

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
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February 4, 2004

TO: Sacramento Local Agency Formation Commission

FROM: Peter Brundage, Executive Officer
Donald J. Lockhart, AICP, Assistant Executive Officer

RE: Legislative Update

RECOMMENDATION

Information only, no action is recommended. This is a status report on pending 2004-05 LAFCo related legislation.

SUMMARY

This memo is part of the ongoing staff work program to keep your Commission informed regarding various legislative matters.

NEW STATUTES

There are two new statutes (not previously discussed) that will affect the CEQA review process.

AB 677 (Firebaugh): CEQA Exemptions Filed With OPR

Status: Chapter 837, Statutes of 2003

Summary: A lead agency is now required to file the Notice of Exemption with the Governor's Office of Planning and Research (OPR.) Examples of CEQA exemptions include agricultural employee housing, low-income housing, or certain infill development.

AB 1545 (Simitian): CEQA E-Mail Comments

Status: Chapter 695, Statutes of 2003

Summary: With regard to the preparation of a draft EIR, proposed Negative Declaration, proposed mitigated Negative Declaration, or specified notice, this statute requires the lead agency to accept comments via e-mail and to treat e-mail comments equivalent to other written comments. Also authorizes a person to request public notices via e-mail.

LEGISLATION

New Legislation

It is likely that there will be bills introduced in February that will be of interest to your Commission. Staff will track the bills, in collaboration with the CALAFCo Legislative Committee, and report back to your Commission.

There are four bills that the CALAFCo Legislative Committee recommends be placed on the CALAFCo “watch” list:

AB 1788 (Leslie): Sierra Nevada Conservancy

Status: May be assigned to and heard in committee Feb. 5

Summary: Establishes the Sierra Nevada Conservancy to acquire and manage public lands within the Sierra Nevada Region, consisting of 20 counties. Specifies that certain provisions are not operative until funds are allocated by the Legislature or a bond act.

Comment: It is unclear what relationship this new agency would have to existing conservancies in the region.

SB 1089 (Johnson): State Water Pollution Control Revolving Fund

Status: May be acted upon on or after Feb. 8

Summary: States the Legislature’s intent that the State Water Resources Control Board, in administering the State Water Pollution Control Revolving Fund, give preference to capital improvement projects undertaken by a municipality in response to an administrative compliance order for its sanitary sewer collection system.

Comment: This change might have implications for some Municipal Service Reviews.

AB 392 (Montanez): Environmental Justice and Community Based Transportation

Status: Assembly Committee on Appropriations hearing on Jan. 21. moved to third reading, not yet scheduled.

Summary: Establishes the Environmental Justice Fund and Community Based Transportation Fund for grants to federal, state, local, and non-profit agencies for specified projects. States the Legislature’s intent to allocate not less than \$6 million annually to those funds.

Comment: The bill may struggle to get out of Appropriations, but signals the Legislatures growing interest in environmental justice.

SB 558 (Ducheny): *Local residential zoning: vacant land*

Status: Passed through Sen. Housing and Community Dev. Comm. on Jan. 12.

Summary: The Planning and Zoning Law requires a city or county to adopt a general plan for land use development that includes a housing element. In exercising its authority to plan for land uses, a city or county is also required to identify an inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and to designate and zone sufficient vacant land for residential use with appropriate standards in relation to zoning for nonresidential use and to growth projections of the general plan in order to identify the total housing needs in the element. This bill would declare the Legislature's intent to require each city, county, and city and county to make available sufficient land to accommodate the jurisdiction's 20-year need for housing.

Comment: Sacramento LAFCo has adopted policies concerning infill opportunities within a city; this bill may affect those policies.

SB 456 (Ortiz): Sacramento Suburban Water District: board: finances.

Status: In Local Government Committee

Summary: The bill originally was written to address matters regarding Sacramento Suburban Water District. It is being revisited for consideration of matters of interest statewide.

Discussion: On November 24, 2003, the Senate Local Government Committee held an interim special hearing on the subject "Integrity & Accountability: Exploring Special Districts' Governance."

Chair Tom Torlakson and Senators Deborah Ortiz, Nell Soto and Michael Machado attended the meeting along with approximately 200 members of the public. At the hearing, representatives from several statewide organizations – including the CALAFCo– testified on governance, ethical behavior, financial reporting, and oversight issues. CALAFCo was invited to testify in response to a position paper for the hearing. Committee Consultant Peter Detwiler stated that municipal service reviews were the "newest oversight mechanism available to local officials".

