LAFCO
San Diego Local Agency Formation Commission

1600 Pacific Highway • Room 452 • San Diego, CA 92101
(619) 531-5400 • FAX (619) 557-4190
Website: www.sdlafco.org

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Counsel

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AGENDA
SPECIAL DISTRICTS ADVISORY COMMITTEE
FRIDAY, APRIL 15, 2011, 9:30 A.M.
COUNTY ADMINISTRATION CENTER
ROOM 402A
1600 PACIFIC HIGHWAY

Agenda Item:		Recommended Action:
1.	**Roll Call**	
2.	**Approval of Minutes of Meeting held October 15, 2010**	**Approve**
3.	**Consultant's Recommended Agenda Revisions**	**Receive**
4.	**Committee Member / Consultant's Announcements**	**Information**
5.	**Public Comment** Opportunity for persons to speak to the Committee on any subject within the Committee's jurisdiction, but not an item on today's agenda. Each speaker's presentation may not exceed 3 minutes.	
6.	**Status Report on State Legislation for 2011-2012 Session**	**Information**
7.	**Update on SDAC Election in July**	**Discussion**
8.	**Current LAFCO and Special Districts Projects (April-July)**	**Discussion**
9.	**Adjournment to the May 20, 2011 Meeting Date if necessary**	

Note: Refreshments will be available at the meeting.

LOCAL AGENCY FORMATION COMMISSION
SPECIAL DISTRICTS ADVISORY COMMITTEE
OCTOBER 15, 2010 MEETING

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There being a quorum present, the meeting was convened at 9:30 a.m., by Chairman Tom Pocklington (Bonita-Sunnyside FPD). Attending were: **Committee Members** - Gary Arant (Valley Center MWD), Judy Hanson (Leucadia WD), Douglas Humphrey (Resource Conservation District of Greater San Diego County), Larry Jackman (San Miguel Consolidated FPD), Ron Fuller (Alpine FPD); Augie Scalzitti (Padre Dam MWD), John Pastore (Rancho Santa Fe CSD), Terry Thomas (South Bay Irrigation District), Gary Croucher (Otay Water District), Richard Williamson (Borrego Water District). Absent were: **Committee Members** – Margarette Morgan (Vista FPD), Jim Poltl (Vallecitos WD), Dennis Shepard (North County Cemetery District), Kimberley Thorner (Olivenhain MWD), Diana Towne (Rincon del Diablo, MWD). Attending: Michael Ott, Executive Officer, LAFCO, Harry Ehrlich, LAFCO Consultant, and no members of the public were present.

Item 2
Approval of Minutes of February 19, 2010

ON MOTION of Terry Thomas, seconded by John Pastore, and unanimously approved by the remaining Committee members, the Committee dispensed with reading the February 19, 2010 minutes and approved said minutes.

Item 3
Consultant's Recommended Agenda Revisions

Harry Ehrlich indicated there are no revisions. He announced to the Committee that a PowerPoint presentation would be given on Items 6 and 7.

Item 4
Committee Member/Consultant's Announcements

Mr. Pocklington requested Committee members to make announcements on matters associated with their districts and areas of responsibility.

Member Terry Thomas commented on the Registrar of Voters new website capabilities at www.sdvote.com. She recommended viewing the website in regards to financial disclosures.

Item 4
Committee Member/Consultant's Announcements (cont.)

Michael Ott made a brief announcement to the Committee that Harry Ehrlich was awarded the "Outstanding Professional of the Year 2010" by CALAFCO at their annual conference held in the beginning of October. The Committee congratulated Mr. Ehrlich and he thanked Mr. Ott and the Committee for their collaborative efforts made throughout the past year.

Item 5
Public Comment

No members of the public were present and therefore no one requested to speak.

Item 6
Review of 2010 Legislation Relating to LAFCO

Harry Ehrlich presented current activity on legislative bills to the committee. The bills Mr. Ehrlich reviewed with the committee members were: AB419 (Local government organization); AB1668 (Local government: city councils); AB1859 (Local government: change of organization or reorganization); AB2795 (Omnibus Bill); SB 194 (Community Equity Investment Act of 2010); SB 894 (Committee on Local Government); AB 155 (Local government: Bankruptcy proceedings); AB711 (Local agency formation commissions: Cost of incorporation proceedings); AB 2530 (Extending the Williamson Act); SB 1023 (Special districts: consolidation and reorganization); SB 1174 (Land use: General plan); AB 194, AB 827, AB 1955 and AB 1987 (Retirement, employment and compensation); AB 2064 (State and local government: salary disclosure); AB 2776 (Transfers of water: agricultural use to municipal use); and SB 501 (Local government: compensation disclosure). Harry Ehrlich informed the committee that he would keep them updated on future legislative activity.

Item 7
Review of Implementation of Legislative Policy L-107 – Jurisdictional Conflicts Associated with Proposed Development

Harry Ehrlich informed the committee members that the Commission approved Policy L-107 in May 2010. He shared with the Committee a new form along with the new policy. Mr. Ehrlich indicated LAFCO has not received any applications with the new form since it has been implemented a few months ago. Mr. Ehrlich expressed the importance of communication between applicants and jurisdictional agencies that issues related to services have been resolved before submitting applications to LAFCO. John Pastore

Item 7
Review of Implementation of Legislative Policy L-107 – Jurisdictional Conflicts Associated with Proposed Development (cont.)

asked who the contact person is for questions or concerns related to property tax transfers. Michael Ott indicated Renee Loewer from the Department of Planning and Land Use is the contact person. Mr. Ott informed the Committee the Department of Planning and Land Use has maintained this responsibility for many years.

