

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: JULY 13, 2015
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: AGENDA ITEM #10- LEGISLATIVE UPDATE REPORT

RECOMMENDATION:

Staff recommends that the Commission:

1. Note receipt of this report and file;
2. Change its position on SB 239 to support in concept for SB 239 requesting the removal of language included in 56134(e)(8) and (9) as unnecessary to a contract process; and,
3. Take the position to send a letter of support for signature on AB 868 (Obernolte) retirement issues.

BACKGROUND:

The month of July begins the final push for the legislative review process for bills with July 15 being the last day for action in the second house of review. Attachment #1 to this report is the Daily Legislative Report for Monday, July 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, staff has become aware of two more bills which may be of interest to the Commission as they relate to water system consolidations and retirement issues. 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

Since the May report, the bill was forwarded from the Assembly to the Senate for consideration. On June 24th it was heard in the Senate Governance and Finance Committee, chaired by Senator Robert Hertzberg. It passed out of the committee with a 7-0 vote and gained three additional co-sponsors, Senators Beall, Huff, and Moorlach. Chairman Hertzberg complimented Assemblyman Mayes on his ability to shepherd the bill through the process and for working across the aisle to assure passage. Additional amendments have been made to the bill, in response to concerns from the Senate Committee and concerns expressed by the Los Angeles County Board of Supervisors late in the process with the final amendments to be printed today. The bill is scheduled for the Appropriations Committee on July 13. A copy of the current bill available is attached to this report. Once the bill has completed its process in the Senate it will return to the Assembly for concurrence and then to enrollment for the Governor's signature.

I continue to participate in meetings and discussion on this bill as it makes its way through the Legislature. The Governor's office is currently reviewing the bill and any concerns would be forwarded to the Author before the bill is finalized in the Assembly. No action is requested from the Commission at this hearing.

- As noted in the May report, there are two bills in the Legislature related to revisions to Government Code Section 56133 -- AB 402 (Dodd) and SB 239 (Hertzberg).
 - AB 402 (Dodd) – Local Agency Services: contracts

AB 402 has been amended in the Senate Government and Finance Committee to provide for a pilot program for Napa and San Bernardino Counties only. Based upon our experience with service issues for the City of Big Bear Lake Department of Water and Power and the City of Needles electric utility we remain in support of the proposed language to allow for a means to address their unique circumstances and hopefully identify to those who have expressed concern in the past that this will be used judiciously. An amendment to the bill has been proposed by the California Water Association to add language which would clearly identify that this program will not impact the "law of parallel lines" contained in Section 1501 of the Public Utilities Code. Staff has indicated that there was no objection to the inclusion of this language in the pilot program but any change to the body of 56133 would need to be vetted to the entire CALAFCO Legislative committee. The bill is moving back to the Assembly for concurrence on the amendments.

- SB 239 (Hertzberg) Local Services: contracts: fire protection services

Once again the bill has been amended, dated June 1, 2015, which has eliminated the area of staff and Commission concern, "the poison pill", of requiring union representation sign off on the contract before LAFCO can receive

the application. However, it has included some additional language related to requirements for road or facility improvements that are confusing in this consideration of a contract. Staff is recommending that the Commission change its position to one of support in concept, requesting that these new additions, Section (e) (8) and (9), be removed.

- During the month of June two significant bills related to water were considered. The first SB 88, began as a budget trailer bill process for consideration and was “gut and amended” into SB 88 on June 17 with passage on June 19 and enrollment to the Governor. On June 24th this bill was signed by the Governor which will allow for the forced consolidated of water systems (public and/or private) if certain determinations are met. CALAFCO participated in the rapid review of this significant legislative directive, but questions and concerns expressed surrounding this consolidation effort were rebuffed by the legislative staff participants. As chaptered there is an understanding that LAFCOs will step in to clear up the issues of governance; however, as written it specifically excludes LAFCO action in the process. It is understood that clean up legislation will be coming in the next weeks or months on this process. On July 7, SB 552 (Wolk) was gut and amended to reflect water system issues related to “disadvantaged communities” and the requirement to impose the extension of service in specific situations. CALAFCO staff is working with the legislative group and the author’s staff to address questions and concerns.

An additional item has come to the attention of staff, AB 868 (Oberholte), which is addressing an impediment to the consolidation of the Big Bear Fire Authority, the retirement liability issue. The bill will allow San Bernardino County, like Los Angeles and Kern to allow for a consolidation where the retirement liability will be consolidated under the new entity. This bill would allow for the unfunded liability to transition at the time of consolidation to the new consolidated agency without it being considered a new contract under the retirement provider. This effort for Big Bear may have implications for other areas in the county. AB 868 has been enrolled to the Governor and staff is suggesting that the Commission send a letter of support for signature.

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

KRM:

ATTACHMENTS:

1. [CALAFCO Daily Legislative Report as of Monday, July 13, 2015](#)
2. [AB 851 \(Mayes\) – Amended Bill dated June 30, 2015](#)
3. [AB 402 \(Dodd\) – Local Agency Services: contracts](#)
4. [SB 239 \(Hertzberg\) Local Government Extended Services amended June 1, 2015](#)
5. [Senate Bill 88 \(Committee on Budget and Fiscal Review\) Water as chaptered](#)
6. [Senate Bill 552 \(Wolk\) Public water systems: disadvantaged communities: consolidation or extension of service as amended July 7, 2015](#)
7. [AB868 \(Oberholte\) Public Employees Retirement System: contracting agencies: transfer of membership – bill as enrolled and Assembly Committee Analysis](#)