Senators in attendance were clearly concerned about recent governance issues around the State – particularly with respect to the management of finances. At the end of the hearing, Senator Ortiz announced her intention to pursue a bill to increase the oversight of special districts.

It is yet to be determined which agency or groups of agencies should oversee special districts. There were some indications during the hearing that the legislature might look to LAFCOs to enhance fiscal consideration of special districts in the Municipal Service Review process.

BILLS FOR WHICH CALAFCo HAS TAKEN A POSITION OR IS WATCHING

Two-Year Bills

Bill and Position Summary Status

AB 1385 (Haynes)

Position: Watch

This bill concerns only the San Diego County Water Authority, and is designed to allow a member agency to pursue detachment through LAFCo without losing entitlements and water rights. Since the author canceled a January 2004 hearing on the bill, it died in the Assembly Local Government Committee.

AB 838 (Spitzer)

Position: Watch

This bill would clarify that ordinances of the City of Rancho Santa Margarita would supercede the covenants of any property owners association. This bill passed through the Assembly in May 2003. It has not been scheduled for hearing and must be heard in the Senate policy committee by May 7, 2004 to remain alive.

SB 282 (Oller)

Position: Oppose

This bill would make a number of findings designed to force the proposed El Dorado Hills incorporation onto the ballot. The bill is in the Senate Local Government Committee.

SB 865 (Hollingsworth)

Position: Watch

The author's office describes this bill as a placeholder for which there is no current purpose. As published, the bill would modify certain noticing requirements that only affect Los Angeles LAFCo. There appears to be no movement on this placeholder.

Inactive Bills

Bill and Position Summary Status

AB 192 (Harman)

Position: Support

This CALAFCo sponsored bill would have resolved an ambiguity in the Government Code as to whether the limitation of noncontiguous annexations by cities to 300 acres applies to individual annexations or the aggregate of all such annexations. The bill would have clarified that it was the aggregate. This bill was an effort by CALAFCo to carry forward an unresolved matter from the consensus-working group that crafted last session's AB 2227 (Harman). Discussions between CALAFCo and Assembly Local Government Committee staff led CALAFCo staff to conclude that AB 192 should be withdrawn. Committee staff reported that there would be more support for establishing the 300-acre limitation as the aggregate count.

AB 208 (Harman)

Position: Support

This CALAFCo sponsored bill would clarify that as part of any change of organization or reorganization that includes dissolution; a LAFCo can designate a successor agency for all of the powers of the dissolved agency. The bill would further clarify that while the successor agency must be entitled to exercise the power of the dissolved agency, it does not have to be a power that the successor agency has exercised in the past. CALAFCo has significantly revised its efforts on this issue after discussing the matter with ACWA. Assemblyman Harman's staff has advised CALAFCo to let this bill die in committee. Mr. Harman will introduce a new bill on CALAFCo's behalf in February. See Attachment A.)

AB 406 (Jackson)

Position: Oppose

This bill proposed a number of changes to the creation and evaluation of CEQA documents. CALAFCo was particularly concerned about a provision that would have eliminated the right of a lead agency to use a document prepared by a consultant whose fees were paid by the applicant. The bill passed committee but was sent to the Assembly Inactive File on June 4, 2003. It must pass the Assembly floor by January 31, 2004 to remain alive.

AB 105 (Wiggins)

Current Position: Support

Recommended Position:

Support

The Agriculture and Water Omnibus Act of 2003 combines incentives and mandates to require urban water providers to maintain up-to-date urban water management plans, and to have those plans also available at the State Library. This would be of tremendous benefit to LAFCo in the evaluation of the timely availability of water supplies. Previously this bill only proposed to delete provisions of existing law that refer to agricultural preservation programs that were never funded. It further proposed to release previously appropriated funds to the California Farmland Conservancy Program.

In early September, the bill was amended to carry the Agriculture and Water Omnibus Act of 2003 and added provisions #3-8:

(3) Existing law requires the Reclamation Board to have its office in the City of Sacramento. This bill would require the board to have its office in the County of Sacramento.