Item 8
Review of Implementation of Legislative and Regulatory Guidelines: Water Supply and Availability

Harry Ehrlich informed the members that earlier this year the Commission approved the Legislative and Regulatory Guidelines covering water supply and availability. Mr. Ehrlich thanked the Committee for its input and he also thanked Gary Croucher for attending the Commission meeting to answer questions from the Commissioners. Harry indicated that the agencies will need to determine whether a reasonable amount of water supply is available.

General comments regarding water issues were made during a roundtable discussion by members Gary Arant, Larry Jackman, Tom Pocklington, Richard Williamson, John Pastore, Terry Thomas, Douglas Humphrey and Gary Croucher. Topics discussed were: ideas for future water resources; transportation of water; water availability; costs; planning and identify future challenges; environmental issues and desalinization.

Adjournment

There being no further business to come before the Special Districts Advisory Committee, it was noted that the next meeting is tentatively planned for November 19, 2010, if a meeting is to be held. The meeting was adjourned at 10:50 a.m.

Ruth Arellano
Administrative Assistant

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April 15, 2011

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To: Special Districts Advisory Committee

From: Harry Ehrlich, LAFCO Consultant

Subject: Status Report on State Legislation for 2011-2012 Session

A copy of the April Status Report on Legislation is provided for your review and information. Staff will update the committee at the meeting on activity since the report was prepared and any positions taken by the commission on April 4th on bills.

Respectfully submitted by

Harry Ehrlich
Consultant
Special Districts Advisory Committee

Attachment A - April 4, 2011 Status Report on LAFCO Legislation

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April 4, 2011

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Attachment A

TO: Local Agency Formation Commission

FROM: Executive Officer
Director, Legislative Research

SUBJECT: Legislative Update

This is the regular monthly status report on LAFCO related legislation for 2011. You will find attached copies of two documents regarding pending and proposed legislation affecting LAFCOs. The first is a legislative summary of selected bills that staff has identified for tracking. This report is current through March 15th. The second document is Attachments B through F, copies of noted bills for tracking. As reported last month, activity has begun this month on new bills. The status is noted below on several bills that we have begun tracking:

AB 54 (Solorio): Mutual Water Companies; drinking water

The bill proposes to place Mutual Water Companies under the purview of LAFCO in some circumstances and also include, where initiated by a commission, review of drinking water quality in an MSR. CALAFCO and CSDA are working with the author to clarify the intent and language to make the principles consistent with several areas of law. The author has stated that amendments will be made to address input and concerns. Staff will provide an update on progress of these discussions at the April meeting.

AB 912 (Gordon): Local government; organization and dissolution

The bill as introduced specifies two methods for a commission to process a dissolution of a special district with a "zero sphere", even though this term is not defined in Cortese-Knox-Hertzberg (C-K-H) Act of 2000. If a district passes a resolution of application to dissolve the agency, the commission could act on the proposal at a public hearing and no delay would be required. A second approach would be to issue notification and hold the public hearing after 30 days. Each action would be subject to a majority protest. It is not clear how this streamlines any process or if it convolutes the protest provisions of current law. The author has since indicated that this bill will be amended to address a separate LAFCO related issue so it is now considered a "place holder bill." Staff will be watching the bill for future amendments.

ACA 17 (Logue): Constitutional Amendment re: State Mandates

This bill would release a responsibility to a local government if the agency can charge a fee for the service or cost to provide the service. The bill may impact LAFCO in some areas of fee recapture for revenue. It is not clear of its potential impact until an analysis is completed by the Legislative Analyst's Office. Staff will be watching this bill.

SB 244 (Wolk): General plan; disadvantaged communities

This bill is a modified approach from AB 853 of last year in that it requires counties and cities to include an analysis of island, fringe, or legacy unincorporated communities in updates or adoption of its housing element of a general plan. The bill was amended on March 15, 2011 and requires LAFCO consideration of disadvantaged communities when conducting Sphere and Municipal Service Reviews. The San Diego LAFCO opposed a more benign version of this bill in 2010 and should either oppose SB 244 or "watch" the bill pending CALAFCO consideration.

AB 307 (Nestande): Joint powers agreements; federally recognized Indian tribe

This bill would include and allow any federally recognized Indian tribe to act as a public agency and to participate in any Joint Powers Authority with other state or local government agencies. This would significantly expand the current law applicable to Indian tribe status but does not address whether such actions would come under commission purview. Staff will be watching this bill.

There are several bills that address Williamson Act status and funding. There are also several bills that address transparency and financial auditing. These bills are all proposed to be watch positions at this time and until more specific impacts are known.

Staff will provide the commission with a verbal update at the meeting on any actions on these bills. Therefore, it is

RECOMMENDED: That your commission:

Receive and provide direction to staff on the attached legislative bills as appropriate.

Respectfully submitted,

MICHAEL D. OTT
Executive Officer

HARRY EHRLICH
Director, Legislative Research

MDO:HE:trl

Attachments

Attachment A: Pending 2011 Bill Tracking Report
Attachment B: Current AB 54 (Solorio)
Attachment C: Current AB 912 (Gordon)
Attachment D: ACA 17 (Logue)
Attachment E: SB 244 (Wolk)
Attachment F: AB 307 (Nestande)

SAN DIEGO LAFCO
Legislative Report
as of March 15, 2011

AB 54 (Solorio): Drinking water
Current Text: Introduced: 12/6/2010
Introduced: 12/6/2010
Status: 1/24/2011-Referred to Coms. on L. GOV. and E.S. & T.M.

