

**Copy of Letter from
CALFIRE Dated
August 4, 2016**

Attachment 5

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION****San Bernardino-Inyo-Mono Unit**

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August 4, 2016

Kathleen Rollings-McDonald
Executive Officer
LAFCO for San Bernardino County
215 North "D" Street, Suite 204
San Bernardino, CA 92415-0490

Subject: Review of SB 239 Policies and Procedures Recommendations

Dear Ms. Rollings-McDonald,

Thank you for the opportunity to provide feedback on the San Bernardino County LAFCO's proposed Policies and Procedures for the implementation of SB 239. Please see the following:

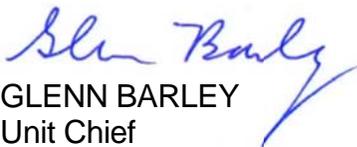
- CAL FIRE urges San Bernardino County LAFCO to work with CAL LAFCO to develop one set of policies and procedures that all County LAFCO's would apply consistently across the state.
- The proposed LAFCO document defines the "Affected Public Agency" as: "Affected Public Agency" for the purpose of fire protection contracts, shall be defined as the agency(ies) affected by the fire protection contract." I suggest that the definition be clarified as: "Affected Public Agency" for the purpose of fire protection contracts, shall be defined as the agency(ies) proposing to enter into the fire protection contract and/or a Public Agency with employees whose employment status would change as a result of the contract, or an agency whose area is directly involved in a 25 percent or greater expansion of the service area." I believe this more clearly defines who is an "Affected Public Agency" and that it is more closely aligned with guiding language of SB 239.
- Is the "Changes the employment status of more than 25 percent of the employees..." based on the total number of employees in that agency or 25 percent of the employees in that affected area?
- Paragraph 3 of the proposed policies seems to be potentially inconsistent with the law enacted by SB 239. The draft policy provides that a request made by a state agency must include a letter addressed to LAFCO by the director of that agency. The third sentence then says, in the case where the Director of Finance must provide approval of the contract, that the "Director" must provide the letter to LAFCO. The law (now included in Government Code Section 56134 (c)(2)) provides: "In the case of a public agency that is a state agency, the application shall be initiated by the director of the state agency

proposing to provide new or extended services outside the agency's current service area and be approved by the Director of Finance." Since Government Code Section 56134(c)(2) includes a provision that the director of the state agency initiate the application and that it be approved by the Director of Finance – this seems inconsistent with the proposed policy which seems to treat these as two separate practices.

- Item 3 of the "Review Procedures For An Out of Agency Fire Protection Contract" states that "A meeting with the applicant...will be held..." Is this consistent with the Brown Act and the Open Meeting Act? SB239 states that a hearing will be held and that the hearing may be continued, but I didn't see provision for a meeting as described in Item 3 in SB 239 or 56134.
- In the Preamble, please consider the following text:
 - Beginning January 1, 2016, a Local Agency Formation Commission has been charged with the responsibility for reviewing and taking action on fire protection contracts for new or extended fire protection services outside a public agency's jurisdiction boundaries, that either transfers more than 25 percent of the service area of an affected public agency or changes the employment status of more than 25 percent...
 - Policies: (2) "Documentation Required – The applicant must provide the Commission with documentation on whether a new or extended fire protection contract, to provide services outside a public agency's jurisdictional boundaries, meets ~~either threshold outlined in~~ Government Code Section 56134(a)(1)(A) or (B):
or
Transfers...."
-Whether the new or extended contract is outside a public agency's jurisdictional boundaries is the initial threshold issue, even before the issues of whether Government Code sec 56314(a)(1)(A)&(B) apply, thus the hesitation to call the 25/25 metric a threshold issue.

Thank you for the opportunity to provide input on this important topic.

Respectfully,


GLENN BARLEY
Unit Chief