

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: NOVEMBER 12, 2019
FROM: SAMUEL MARTINEZ, Executive Officer 
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #11: Report to the Legislature on Government Code Section 56133.5 Pilot Program

RECOMMENDATION:

Staff recommends that the Commission direct staff to file the required report with the California State Legislature (Attachment #2).

BACKGROUND

Assembly Bill (AB) 402, authored by (then) Assembly member (currently Senator) Bill Dodd, added Government Code Section 56133.5 (copy included as Attachment #1) to the LAFCO statutes that established a 5-year pilot program for Napa and San Bernardino LAFCOs to authorize a city or district to extend service(s) outside an agency's boundary and sphere of influence. AB 402, which became effective on January 1, 2016, requires that both LAFCOs make the following determinations regarding the area to be served outside an agency's boundary and sphere of influence:

- That the proposed service extension was identified and evaluated in a service review;
- That the proposed service extension will not have an adverse impact on open space/agricultural lands 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 pilot program also requires both LAFCOs to submit a report to the Legislature before January 1, 2020, on their participation in the pilot program including the number of requests made pursuant to said Section 56133.5, and the actions made regarding said requests.

Since the pilot program took effect, this LAFCO has received a total of three (3) requests for authorization of service outside an agency's boundary and sphere of influence pursuant to Section 56133.5:

1. City of Colton (LAFCO SC #420)
2. City of Big Bear Lake (LAFCO SC#443)
3. Inland Empire Utilities Agency (LAFCO SC #446)

This request, is on this month's agenda as Item 8. Should the Commission not approve LAFCO SC #446, staff would recommend that the Commission amend the report to the Legislature (Attachment #2).

LAFCO staff anticipates at least two more requests for approval of service pursuant to Section 56133.5. Based on the need to continue to process additional requests in the future, it might be appropriate to request that the Legislature consider removing the January 1, 2021 sunset clause for the pilot program.

The report to the Legislature is to be submitted in compliance with Government Code Section 9795, which requires that the report be no more than one page in length, and submitted to the Legislature as a print copy to the Secretary of the Senate, as an electronic copy to the Chief Clerk of the Assembly, and as a print or electronic copy to the Legislative Counsel. Section 9795 also outlines that a state agency report should include a website where the report can be downloaded as well as a phone number to call to order copies of the report. Although LAFCOs are (technically) not considered a state agency, the report nonetheless includes these additional state agency requirements. Attachment #2 is the draft copy of the report to the Legislature.

CONCLUSION:

LAFCO staff is requesting that the Commission review the draft report to the Legislature and provide comments or additional changes to the report. Staff also recommends that the Commission direct staff to file the final report to the Legislature prior to the January 1, 2020 deadline.

Staff will be happy to answer any questions of the Commission prior to or at the Commission hearing.

Attachment:

1. [Government Code Section 56133.5](#)
2. [Report to the Legislature on the Pilot Program Related to Government Code Section 56133.5](#)