Summary: Would allow the department to issue a letter of no prejudice, as defined, to a public water system that is a lead applicant for a project that may be funded by the Safe Drinking Water Revolving Fund and would make expenditures related to the project reimbursable in specified circumstances. Would allow a Mutual Water Company and city to agree to establish the MWC as a special district to qualify to submit for state grant funding. Would allow a commission to review the entity for compliance with drinking water quality standards as part of a MSR. This bill contains other related provisions to other existing laws.

CALAFCO Position: None at this time
CALAFCO Comments: Adds authority to LAFCo for reorganization of mutual water companies, and include in MSRs whether drinking water sources comply with safe drinking water standards.

San Diego LAFCO Recommended Position: Watch and Work with Stakeholders on Amendments

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AB 912 (Gordon): Local government: organization and dissolution
Current Text: Introduced: 2/17/2011
Introduced: 2/17/2011
Status: 2/18/2011-From printer. May be heard in committee March 20th.

Summary: Would authorize the commission, where the commission is considering a change of organization that consists of the dissolution of a district with zero sphere of influence, to immediately order the dissolution if the dissolution was initiated by the district board, or to, within 30 days following the approval of the application by the commission, hold at least one noticed public hearing on the proposal, and order the dissolution without an election, unless a majority protest exists, as specified.

CALAFCO Position: None at time
CALAFCO Comments: Allows a commission to immediately dissolve a special district with a zero SOI or to dissolve a district after a public hearing and the lack of a majority protest.

San Diego LAFCO Recommended Position: Watch
Concerns with language of the bill; author now indicates that it is a "placeholder bill' and it will be amended in the future to address a separate, unidentified LAFCO issue.

AB 46 (John A. Pérez): Local government: City of Vernon
Current Text: Amended: 2/28/2011
Introduced: 12/6/2010
Last Amended: 2/28/2011
Status: 3/1/2011-Re-referred to Com. on L. GOV.

Summary: Would provide that every city with a population of less than 150 people as of January 1, 2010, would be disincorporated into that cities' respective county as of 90 days after the effective date of the bill,

unless a county board of supervisors determines, by majority vote within that 90-day period, that continuing such a city within that county's boundaries would serve a public purpose because the location of the city, in a rural or isolated location, makes it impractical for the residents of the community to organize in another forum of local governance.

CALAFCO Position: None at this time
CALAFCO Comments: As written this bill applies only to Vernon, California. It bypasses much of the C-K-H disincorporation process, leaving LAFCo only the responsibility of assigning assets and liabilities following disincorporation.

San Diego LAFCO Recommended Position: None at this time

AB 187 (Lara): State Auditor: audits: high-risk local government agency audit program.
Current Text: Introduced: 1/25/2011
Introduced: 1/25/2011
Status: 1/26/2011-From printer. May be heard in committee February 25th.

Summary: Would authorize the State Auditor to establish a high-risk local government agency audit program to identify, audit, and issue reports on any local government agency, including any city, county, or special district, or any publicly created entity that the State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness. The bill would also authorize the State Auditor to consult with the State Controller, Attorney General, and other state agencies in identifying local government agencies that are at high risk.

Position: None at this time
CALAFCO Comments: Would allow the State Auditor to audit and issue reports on any local agency it identifies at being at high risk for waste, fraud, abuse or mismanagement.

San Diego LAFCO Recommended Position: None at this time

AB 555 (Norby): Local agency formation
Current Text: Introduced: 2/16/2011
Introduced: 2/16/2011
Status: 2/17/2011-From printer. May be heard in committee March 19th.

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation, change of organization, and reorganization of cities and special districts. This bill would make technical, nonsubstantive changes to the act.

CALAFCO Position: None at this time
CALAFCO Comments: Placeholder bill, currently targeted to C-K-H.

San Diego LAFCO Recommended Position: None at this time.

AB 1266 (Nielsen): Local government: Williamson Act: agricultural preserves: advisory board.
Current Text: Introduced: 2/18/2011
Introduced: 2/18/2011
Status: 2/22/2011-From printer. May be heard in committee March 22nd.
Summary: Would specify matters on which the advisory board may advise the legislative body of a county or city. This bill would also state that the advisory board is not the exclusive mechanism through which the legislative body can receive advice on or address matters regarding agricultural preserves.

CALAFCO Position: None at this time
CALAFCO Comments: Specifies additional responsibilities for the county or city Williamson Act advisory board. May also be a placeholder for more significant modifications to the Williamson Act.

San Diego LAFCO Recommended Position: None at this time

ACA 17(Logue): State-mandated local programs
Current Text: Introduced: 2/15/2011
Introduced: 2/15/2011
Status: 2/16/2011-From printer. May be heard in committee March 18th.
Summary: ACA 17, as introduced, Logue.

CALAFCO Position: None at this time
CALAFCO Comments: Changes state mandate law in a proposed constitutional amendment. Included is specific language that releases mandate responsibility if the local agency can charge an individual or applicant for the cost of providing the mandated service. Would likely exempt some mandates to LAFCO from state funding.

San Diego LAFCO Recommended Position: Watch; analyze to determine if negative impact on LAFCO budget

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SB 160 (Huff): Local government: reorganization.
Current Text: Introduced: 2/2/2011
Introduced: 2/2/2011
Status: 2/10/2011-Referred to Com. on RLS.

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. This bill would make a technical, nonsubstantive change to that act.

CALAFCO Position: None at this time
CALAFCO Comments: Appears to be a placeholder bill. Typically the senior republican on the Senate Finance & Committee introduces this bill as a placeholder. Usually used for some other purpose than LAFCo.