(4) Existing law requires an urban water supplier to prepare and update an urban water management plan, and to submit copies of the plan to the Department of Water Resources and any city or county within which the urban water supplier provides water supplies. This bill, in addition, would require the urban water supplier to submit a copy of the plan to the California State Library.

(5) Existing law authorizes a local agency whose service area includes a groundwater basin that is not subject to groundwater management to adopt and implement a groundwater management plan pursuant to certain provisions of law. Existing law requires a groundwater management plan to include certain components to qualify as a plan for the purposes of those provisions, including a provision that establishes funding requirements for the construction of certain groundwater projects.

(6) The California Safe Drinking Water Bond Law of 1988 authorizes board proceeds in the California Safe Drinking Water Fund to be used for a grant program with grants provided to prescribed entities, subject to specific approval of the Legislature. This bill would make an appropriation by authorizing the Department to make grants from the fund to specified entities for the purposes of financing domestic water system improvement projects to meet state and federal drinking water standards.

(7) This bill would declare the Legislature's intent relating to appropriations in the Budget Act.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

ATTACHMENT A

Consolidation of Agencies Formed Under Different Principal Acts

The Cortese-Knox-Hertzberg Local Government Reorganization Act provides several processes by which two or more agencies may combine into one. Such reorganizations are encouraged whenever agencies recognize that there is an opportunity to better capture economies of scale and provide an improved or more cost-effective level of service to the constituencies of the agencies. Consolidation has been one of the more successful forms of such reorganizations, in part because consolidations are most often initiated by the agencies themselves and then processed in cooperation with the local agency formation commission (LAFCo). When municipal service reviews (G.C. §56430) – studies of the delivery of public services – were added to LAFCo law in 2000, consolidations were specifically identified as a government structure option that LAFCOs should analyze. Under current law, consolidations of special districts are limited to districts formed under the same principal act. This protects against the consolidation of districts that are significantly different in nature, such as hospital districts and water districts. However, it also prevents the consolidation of substantially similar districts, such as California water districts and county water districts. In the past, proposals to combine two or more special districts formed under different principal acts have required LAFCOs to employ a combination of procedures, such as dissolution and annexation. This practice has, on several occasions, raised procedural questions that have terminated the proposal. CALAFCo proposes that the process of consolidation be extended to the combination of special districts not formed under the same principal act. To ensure that such consolidations will not result in a loss of service or a threat to public safety, CALAFCo proposes that a new section be added to the Government Code specifying that LAFCo must be able to designate a successor agency (or agencies) for all services and LAFCo must determine that no threat to public health or safety is evident.

Amend Section 56030 of the Government Code:

"Consolidation" means the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district. In the case of consolidation of special districts, all of those districts shall have been formed pursuant to the same principal act.

Add Section 56853 to the Government Code to read:

Where a proposal for reorganization includes the consolidation of two or more special districts not formed pursuant to the same principal act, the proposal must specify under which principal act the newly formed district shall conduct itself. The proposal shall designate the newly formed district as the successor agency for the authority and powers exercised by the consolidating districts, provided those powers are authorized by the principal act under which the newly formed district shall conduct itself.

(a) As necessary, the commission shall designate a successor agency or agencies for each of the powers exercised by the consolidating districts that is not authorized by the principal act of the newly formed district.

(b) A proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act shall only be approved by the commission if the following conditions are met:

(1) The commission is able to designate a successor agency or agencies to deliver all of the services provided by the consolidating districts at the time of consolidation.

(2) For any power for which no successor agency is designated, the commission determines that there will be no adverse effect to public health or safety.

Amend Section 57500 to read:

On and after the effective date of a consolidation, the consolidated district succeeds to all of the powers, rights, duties, obligations, functions, and properties of all predecessor districts which have been united or joined into the consolidated district, *provided those powers are authorized by the principal act under which the consolidated district shall conduct itself. The Commission shall designate a successor agency or agencies to succeed to all of the powers of the predecessor districts that are not authorized by the principal act under which the consolidated district shall conduct itself.* The territory of a consolidated district, all inhabitants within that territory, and all persons entitled to vote by reason of residing or owning land within the territory are subject to the jurisdiction of the consolidated district and, except as otherwise provided in this chapter, have the same rights and duties as if the consolidated district had been originally formed under the principal act.

DL:Maf

(Legislation Feb.4, 2004)