commission's existing policies and procedures on Out of Agency Service Contracts (Section IV – Application Processing, Chapter 2: Out of Agency Service Contracts) as outlined in Attachment #1 to this report;
3. Adopt LAFCO Resolution No. 3217 reflecting the changes to the Policy and Procedure Manual and direct the Executive Officer to distribute to affected and interested parties and to update the Commission Website.

**BACKGROUND:**

Assembly Bill (AB) 402 was signed by Governor Brown in October 2015 and became effective January 1, 2016. It establishes a five-year pilot program for both Napa and San Bernardino Counties that allows both Commissions a mechanism to authorize the provision of service outside an agency's boundaries and outside its sphere of influence when deemed appropriate.

AB 402, which was authored by Assemblyman Dodd (Napa), provides the ability for both Napa and San Bernardino LAFCOs to approve outside service contracts beyond an agency's sphere of influence under a new section, Government Code Section 56133.5. This process requires that the Commission make the following determinations regarding the area to be served outside the agency's sphere of influence, at a noticed public hearing:

- That the proposed service extension was addressed in a service review,
- That the proposed service extension will not have an adverse impact on open space/agricultural lands and/or is not growth inducing; and,
- That inclusion of the area to be served into the agency's sphere of influence is not feasible or desirable based on adopted commission policies.

The proposed changes through this bill are very similar to the proposed language that San Bernardino LAFCO has been advocating for years related to Government Code Section 56133. As the Commission is well aware, the current language prohibits the City of Big Bear Lake from serving undeveloped parcels within portions of its water service area (areas acquired through condemnation of the former Southern California Water Company's System in Big Bear) since many of those areas are outside of its corporate boundaries and outside of its sphere of influence. In essence, AB 402 now affords the Commission the ability to allow for such connections outside an agencies sphere of influence pursuant to the provisions identified in Government Code Section 56133.5. It should be noted that the statute requires that each Commission, prior to January 1, 2020, submit a report to the Legislature on its pilot program including how many requests it approves, approves with condition, or denies pursuant to this section.

In order to implement AB 402, LAFCO staff is recommending approval of the following proposed policy to be included as Policy 3 in Chapter 2 of the Application Processing Section of the Policy and Procedure Manual:

3. *"A proposal by a city or district to provide new or extended services outside the agency's boundaries and outside the agency's sphere of influence would come under the provisions of Government Code Section 56133.5, which will require Commission approval at a noticed public hearing prior to the signing of an agreement/contract for the provision of the service."*

LAFCO staff is also proposing additional language and revisions to the Commission's current application and review procedures to specifically address Government Code Section 56133.5. The proposed amendments also includes minor technical revisions to standardize the language throughout the section. Attachment #1 to this report shows the additions and deletions to Commission's existing policies and procedures on Out of Agency Service Contracts (Section IV, Chapter 2: Out of Agency Service Contracts).

**CONCLUSION:**

Staff recommends that the Commission adopt the proposed policy regarding service(s) outside an agency's boundary and sphere of influence pursuant to Government Code Section 56133.5 as well as proposed changes, corrections or revisions to the Commission's existing policies and procedures on Out of Agency Service Contracts. Staff will be happy to answer any questions prior to or at the Commission hearing.

KRM/sm

Attachments:

1. [Chapter 2: Out of Agency Service Contracts \(with track changes\)](#)
2. [AB 402 \(Dodd\) Local Agency Services: contracts](#)
3. [Draft Resolution No.3217](#)