

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

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DATE: MARCH 6, 2006
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #10: PENDING LEGISLATION

RECOMMENDATION:

Receive the information on pending legislation and provide direction to staff on the preferred approach to the issue of principal county definition in sphere of influence changes and municipal service reviews.

BACKGROUND:

The new legislative session began on January 4, 2006, and staff wanted to apprise the Commission of several issues of interest to LAFCOs in general -- one issue from the prior year, one new bill and an issue staff believes should be addressed legislatively.

First, as to the old -- AB 1602 (LAIRD) has been revived for this legislative session. This bill is an effort to address revenue losses for annexations and incorporations under the provisions of Prop 1A. This bill by Assemblyman Laird was intended to address the Motor Vehicle In-Lieu revenue restrictions that Prop 1A imposed upon new city annexations and incorporation efforts. AB 1602 is unchanged from last year's effort and was scheduled for consideration at the March 1, 2006 Senate Local Government Committee hearing (copy of Committee Analysis attached), but was pulled immediately prior to the hearing. Staff has not been able to track down the reason for the removal from the Agenda, but will monitor the progress of this bill and keep the Commission apprised.

Second is the new, the CALAFCO-sponsored Omnibus Bill is proposed to provide minor, non-controversial changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act. This year's bill proposes:

1. Extension of the island annexation provisions to January 1, 2014.

2. Clarification that LAFCOs do not have authority over the internal zones of any special district.
3. Amendments to the noticing requirements for the California Department of Forestry and Fire Protection.

At the CALAFCO Legislative Committee meetings, changes were discussed for Government Code Section 56133 (out-of-agency service agreements) as a potential part of the Omnibus Bill. However, the topic was hotly debated and could not meet the criteria of a “minor, non-controversial” change and, therefore, was pulled for further discussion.

Finally, in the February edition of *The Sphere*, the CALAFCO newsletter, there was an article outlining a recent court decision in a case where one LAFCO sued another. The suit Placer County LAFCO v. Nevada County LAFCO related to questions about the authority and responsibility for determining a multi-county district sphere of influence and municipal service review. A copy of the article and the court case are attached to this report. The decision rendered at the appellate court level was that a “principal county” has the authority to determine the sphere of influence and conduct the mandatory municipal service review. Principal county is defined by LAFCO law as the county with the majority of the assessed valuation of the special district. As the article indicates, this decision provides for the potential of overlapping spheres of influence.

We have a number of agencies for which San Bernardino County is determined to be the principal county – such as, Yucaipa Valley Water District, Inland Empire Resource Conservation District, and San Bernardino Valley Municipal Water District, all with territory within Riverside County. For these agencies, we conduct the annexation considerations, even for the territory in Riverside County, unless there is agreement by the Commission to transfer this responsibility. However, the sphere of influence for each of these agencies within Riverside County is determined by Riverside LAFCO. In addition, we have a number of agencies for which Kern County LAFCO would be the principal county, but to date no sphere of influence assignment has been made by San Bernardino LAFCO.

San Bernardino LAFCO has always operated under the premise that the definition of principal county related to only the changes of organization or reorganization as outlined in Government Code Section 56066. Riverside and San Bernardino LAFCOs have successfully operated under this principle for many years. During our current service reviews, we have discovered Kern County agencies within San Bernardino County in the northwestern portion of the County where annexations have occurred without a sphere designation being coordinated with our office.

Staff is concerned that this judicial decision requires a LAFCO in another county to decide the planning area for these multi-county agencies, without the mandate for coordination, without the familiarity of land use authorities or special circumstances of the area, etc. As a planning tool, the sphere is to look at land use

considerations and the need for services based upon those considerations; and the evaluation of those criteria, in staff's opinion, is best handled by the County LAFCO where the territory resides. Staff is requesting that the Commission provide its direction as to whether you support the staff working with the CALAFCO Legislative Committee to propose statutory clarification that the sphere of influence should be determined by the LAFCO in which the territory lies or that for a multi-county agency the principal county should be mandated to coordinate with the home LAFCO and give serious consideration to its determinations.

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Attachments:

1. Senate Local Government Committee Analysis of AB 1602 (Laird)
2. Summary of 2006 LAFCO Omnibus Bill
3. Placer County LAFCO v. Nevada County LAFCO