San Diego LAFCO Recommended Position: None at this time

SB 244 (Wolk) Land use: general plan: disadvantaged unincorporated communities.
Current Text: Introduced: 2/10/2011
Introduced: 2/10/2011
Status: 3/1/2011-Set for hearing April 6.
Calendar: 4/6/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary: Would require, prior to January 1, 2014, and thereafter upon each revision of its housing element, a city or county to review and update one or more elements of its general plan, as necessary to address the presence of island, fringe, or legacy unincorporated communities, as defined, inside or near its boundaries, and would require the updated general plan to include specified information. This bill would also require the city or county planning agency, after the initial revision and update of the general plan, to review, and if necessary amend, the general plan to update the information, goals, and program of action relating to these communities therein. By adding to the duties of city and county officials, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

CALAFCO Position: None at this time
CALAFCO Comments: Adds a review of disadvantaged communities - in both incorporated and unincorporated areas - to the Housing Element of the General Plan.

San Diego LAFCO Recommended Position: Watch or Oppose

SB 648 (Berryhill): Local government: Williamson Act.
Current Text: Introduced: 2/18/2011
Introduced: 2/18/2011
Status: 3/3/2011-Referred to Coms. on Gov. & F. and APPR.

Summary: Would provide an alternative method of cancellation of a contract by a landowner for contracts that are 10 or more years old, and where the landowner has not received a lowered assessment value on the land during the previous 10 consecutive years based on the existence of a residence, including agricultural laborer housing, on the land being valued. The bill would require the board or council, upon petition by the landowner and a showing that these conditions exist, and would prohibit the board or council from charging a cancellation fee.

CALAFCO Position: None at this time
CALAFCO Comments: Provides an alternative method for immediate cancellation of a Williamson Act contract under certain circumstances.

San Diego LAFCO Recommended Position: None at this time

AB 148 (Smyth): Local government: ethics training: disclosure.
Current Text: Amended: 3/2/2011
Introduced: 1/14/2011
Last Amended: 3/2/2011
Status: 3/3/2011-Re-referred to Com. on L. GOV.

Summary: Would additionally define the term ethics laws to include compensation setting guidelines as established by specified organizations. This bill contains other related provisions and other existing laws.

CALAFCO Position: None at this time
CALAFCO Comments: Would add compensation setting guidelines to the ethics training requirements for officials.

San Diego LAFCO Recommended Position: None at this time.

AB 162 (Smyth): Local government: financial reports.
Current Text: Introduced: 1/19/2011
Introduced: 1/19/2011
Status: 2/18/2011-Referred to Com. on L. GOV.

Summary: Would additionally require that, if an audit of a local agency reveals certain financial irregularities, the findings be sent separately to the Controller immediately after the audit has been concluded. By increasing the duties of local officials, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.
CALAFCO Position: None at this time

CALAFCO Comments: Requires disclosure to the State Controller of a variety of irregularities discovered in a local agency annual audit. May have some application for MSR updates.

San Diego LAFCO Recommended Position: None at this time

AB 307 (Nestande): Joint powers agreements: public agency: federally recognized Indian tribe.
Current Text: Introduced: 2/9/2011
Introduced: 2/9/2011
Status: 2/24/2011-Referred to Com. on L. GOV.

Summary: Would include a federally recognized Indian tribe as a public agency that may enter into a joint powers agreement. This bill would also make conforming changes by repealing now redundant code sections. This bill contains other related provisions.

CALAFCO Position: None at this time
CALAFCO Comments: Would allow any federally recognized Indian tribe to act as a public agency to participate in any Joint Powers Authority. Significantly expands current law on Indian tribe participation in a JPA.

San Diego LAFCO Recommended Position: Watch

AB 392 (Alejo): Ralph M. Brown Act: posting agendas.
Current Text: Introduced: 2/14/2011
Introduced: 2/14/2011
Status: 3/3/2011-Referred to Coms. on L. GOV. and G.O.

Summary: Would additionally require the legislative body of the local agency, at least 72 hours before a regular meeting of that body, to post the writings that relate to an agenda item for the open session of that regular meeting. This bill would require the legislative body to post the agenda and the writings on its Internet Web site, if any, as specified. The bill would repeal the procedure for the disclosure of any writings that are distributed less than 72 hours prior to the meeting and would instead prohibit the legislative body from acting on or discussing an item on the agenda for which a related writing was not properly disclosed at least 72 hours prior to the meeting, except as provided. By expanding the duties of local agencies, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

CALAFCO Position: None at this time
CALAFCO Comments: Adds additional posting requirements to Brown Act.

San Diego LAFCO Recommended Position: None at this time

AB 1287 (Buchanan) Local government: audits.
Current Text: Introduced: 2/18/2011
Introduced: 2/18/2011
Status: 2/22/2011-From printer. May be heard in committee March 22nd.

Summary: Would require local agencies, defined to include cities, counties, a city and county, special districts, authorities, or public agencies, to comply with General Accounting Office standards for financial and compliance audits and would prohibit an independent auditor from engaging in financial compliance audits unless, within 3 years of commencing the first of the audits, and every 3 years thereafter, the auditor completes a quality control review in accordance with General Accounting Office standards.

CALAFCO Position: None at this time
CALAFCO Comments: Would require regular audits of all local agencies.

