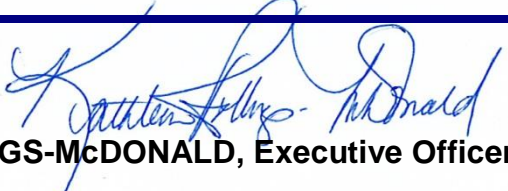


LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE : April 14, 2016 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #10 – LEGISLATIVE REPORT

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Accept Legislative Report and provide direction to staff on any bills included or new bills of interest;
2. Support AB 2910 CALAFCO sponsored Assembly Local Government Committee Omnibus Bill;
3. Remove opposition to AB 2032 following April 5, 2016 amendments;
4. Oppose Amended SB 1318 (Amended April 12, 2016) and ratify letter signed by Chairman dated March 18, 2016 stating position of opposition to SB 1318 (Wolk); and
5. Provide direction on SB 1262 if desired.

BACKGROUND:

The scheduling of hearings on bills has begun, and the rounds of amendments are in full swing. CALAFCO held a Legislative Committee meeting on March 18, 2016 to discuss pending legislation which affects LAFCOs throughout the State. Attachment #1 to this report is the Daily Legislative Report for Wednesday April 13, 2016, outlining the current status of all bills considered to be of importance to LAFCOs by CALAFCO along with the assignment of a Priority 1 (of most importance to CALAFCO) through Priority 3 (lesser impact typically a watch position). The following narrative outlines positions proposed for Commission consideration and/or amended due to amendments to the bills under consideration.

CALAFCO SPONSORED BILLS:

Each legislative cycle, CALAFCO undertakes an Omnibus Bill with the Assembly Local Government Committee to address non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act (hereafter shown as “CKH”). This year’s bill, AB 2910, was introduced on March 15, 2016 and proposes eight changes to CKH which have been determined to be non-substantive, such as corrections to code citations and cross references. A copy of the bill and the letter of support from CALAFCO are included as Attachment #2 to this report. Staff is recommending that the Commission take a position of support for the bill.

In addition, CALAFCO is sponsoring legislation related to placing a requirement upon Joint Powers Authorities (JPA) or Agencies proposed to be formed providing municipal services (such as fire, water, sewer, etc.) to forward a copy of their formation documents to each LAFCO in which they are proposed to serve. This is a new requirement set out in statute, but one which has been within the purview of each LAFCO as the public agencies that form the JPAs are under LAFCO authority. Many LAFCOs felt it was important to have this authority explicit in the statute rather than rely upon the implicit authority. This effort has been included in SB 1266 (McGuire), as amended on April 12, 2016, a copy of which is included as Attachment #3 to this report.

The question of whether to take a position on this bill poses a conundrum for LAFCO staff. The gathering of information on newly formed Joint Powers Authorities or Agencies can provide assistance while conducting a service review of municipal services. However, since it is our belief that acquiring this information is already under our purview, why is a new law required which may have unintended consequences? We, therefore, provide no recommendation on this bill and will address any position taken by the Commission.

PRIORITY BILLS:

The March Legislative Report identified that CALAFCO had also flagged three other bills in process as a Priority 1, AB 2032 (Linder) proposing to amend significant portions of AB 851 (Disincorporation) from last year; AB 2471 (Quirk) dissolution of Health Care Districts primarily related to a healthcare district in Alameda County, and SB 1318 (Wolk) which is proposing to link the annexation to a public agency or the contracting of a public agency to provide water or wastewater service to the delivery of those services to a disadvantaged community. CALAFCO also identified a single spot bill as a possible Priority 1, SB 1276 (Moorlach) which indicates that it proposes to amend CKH but the author’s office has not identified the intent on moving forward. A brief description of the current status of those bills follows:

AB 2032 -- The bill, as introduced, was a spot bill identifying changes to the disincorporation procedures from AB 851 (Mayes), but the author’s office and the lobbyist for the Auditor’s Association had been in contact with Pamela Miller, Executive Director of CALAFCO, to outline the proposed amendments. On March 17, the amended version of AB 2032 was released, and it included all changes that had previously been discussed with Ms. Miller of CALAFCO. The proposed changes to the disincorporation statutes had been previously rejected by CALAFCO and the stakeholders group which worked on AB 851, so a call went out to all LAFCOs to take an oppose position on the amended bill prior to its hearing before

the Senate Committee on Governance and Finance. In response to that request, a letter of opposition was submitted from San Bernardino LAFCO (copy attached). Based upon the expressions of opposition from a number of entities (CALAFCO, CSAC, Urban Counties Caucus, and others), the bill was again amended on April 5 and April 11 (copy included as a part of Attachment #4) to exclude the provisions of concern and include the changes which had been identified for support by CALAFCO and others. Based upon these changes, a letter of removal of opposition to AB 2032 was forwarded to the Author from San Bernardino LAFCO. We are recommending that the Commission ratify this action at the April Hearing. However, it is staff's understanding that another set of amendments is being proposed for AB2032 so a position of support has not been recommended but may be provided at the May hearing based upon receipt of the new language.

