

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: APRIL 13, 2015

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #8- LEGISLATIVE UPDATE REPORT

RECOMMENDATION:

Staff recommends that the Commission:

1. Note receipt of the report and file;
2. Indicate its opposition to SB 239 (Hertzberg) related to creation of a hybrid process for consideration of out-of-agency contracts for fire protection services;
3. Indicate its support for AB 1532 (Local Government Committee) CALAFCO omnibus bill; and,
4. Authorize the Chairman to sign letters identifying these positions and direct staff to forward to the authors, CALAFCO, Committees assigned (if any), and San Bernardino County Legislative delegations.

BACKGROUND:

The first round of Committee hearings is getting started and the bills identified of interest to the Commission and CALAFCO have begun the amendment process. Attachment #1 to this report is the Daily Legislative Report for Monday, April 13, 2015, outlining the current status of all bills considered to be of importance to LAFCOs through CALAFCO.

On this listing are three bills of significant importance to San Bernardino LAFCO: AB 851 (Mayes) on disincorporation, AB 402 (Dodd) related to out-of-agency service contracts and SB 239 (Hertzberg) which proposes to create a new hybrid process for considering fire protection and EMS contracts outside an agency's boundary. In addition, the bills related to ongoing effort to return VLF funding to newly incorporated cities (SB 25) and those which annexed islands of inhabited territory (AB 448) continue

in their review process and the CALAFCO sponsored Omnibus Bill through the Assembly Local Government Committee (AB 1532) are currently in process. AB 448 is scheduled for consideration in the Assembly Local Government Committee on April 15 and SB 25 is scheduled for hearing in the Senate Appropriations Committee on April 20. The following outlines the bills of specific interest to San Bernardino LAFCO and any new requested actions to be taken by the Commission:

- AB 851 (Mayes) -- Local Government: Organization: disincorporations

The stakeholder review process continues for this bill and the first set of agreed upon amendments has been received from Legislative Counsel. The first committee hearing on the bill in the Assembly Local Government Committee will be either April 22 or April 29. I continue to participate in meetings and discussion on this bill as it makes its way through the Legislature. A letter of support was forwarded to Assembly Member Mayes and to the consultant evaluating the bill at the Assembly Local Government Committee.

- As noted in last month's report, there are two bills in the Legislature related to revisions to Government Code Section 56133 -- AB 402 (Dodd) and SB 239 (Hertzberg).
 - SB 239 as amended on March 23, 2015 (copy included as Attachment #2) proposes a new hybrid process to evaluate a contract to extend service outside an agency's boundaries in general and most specifically provides for a process for fire protection and EMS contracting that assumes a "proposal" status under LAFCO statutes. The sponsorship of this bill is from the Professional Firefighters Association seeking union representation during these contract negotiations.

In reviewing the language of the bill staff has serious concerns about the bill. CALAFCO has adopted a position of opposition to the bill and a copy of the CALAFCO letter is included with this report as Attachment #3. Staff's concerns are provided as follows:

1. The bill proposes to define an out-of-agency service agreement for the provision of new or extended fire protection services outside an agency's boundaries as a "change of organization". This is significant in that it makes the contract a project which will require: a property tax exchange negotiation under Revenue and Taxation Code Section 99; is subject to CEQA and the Commission would be responsible for that analysis; requires the preparation of a comprehensive fiscal analysis by LAFCO to address the cost for providing the contractual service and requires a protest hearing process to be conducted. Only a CEQA determination is currently required when considering a contract for service. These provisions require unnecessary steps, in the staff view,

since Government Code Section 56133 allows for contracting and the process necessary for such to be considered.

2. The bill proposes the addition of an entirely new section of LAFCO law to address the extension of fire protection service outside an agency's boundaries and includes in these new sections, among other items, the following requirements:
 - a. That State Agencies seek LAFCO approval for extending services.
 - b. Removes the discretion that the governing bodies of public agencies providing fire protection services have to evaluate their position on contracting to provide extra-territorial service through the inclusion of mandatory pre-approval of the contract by affected labor associations. This new requirement circumvents the very nature of the LAFCO in each of the 58 counties where the body politic which serves the residents and property owner within it are making the decisions for the delivery of service. The precedent of allowing a group which is contractually represented in other venues for consideration to pre-approve these contracts is of grave concern to staff.

RECOMMENDATION: LAFCO staff is concerned about the effect of this new precedent on establishing procedures for out-of-agency service agreements and the injection of labor representatives directly into the LAFCO process. For these reasons and those outlined above and in the CALAFCO letter of opposition, staff recommends that the Commission oppose SB 239.

- AB 402 (Dodd) – Local Agency Services: contracts

The Commission's position of support if amended has been forwarded to Assembly Member Dodd and to the Assembly Local Government Committee. AB 402 proposes to make changes in the out-of-agency service contract provisions contained within Government Code Section 56133 to provide for a mechanism to authorize service outside the sphere of influence of an agency when deemed appropriate. Assemblyman Dodd, from Napa, has introduced a bill taking its direction from the last set of revisions from 2013 for Government Code Section 56133, but excluding some of the language which was included to provide safeguards in the process in keeping with the Commission's directives. The letter forwarded to the Assembly Member identifies the desire to require policies and procedures be adopted for this process as well as requiring the prior safeguard that the service was contemplated to receive the service which the contact proposes to provide.

Staff will continue to monitor the progress of this bill but it appears that the opposition to these changes from various areas, some from the LAFCOs throughout the State and others through agricultural interests may doom this process.

- AB 1532 (Committee on Local Government) – Local Government: omnibus

This is the annual CALAFCO sponsored cleanup bill to address non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act. A copy of the bill and the CALAFCO support letter are included as Attachment #4

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

KRM:

ATTACHMENTS:

1. [CALAFCO Daily Legislative Report as of Wednesday, April 13, 2015](#)
2. [SB 239 \(Hertzberg\) Local Government Extended Services – Copy of Bill](#)
3. [CALAFCO letter of opposition to SB 239](#)
4. [AB 1532 \(Assembly Local Government Committee\) CALAFCO sponsored Omnibus Bill and copy of CALAFCO Letter of Support](#)