San Diego LAFCO Recommended Position: None at this time

SB 186 (Kehoe): The Controller.
Current Text: Introduced: 2/7/2011
Introduced: 2/7/2011
Status: 2/19/2011-Set for hearing March 16.
Calendar: 3/16/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary: Would authorize the Controller to exercise discretionary authority to perform an audit or investigation of any county, city, special district, or redevelopment agency, if necessary, to ensure compliance with state law, grant agreements, local ordinances, and to determine fiscal viability. This bill would require the Controller to prepare a report of the results of the audit or investigation and to file a copy with the local legislative body. This bill would also provide that specified costs incurred by the Controller shall be borne by the county, city, or redevelopment agency and state that reimbursements collected, upon appropriation to the Controller, be available to offset costs of enforcing this provision.

CALAFCO Position: None at this time
CALAFCO Comments: Allows Controller to audit local agencies and determine fiscal viability.

San Diego LAFCO Recommended Position: None at this time

SB 235 (Negrete McLeod): Water and flood districts: reorganization of district governing board.
Current Text: Introduced: 2/9/2011
Introduced: 2/9/2011
Last Amended: 3/14/2011
Status: 3/14/2011-From committee with author's amendments. Set for hearing March 16.
Calendar: 3/16/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary: Would authorize the governing board of a water conservation district, except districts within the County of Ventura, whose board of directors consists of 7 directors, to reduce the number of directors to 5, consistent with specified requirements.

CALAFCO Position: None at this time
CALAFCO Comments: Allows specified water conservation districts to reorganize their board of directors to reduce the number of directors, by action of the Board.

San Diego LAFCO Recommended Position: None at this time
SB 436 (Kehoe): Land use: mitigation lands: nonprofit organizations.
Current Text: Introduced: 2/16/2011
Introduced: 2/16/2011
Status: 2/24/2011-Referred to Com. on RLS.

Summary: Would state the findings and declarations of the Legislature with respect to the preservation of natural resources through such mitigation, and would state that it is the intent of the Legislature to enact legislation to allow state and local public agencies and nonprofit organizations to utilize the tools and strategies they need for improving the effectiveness, cost-efficiency, and durability of mitigation for California's natural resources.

CALAFCO Position: None at this time
CALAFCO Comments: Placeholder bill that indicates it relates to additional tools for the preservation and mitigation of agricultural and open space lands.

San Diego LAFCO Recommended Position: None at this time

SB 449 (Pavley): Controller: local agency financial review.
Current Text: Introduced: 2/16/2011
Introduced: 2/16/2011
Status: 3/1/2011-Set for hearing April 6th.
Calendar: 4/6/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary: Would additionally authorize the Controller to conduct a preliminary review to determine the existence of a local agency financial problem, and perform an audit upon completion of that review, subject to specified criteria. This bill contains other related provisions.

CALAFCO Position: None at this time
CALAFCO Comments: Allows state controller to audit local agencies.

San Diego LAFCO Recommended Position: None at this time

ASSEMBLY BILL No. 54

Introduced by Assembly Member Solorio

December 6, 2010

An act to amend Sections 56375 and 56430 of the Government Code, and to add Section 116760.65 to the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 54, as introduced, Solorio. Drinking water.

Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.

Existing law establishes the Safe Drinking Water State Revolving Fund, continuously appropriated to the department for the provision of grants and revolving fund loans to provide for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. Existing law requires the department to establish criteria to be met for projects to be eligible for consideration for this funding.

This bill would allow the department to issue a letter of no prejudice, as defined, to a public water system that is a lead applicant for a project that may be funded by the Safe Drinking Water Revolving Fund and

Attachment B

would make expenditures related to the project reimbursable in specified circumstances.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, sets forth the powers and duties of a local agency formation commission, including, among others, the powers to review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

This bill would additionally authorize the commission to review and approve or disapprove, at the commission's discretion, the consolidation of territory within the jurisdiction of a mutual water company into the jurisdiction of a city as a special district that operates a public water system, with the consent of the respective city and mutual water company.

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, each local agency formation commission is required to develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere of influence. In order to prepare and update spheres of influence, the commission is required to conduct a service review, including the review of growth and population projections for the affected area, present and planned capacity of public facilities and adequacy of public services, financial ability of agencies to provide services, the status of, and opportunities for, shared facilities, accountability for community service needs, and any other matter related to effective or efficient service delivery, as required by commission policy.

This bill would authorize the commission to include in the service review, a review of whether the available drinking water sources within the area of review comply with safe drinking water standards.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Californians rely on a broad diversity of public and private organizations to deliver clean and safe drinking water to their home

water taps. Regardless of the form of the organization that operates a public water system, these organizations provide a public service that remains one of the core duties of the people's government.

(b) While the state's goal is to ensure clean and safe drinking water, California's drinking water quality has deteriorated and some public water systems continue to suffer poor water quality that are inconsistent with safe drinking water standards.

(c) The state provides funding to public water systems to improve drinking water quality through the Safe Drinking Water Revolving Fund, but demand far exceeds the available funding. The United States Environmental Protection Agency's Drinking Water Infrastructure Needs Survey and Assessment, which was performed in 2007, State Department of Public Health estimates that the 20-year drinking water infrastructure need for California is $39 billion. Funding for such projects, however, for 1997–2008 totaled only 1.2 billion.

(d) It is the intent of the Legislature to enact legislation that would impose consistent fines and penalties on public water systems across the state to ensure compliance with safe drinking water standards.

SEC. 2. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals by resolution of application for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is

consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan.

However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and prezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the prezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the prezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(*l*) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

(r) To review and approve or disapprove, at the commission's discretion, the consolidation of territory within the jurisdiction of a mutual water company formed pursuant to Chapter 2 (commencing with Section 14310) of Part 7 of Division 3 of Title 1 of the Corporations Code into the jurisdiction of a city as a special district that operates a public water system, with the consent of the respective city and mutual water company.

