

# LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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**DATE:** JUNE 17, 2014

**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer



**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** AGENDA ITEM #6– LEGISLATIVE UPDATE REPORT

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## **RECOMMENDATION:**

Staff recommends that the Commission:

1. Note receipt of the report and file;
2. Adopt the positions identified for SB 614 (oppose), AB 1739 (oppose proposed modifications) and SB 69 (support), or as modified at this hearing; and,
3. Authorize the Chairman to sign letters identifying these positions and direct staff to forward to the authors, Committees assigned, and San Bernardino County Legislative delegations.

## **BACKGROUND:**

It is now the waning days of the 2014 Legislative Session and the “gut and amend” and changes at the last second process are in full swing. Over the last several days CALAFCO has routed a number of amendments to significant bills, one of which is a total “gut and amend” submitted on June 16, 2014. Below is an outline of these significant actions:

- SB 614 (Wolk) -- Local Government: Jurisdictional Changes; Infrastructure Financing

This bill has been “gut and amended” to now address infrastructure financing through a form of tax financing to address infrastructure deficiencies associated with “disadvantage unincorporated communities (DUCs). The language as currently presented places a number of requirements upon a Local Agency Formation Commission adding a new section to Govt. Code Section 56653 – the statute that provides the definition of a Plan for Service. This new language, Subsection (c),

directly relates to a city annexation of a DUC allowing for the inclusion of the formation of a new special district or the reorganization of special districts for financing the improvement of “*structures*” (not defined), roads, sewer or water facilities. While this legislation is intended to address the concern about infrastructure, it does not address the concern of ongoing maintenance and operation of these same facilities and this is, and should be, a concern of LAFCOs.

It also proposes to add a new section in the Revenue and Taxation Code (R&T Code), proposed as 99.3, which provides for the preparation of a plan for the financing services for a disadvantaged unincorporated community as outlined in the amendments to CKH Section 56653. The placement of this requirement in the R&T Code is confusing since it is attempting to address the formation or reorganization process required of LAFCO. Why wouldn't it be a new section of CKH rather than a section easily overlooked in the process?

In addition, the Plan developed under the new Section 99.3 in Subsection (d) reads as follows:

- (d) The plan agreed upon pursuant to subdivision (c) may contain a provision that taxes levied upon taxable property in the area included within the territory each year by or for the benefit of the local agency and one or more other local agencies that consent to the plan, be divided as follows:
- (1) That portion of the taxes that would have been produced by the rate upon which the tax is levied each year by or for each of the affected local agencies upon the total sum of the assessed value of the taxable property in the territory as shown upon the assessment roll used in connection with the taxation of the property by the affected local agency, last equalized prior to the effective date of the certification of completion, and that portion of taxes by or for each school entity, shall be allocated to, and when collected shall be paid to, the respective affected local agencies and school entities as taxes by or for the affected local agencies and school entities on all property are paid.
  - (2) That portion of the levied taxes each year specified in the adopted infrastructure financing plan for the city and each affected taxing entity that has agreed to participate pursuant to this section, in excess of the amount specified in paragraph (1), shall be allocated to, and when collected shall be paid into a special fund of a special district formed or reorganized with the special district's consent pursuant to subdivision (c) of Section 56653 of the Government Code that will finance the infrastructure improvements to serve the disadvantaged, unincorporated community.

What does this mean; this is tax increment financing which was used by redevelopment agencies to fund improvements. There is no requirement for a vote for the use of these funds, simply the agreement of the “*affected local agencies*” which are those agencies which have adopted a resolution of consent. The implications of initiating this type of change through a LAFCO process warrants

more than one week of evaluation when the unintended consequences to the agencies could be tremendous.

Staff understands that this bill is supported by the Senate Local Government Finance Committee, it is supported by the League of California Cities, County Supervisors Association and it is implied the Governor's office also supports the action. However, staff has been in contact with CALAFCO raising questions and identifying what could be better language for the bill, but the bottom line is that the California Special Districts Association and CALAFCO were not at the table to participate in this process, this is an attempt to get at tax increment financing without calling it that, and does not address long-term sustainability questions. For those reasons, LAFCO staff recommends a position of opposition to SB 614 as currently written as the late hour of the session does not allow for much further amendment.

**Recommendation:** Oppose SB 614 as currently written.

- AB 1739 (Dickinson) – Groundwater basin management: sustainability

Staff has been made aware by the CALAFCO Executive Director that the author is proposing to make substantial amendments to this bill; however, those have not been published as of the date of this report. Those amendments are outlined in Ms. Miller's letter dated June 4, 2014. This is in direct relation to the current drought in California, which is appropriate. However, the legislation is proposing a general statewide fix to a problem which is significantly different between the regional areas of California. For example, the majority of the populated areas of San Bernardino County reside within adjudicated basins where the withdrawal of waters are allocated by a Court, managed by watermasters. This is compared to areas of Northern California where the systems are not adjudicated nor are the systems provided with water meters to control delivery.

Another concern is that this nebulous agency will either be approved or sent to the voters within 180 days of the Certificate of Filing. This is a mandatory provision and is of great concern to staff. Therefore, staff is recommending that the position be to oppose the amendments as currently identified unless amended further. This is a somewhat difficult position to delineate since the revisions are not published as yet, but staff believes it is important to let the author know of these concerns.

**Recommendation:** Oppose the current amendments as understood to be currently entertained by the Author.

- SB 69 (Roth) – Vehicle License Fee (VLF) Adjustments:

This bill was amended on June 16, 2014 to address incorporations that took place between January 2004 and January 2012. This will address concerns about the existing four incorporations in Riverside County but does nothing to address the

future for this type of change of organization. This was the suspected change anticipated in April 2014. AB 1521 (addressing annexations), a separate piece of legislation, has not been amended as of the date of this report and continues to address the loss of funding for those inhabited annexations which occurred between 2004 and the future.

**Recommendation:** No change in the position on SB 69 (support) is proposed at this time.

- AB 1799 (Gordon) – Land Use: Mitigation lands.

CALAFCO did not identify AB 1799 as a bill of interest; but San Bernardino LAFCO has identified its interest. At this time the bill has not made it out of the Assembly Appropriations Committee and is not expected to move forward this legislative session.

Staff will be happy to answer any questions at the hearing.

KRM:

ATTACHMENTS:

1. [Senate Bill 614 \(Wolk\) as Amended on June 16, 2014](#)
2. [CALAFCO Letter Dated June 4, 2014 on AB 1739 \(Dickenson ACWA Amendments\)](#)
3. [SB 69 \(Roth/Emmerson\) as Amended on June 16, 2014](#)
4. [CALAFCO Daily Legislative Report as of Tuesday, June 17, 2014](#)