AB 2471 (Quirk) proposes a new method to dissolve a Healthcare District which no longer operates a healthcare facility and which does not receive a property tax allocation. It is understood that this legislation is directed at the Eden Health Care District in Alameda County, although the bill does not limit its application to that agency. San Bernardino County does not have a healthcare district which meets the criteria of the bill, so no position has been recommended.

SB 1318 (Wolk) is a far-reaching bill to continue the Senator's efforts to require that services be delivered to disadvantaged communities by linking an annexation and/or contract for service to that delivery. CALAFCO's and staff's concerns with this bill related to the LAFCO process were summarized as:

1. The bill's language would prohibit a LAFCO from authorizing a city or district to extend its drinking water and wastewater infrastructure until it has extended those services to all disadvantaged communities with or adjacent to the agency's sphere of influence unless specific conditions are met. This provision overlooks the requirements of 56133 that preclude every LAFCO (except Napa and San Bernardino through implementation of AB 402) from authorizing the extension of service outside a sphere of influence.
2. The bill would prohibit a commission from approving an annexation of 10 acres or larger where there is a DUC within or adjacent to the sphere which lacks safe drinking water or wastewater infrastructure unless the city or district has entered into an "enforceable" agreement to extend those services.
3. It proposes to amend the sphere of influence language to require that the Commission assess the feasibility of governmental reorganizations, removing the permissive "may" from the language and adds new subsection (k) to Govt. Code Section 56425 that prohibits a LAFCO from approving the amendment of a sphere of influence to remove a disadvantaged community.

At the March 16 hearing the Commission took a position of opposition to this bill and directed staff to convey its concerns. Included as a part of Attachment #5 is a copy of the March 18 letter forwarded to Senator Wolk and the Senate Committee on Governance and Finance (chaired by Senator Robert Hertzberg).

The bill was heard in committee on April 6 at which time substantial amendments were introduced which in essence directs this bill solely to the LAFCO process. A copy of the

analysis for that Committee hearing is included as a part of Attachment #5. The analysis outlines the same types of concerns for the unintended consequences of the bill being applied statewide, when the concerns are generally more localized to rural counties. This bill will require that the mandatory service reviews completed prior to 2022 include a review of the **entire county** for the delivery of water and wastewater services and require that they be conducted every five years thereafter (current language is for eight years and is permissive) and that LAFCO must file a map with the County identifying the disadvantaged communities and within two years identify a plan which addresses these deficiencies and the actions required to implement that plan. Staff reiterates that its concern remains that the bill, like others such as SB 244 and SB 88, while attempting to address very real service concerns do not fully consider the unintended consequences of the proposed bills and that there is no funding included that will allow for the payment of the needed service extensions or implementation of plans that would be required by the Commission, not even considering the unfunded mandate imposed on all LAFCOs. For all these reasons, staff recommends that the Commission reiterate its strong opposition to SB 1318 as amended April 12.

SB 1262 (Pavley) -- CALAFCO is currently monitoring another bill related to water delivery, SB 1262, which is a clean-up bill to last year's SB 88. Attachment #6 to this report includes a copy of the CALAFCO letter of concern, the Committee Analysis of the bill and the language of the bill as introduced on February 18, 2016.

The next CALAFCO Leg Committee meeting is scheduled for Friday, April 22 and staff will provide an outline of any direction provided by the Commission on the bills identified in this report or others of concern identified at the hearing.

KRM

Attachments:

1. [CALAFCO Bill Tracking Dated April 13, 2016](#)
2. [AB 2910 – Assembly Local Government Omnibus Bill \(CALAFCO sponsored\)](#)
3. [Senate Bill 1266 \(McGuire\) – Joint Exercise of Powers Act: agreements: filings and Senate Committee on Governance and Finance Analysis Dated April 6, 2016](#)
4. [Assembly Bill 2032 \(Linder\) – Disincorporation -- Letters dated April 13 and March 29, 2016 and AB 2032 as Amended April 11, 2016](#)
5. [Senate Bill 1318 \(Wolk\) – Disadvantaged communities – Water and Wastewater Infrastructure – Letter dated March 18 in opposition, Senate Committee on Governance and Finance Analysis Dated March 28, 2016, SB 1318 as Amended April 12, 2016](#)
6. [SB 1262 \(Pavley\) – Water supply Planning – CALAFCO Letter of Concern Dated March 22, 2016, SB 1262 as introduced on February 18, 2016](#)