SEC. 3. Section 56430 of the Government Code is amended to read:

56430. (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

(1) Growth and population projections for the affected area.

(2) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

(3) Financial ability of agencies to provide services.

(4) Status of, and opportunities for, shared facilities.

(5) Accountability for community service needs, including governmental structure and operational efficiencies.

(6) Any other matter related to effective or efficient service delivery, as required by commission policy.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) In conducting a service review, the commission may include a review of whether the available drinking water sources within the area of review comply with safe drinking water standards.

~~(c)~~

(d) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5 or to update a sphere of influence pursuant to Section 56425.

SEC. 4. Section 116760.65 is added to the Health and Safety Code, to read:

116760.65. (a) A public water system, as defined in Section 116275, that is a lead applicant for a project that may be funded pursuant to this chapter may apply to the department for a letter of no prejudice for the project or a component of the project. The department may approve the letter of no prejudice for one or more projects or project components that the department has determined to be eligible for federal or state funding pursuant to established funding priorities and has issued an invitation to apply for funding from the Safe Drinking Water Revolving Fund. The letter of no prejudice shall reference the project or component thereof and the maximum amount of bond funding that may be allocated for that project or project component.

(b) Expenditures for the costs, up to the amount set forth in the letter of no prejudice, of a project or project component for which a letter of no prejudice has been issued shall be eligible for reimbursement from the Safe Drinking Water Revolving Fund if all of the following apply:

(1) The project or project component for which the letter of no prejudice was requested has commenced and expenditures on the project or project component have been incurred by the local agency.

(2) The expenditures made by the local agency are eligible for reimbursement in accordance with state and federal laws and procedures, and are permitted expenditures under the applicable provisions of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.) or the California Safe Drinking Water Act. If expenditures made are determined to be ineligible, then the state has no obligation to reimburse for those expenditures.

(3) The public water system complies with all legal requirements for the project, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) The expenditures were incurred after the project or project component was determined to be eligible for funding by the department.

(5) There is in the Safe Drinking Water Revolving Fund an amount sufficient to make the reimbursement payment. Nothing in this section requires the fund to be funded at a particular time or in a particular amount.

(c) The department and the public water system may enter into an agreement or agreements governing reimbursement as described in this section.

(d) Without limiting the foregoing, nothing in this section or in a letter of no prejudice shall eliminate or modify any condition or requirement for granting, allocating, or reallocating funds or any other provision relating to loans, grants, allocations, or reallocations in the California Safe Drinking Water Act or related statutes.

(e) For purposes of this section, "letter of no prejudice" means an agreement between a public water system and the department that makes eligible for future reimbursement from the Safe Drinking Water Revolving Fund the expenditure of funds under the control of the public water system, subject to availability of bond funds, as provided in this section. The timing and final amount of reimbursement is dependent on the terms of the agreement and the availability of funds. The final amount of reimbursement may be less than the amount stated in the letter of no prejudice.

O

ASSEMBLY BILL No. 912

Introduced by Assembly Member Gordon

February 17, 2011

An act to amend Section 57077 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 912, as introduced, Gordon. Local government: organization.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a local agency formation commission, where the commission is considering a change of organization that consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, to either order a change of organization subject to confirmation of the voters, as specified, or order the change of organization without an election if the change of organization meets certain requirements.

This bill would authorize the commission, where the commission is considering a change of organization that consists of the dissolution of a district with zero sphere of influence, to immediately order the dissolution if the dissolution was initiated by the district board, or to, within 30 days following the approval of the application by the commission, hold at least one noticed public hearing on the proposal, and order the dissolution without an election, unless a majority protest exists, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

Attachment C

The people of the State of California do enact as follows:

SECTION 1. Section 57077 of the Government Code is amended to read:

57077. (a) If a change of organization consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, the commission shall do either of the following:

(1) Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district or otherwise authorized pursuant to Section 56854.

(2) Order the change of organization without election if it is a change of organization that meets the requirements of Section 56854, 57081, 57102, or 57107; otherwise, the commission shall take the action specified in paragraph (1).

(b) If a change of organization consists of the dissolution of a district with zero sphere of influence, the commission may do either of the following:

(1) If the dissolution was initiated by the district board, immediately order the dissolution.

(2) Within 30 days following the approval of the application by the commission, hold at least one noticed public hearing on the proposal. Following the conclusion of the hearing, the commission may order the dissolution without an election, unless a majority protest exists, pursuant to Section 57078.

~~(b)~~

(c) If a reorganization consists of one or more dissolutions, incorporations, formations, disincorporations, mergers, establishments of subsidiary districts, consolidations, or any combination of those proposals, the commission shall do either of the following:

(1) Order the reorganization subject to confirmation of the voters, or in the case of landowner-voter districts, subject to confirmation by the landowners, unless otherwise authorized pursuant to Section 56854.

(2) Order the reorganization without election if it is a reorganization that meets the requirements of Section 56853.5,

56853.6, 56854, 57081, 57102, 57107, or 57111; otherwise, the commission shall take the action specified in paragraph (1).

O

Assembly Constitutional Amendment No. 17

Introduced by Assembly Member Logue

February 15, 2011

Assembly Constitutional Amendment No. 17—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 6 of, and adding Section 6.5 to, Article XIII B thereof, relating to state finances.

LEGISLATIVE COUNSEL'S DIGEST

ACA 17, as introduced, Logue. State-mandated local programs.

Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, the state is required to provide a subvention of funds to reimburse the local government. With regard to certain mandates imposed on a city, county, city and county, or special district that have been determine to be payable, the Legislature is required either to appropriate, in the annual Budget Act, the full payable amount of the mandate, determined as specified, or to suspend the operation of the mandate for the fiscal year. The California Constitution provides that the Legislature is not required to appropriate funds for specified mandates.

