

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: NOVEMBER 8, 2013
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: AGENDA ITEM #7– LEGISLATIVE UPDATE REPORT

RECOMMENDATION:

Staff recommends that the Commission note receipt of the report and file.

BACKGROUND:

The 2013 Legislative Session, the first year of a two year cycle, has concluded and two LAFCO sponsored bills were approved. Attached to this report is information from CALAFCO in its October 23, 2013 Legislative Report (Attachment 1), the Senate Local Government Committee “Greatest Hits” list of Important bills for 2013 (Attachment 2). In addition, CALAFCO has developed a “Legislative Proposal Request” form (Attachment 3) for use in presenting legislative changes to the CALAFCO Legislative Committee for consideration.

Two bills identified in both reports as being signed into law affect LAFCO and its processing:

- AB 1427 – the CALAFCO Omnibus bill identifies nine separate, non-substantive changes to LAFCO law. These include amendments to the definitions of “independent special district” and “landowner”, amendment to the provisions for the operation of the independent special district selection committee, an amendment to the special procedures for annexation of territory to any city in Santa Clara county, a clarification of signature requirements for petitions for a merger of a district with its overlapping city and the dissolution of a special district, a change to the notice requirements to exclude a special provision for Los Angeles County, a change in the protest process for a dissolution to clarify when an election is required if the proposal is initiated by the Commission, and finally a change to correct a code citation in the requirement for calling an election to reflect changes approved in the prior legislative session. All of these changes take effect January 1, 2014. None of these require an immediate review of San Bernardino LAFCO processing requirements.

- AB 743 (Logue) amends Sections 56375.3 and 56375.4 (island annexation procedures removing the right of protest for landowners and voters) and repealing Section 57080 which provided for a simplified protest process for island annexations beginning in January 2014. The amendments to Section 56375.3 and 56375.4 make the island procedures permanent and clarifies that the island was to have been created prior to January 1, 2014.

Of note, this Commission has taken the position that the passage of SB 89, effective July 1, 2012, has created a situation where island annexations do not appear to be sustainable in general; therefore, it amended the Application Processing Policy #10 to include a new Item 3 which states:

The Commission identifies that following passage of SB 89, an urgency budget bill for Fiscal Year 2011-12 removing the motor vehicle in-lieu fees that were provided to incorporations and inhabited annexations completed after 2004, it will no longer automatically require annexation of island areas as a part of a development-related annexation application. The Commission believes that the removal of this discretionary funding renders inhabited annexations unsustainable and discussion of supplemental funding would necessitate a protest process.

In order for the Commission to be apprised of the effects of this change in philosophy and policy, it directs that upon receipt of a development-related annexation or reorganization application, which anticipates development of 500 or more dwelling units and/or 500,000 square feet of commercial/ industrial development, LAFCO staff shall, within 90-days, place an item on the Commission's Information Item calendar to review that City's unincorporated island areas which meet the criteria identified in Government Code Section 56375.3. It is understood that this is a policy declaration of the Commission which may be overridden based upon individual circumstance.

Also, as the Commission will recall, through the signing of the stipulated agreement related to the lawsuit Hulse vs San Bernardino LAFCO, the City of San Bernardino is precluded from initiating any proposal under these island annexation provisions for territory within its then sphere of influence.

- SB 246 (Fuller) addressing an update to the Special Act for the Bighorn-Desert View Water Agency was supported by the Commission and was signed by the Governor. The legislation will take effect January 1, 2014.

LAFCO staff receives a monthly publication entitled "Debt Line" from the California Debt and Investment Advisory Commission. Attachment 4 to this report includes an excerpt from the October publication. On page 3 it provides a listing of legislation proposed related to Local Finance and Infrastructure. Many of the bills listed are attempts to fill the void left by the elimination of redevelopment agencies through changes to Infrastructure Financing Districts or the creation of a new "Sustainable Communities Investment Authority", "Infrastructure and Revitalization Financing District", or "Community Revitalization and Investment Authority". Infrastructure Financing Districts (Government Code Section 53395 et seq.)

were originally created in 1990 but little used throughout the State due to the limitations imposed on project type and financing structure. The others would be new special districts to allow for financing of infrastructure through tax increment financing. All of these bills have become two year bills. The interest in seeking a new mechanism to address infrastructure financing with, at a minimum, more oversight appears to be robust. LAFCO staff will be monitoring this legislation for the next one year cycle and will provide the Commission with updates on this important legislative trend. The three bills of particular interest to staff with the potential for broad impacts on these funding streams are:

1. SB 33 (Wolk; Co-authors Assembly Members Frazier and V. Manuel Perez) – this bill proposes to revise the procedures for creation and financing of Infrastructure Financing Districts (Govt. Code Section 53395) which, among other changes, allows for tax increment financing (excluding it from the provisions of Article XIII B of the Constitution) as well as allowing for the distribution of funds from the Redevelopment Property Tax Transfer Fund. A copy of the bill is included as Attachment 5.
2. AB 229 (Perez; Principal Co-Authors Assembly Members Atkins, Bonilla, Bonta, Cooley, Dickinson, Gordon, Harkey, Quirk-Silva, and Wagner and Senators DeSaulnier and Torres) and AB 243 (Dickinson; Principal Co-Authors Assembly Members Atkins, Bonta and John A. Perez) – these bills propose the creation of a new type of district to be known as an “Infrastructure and Revitalization Financing District”. Of note neither of these districts would allow for the use of Redevelopment Property Tax Transfer funds and specifically excludes the use of the agency to fund ongoing maintenance and operations. Copies of these bills are included as Attachments 6 and 7 respectively.

The CALAFCO Legislative Committee appointments were approved on November 8, 2013 and I have been selected to maintain my seat on that Committee. The first conference call of the year is scheduled for November 25, 2013.

No actions are recommended to be taken at this hearing; however, if the Commission has direction on any legislation it can be provided to staff at this hearing. Staff will be happy to answer any questions prior to or at the hearing.

KRM:

ATTACHMENTS:

1. [CALAFCO Legislative Report Update Dated October 23, 2013](#)
2. [Senate Committee on Governance and Finance Listing of Important Legislation for 2013](#)
3. [CALAFCO Legislative Proposal Request Form](#)
4. [Excerpt from California Debt and Investment Advisory Commission Publication “Debt Line” Listing State Legislation Affecting Finance](#)
5. [Senate Bill 33 \(Wolk\) Infrastructure Financing Districts](#)
6. [Assembly Bill 229 \(John A. Perez\) Infrastructure and Revitalization Financing District](#)
7. [Assembly Bill 243 \(Dickinson\) Infrastructure and Revitalization Financing District](#)