This measure would apply the existing requirement that the Legislature either appropriate the full payable amount of a mandate or suspend the mandate only through the 2011–12 fiscal year.

The measure would instead prohibit the Legislature or a state agency from mandating a new program or higher level of service on any local government, except as specified, unless the local government is reimbursed for the costs of that new program or higher level of service.

Attachment D

The measure would provide that if, on or after July 1, 2012, the Legislature adopts a statute that mandates a new program or higher level of service on any local government, the mandate would not become operative until the operative date of an appropriation of funds to reimburse all affected local governments for the costs of the new program or higher level of service for the remainder of the fiscal year in which the mandate becomes operative. The measure would impose parallel requirements with regard to a regulation mandating a new program or higher level of service.

The measure would add, as an additional exemption from the mandates for which the Legislature is required to appropriate funds, a mandate for which the governing body of the local government has statutory authority to impose a fee, assessment, or other charge that pays for the costs of the program or increased level of service and that is paid to the local government by the person or entity that is subject to, is regulated by, or otherwise benefits from, the new program or higher level of service.

The measure would authorize a local government to file an action in superior court to challenge the adequacy of the actions taken by the Legislature to reimburse local governments if the Legislature or a state agency mandates a new program or higher level of service. The measure would require the superior court to include, within an order upholding a challenge brought by the local government, an order identifying the amount the court determines is reasonably necessary to reimburse the local government for the costs of the new program or higher level of service.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2011–12 Regular Session, commencing on the sixth day of December 2010, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First—That Section 6 of Article XIII B thereof is amended to read:

SEC. 6. (a) ~~Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to~~

~~reimburse that local government for the costs of the program or increased level of service, except that the~~ *The Legislature or a state agency shall not mandate a new program or higher level of service on any local government, other than a mandate described in subdivision (c), unless the local government is reimbursed for the costs of that new program or higher level of service in accordance with this section.*

(b) (1) On or after July 1, 2012, if the Legislature adopts a statute that mandates a new program or higher level of service on any local government, the mandate shall not become operative until the operative date of an appropriation of funds in an amount not less than the amount necessary to reimburse all affected local governments for the costs of the new program or higher level of service for the remaining period of the fiscal year in which the mandate becomes operative.

(2) On or after July 1, 2012, if a state agency adopts a regulation that mandates a new program or higher level of service on any local government, the mandate shall not become operative until the operative date of an appropriation of funds in an amount not less than the amount necessary to reimburse all affected local governments for the costs of the new program or higher level of service for the remaining period of the fiscal year in which the regulation becomes operative.

(3) On and after July 1, 2013, for any mandate that became operative in a prior fiscal year, if the Legislature fails to appropriate funds to reimburse all affected local governments for the cost of the mandate for the current fiscal year, the mandate shall become inoperative on January 1 of that fiscal year. The mandate shall remain inoperative until the operative date of an appropriation in the amount necessary to reimburse all affected local governments for the costs of the program or higher level of service for the remaining period of the fiscal year.

(c) The Legislature may, but need not, ~~provide a subvention of~~ *appropriate* funds for the following mandates:

(1) Legislative mandates requested by the local agency affected.

(2) Legislation defining a new crime or changing an existing definition of a crime.

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(4) Legislation for which the governing body of the affected local government has statutory authority to impose a fee, assessment, or other charge that pays for the full costs of the new program or increased level of service and that is to be paid to the local government by the person or entity that is subject to, is regulated by, or otherwise benefits from, the new program or increased level of service.

~~(b)~~

(d) (1) Except as provided in paragraph (2), for the 2005–06 fiscal year ~~and every subsequent fiscal year~~*to the 2011–12 fiscal year, inclusive,* for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) Payable claims for costs incurred prior to the 2004–05 fiscal year that have not been paid prior to the 2005–06 fiscal year may be paid over a term of years, as prescribed by law.

~~(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.~~

~~(4)~~

(3) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

~~(5)~~

(4) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.

(e) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

~~(c)~~

(f) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities

and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

Second—That Section 6.5 is added to Article XIII B thereof, to read:

SEC. 6.5. (a) As an alternative to any other procedure provided by law, a local government may bring an action against the State in the superior court to challenge the adequacy of the actions taken by the Legislature to reimburse the local government in an amount necessary to pay for the costs of a new program or higher level of service, as required by Section 6.

(b) If, based on the pleadings, the superior court determines that there is a reasonable likelihood that the local government will prevail in an action brought pursuant to this section, the superior court shall appoint a special master or other neutral evaluator to recommend to the court the amount of funds necessary to reimburse the local government for the costs of the new program or higher level of service, as required by Section 6.

(1) The special master or other neutral evaluator shall consult with persons and entities familiar with the statute or regulation and the costs of its implementation, including, but not limited to, representatives of the State and representatives of local government.

(2) The superior court shall include, within an order upholding a challenge brought by a local government, an order identifying the amount the court determines is necessary to reimburse the local government for the costs of the new program or higher level of service, as required by Section 6.

(c) The superior court may enjoin the operation of the mandate during the pendency of an action filed pursuant to this section, and, subsequently, upon a holding of the court that a local government is not required to implement a mandate because the Legislature has failed to appropriate funds in the amount determined by the court pursuant to subdivision (b).

O

AMENDED IN SENATE MARCH 15, 2011

SENATE BILL **No. 244**

Introduced by Senator Wolk
(Coauthors: Senators Price and Rubio)
(Coauthor: Assembly Member Perea)

February 10, 2011

An act to ~~add Section~~ *amend Sections 56425 and 56430 of, and to add Sections 56033.5 and* 65302.10 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 244, as amended, Wolk. Land use: general plan: disadvantaged unincorporated communities.

~~The~~

(1) The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan for the physical development of the city or county and of any land outside its boundaries that bears relation to its planning. That law also requires the general plan to contain specified mandatory elements, including a housing element for the preservation, improvement, and development of the community's housing.

This bill would require, prior to January 1, 2014, and thereafter upon each revision of its housing element, a city or county to review and update one or more elements of its general plan, as necessary to address the presence of island, fringe, or legacy unincorporated communities, as defined, inside or near its boundaries, and would require the updated general plan to include specified information. This bill would also require the city or county planning agency, after the initial revision and update of the general plan, to review, and if necessary amend, the

general plan to update the information, goals, and program of action relating to these communities therein. By adding to the duties of city and county officials, this bill would impose a state-mandated local program.

(2) The Cortese-Knox-Hertzberg Act of 2000 requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere, and requires the commission, in preparing and updating spheres of influence to conduct a service review of the municipal services provided in the county or other area designated by the commission, and to prepare a written statement of its determinations with respect to the growth and population projections for the affected area, the present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, financial ability of agencies to provide services, status of, and opportunities for, shared facilities, accountability for community service needs, including governmental structure, and operational efficiencies, as specified.

This bill would also require the agency to include in its written statement a determination with respect to the location and characteristics, including infrastructure needs or deficiencies, of any disadvantaged inhabited communities within or adjacent to the sphere of influence, thereby imposing a state-mandated local program. The bill would also require a commission, upon the review and update of a sphere of influence on or after July 1, 2012, to include in the review or update of each sphere of influence of a city or special district that provides public facilities or services related to sewers, nonagricultural water, or structural fire protection to include the present and probable need for public facilities and services of disadvantaged inhabited communities within or adjacent to the sphere of influence, and to assess the feasibility of governmental reorganization of particular agencies, as specified.

~~The~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts

may pursue any available remedies to seek reimbursement for these costs.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Hundreds of disadvantaged unincorporated communities, commonly referred to as "colonias," exist in California. There are more than 200 of these communities in the San Joaquin Valley alone. Many of these communities are geographically isolated islands, surrounded by the city limits of large and medium-sized cities.

(2) Conditions within these disadvantaged unincorporated communities evidence a distinct lack of public and private investment that threatens the health and safety of the residents of these communities and fosters economic, social, and educational inequality. Many of these communities lack basic infrastructure, including, but not limited to, streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service.

(b) It is the intent of the Legislature to encourage investment in these communities and address the complex legal, financial, and political barriers that contribute to regional inequity and infrastructure deficits within disadvantaged unincorporated communities.

SEC. 2. Section 56033.5 is added to the Government Code, to read:

56033.5. "Disadvantaged inhabited community" means inhabited territory, as defined by Section 56046, or as determined by commission policy, that constitutes all or a portion of a "disadvantaged community" as defined by Section 75005 of the Public Resources Code.

SEC. 3. Section 56425 of the Government Code is amended to read:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies to advantageously provide for the present and future needs of the county and its

communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

(b) Prior to a city submitting an application to the commission to update its sphere of influence, representatives from the city and representatives from the county shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached between the city and county, the city shall forward the agreement in writing to the commission, along with the application to update the sphere of influence. The commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement to the extent that it is consistent with commission policies in its final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area. *Upon the next review and update of a sphere of influence that occurs pursuant to subdivision (g) on or after July 1, 2012, the review and update of each sphere of influence of a city or special district that provides public facilities or services related to sewers, nonagricultural water, or structural fire protection shall include the present and probable need for public facilities and services of any disadvantaged inhabited communities within or adjacent to its sphere of influence.*

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest ~~in the area if the commission determines that they are relevant to the agency~~.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere.

(g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

(h) ~~The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public.~~ *In determining the sphere of influence, the commission shall assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies when they are found to be feasible and if reorganization will further the goals of orderly development as well as efficient and affordable service delivery.* The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(i) When adopting, amending, or updating a sphere of influence for a special district, the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

SEC. 4. Section 56430 of the Government Code is amended to read:

56430. (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

(1) Growth and population projections for the affected area.

(2) The location and characteristics, including infrastructure needs or deficiencies, of any disadvantaged inhabited communities within or adjacent to the agency's proposed sphere of influence.

~~(2)~~

(3) Present and planned capacity of public facilities and adequacy of public services *within or adjacent to the proposed sphere of influence*, including infrastructure needs or deficiencies.

~~(3)~~

(4) Financial ability of agencies to provide services.

~~(4)~~

(5) Status of, and opportunities for, shared facilities.

~~(5)~~

(6) Accountability for community service needs, including governmental structure and operational efficiencies.

~~(6)~~

(7) Any other matter related to effective or efficient service delivery, as required by commission policy.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area. *The commission shall assess various alternatives for improving efficiency and affordability of infrastructure and service delivery within and adjacent to the sphere of influence, including, but not limited to, the consolidation of governmental agencies.*

(c) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5 or to update a sphere of influence pursuant to Section 56425.

~~SEC. 2.~~

SEC. 5. Section 65302.10 is added to the Government Code, to read:

65302.10. (a) As used in this section, the following terms shall have the following meanings:

(1) "Disadvantaged unincorporated community" means a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income.

(2) "Unincorporated fringe community" means any inhabited and unincorporated territory that is within a city's sphere of influence.

(3) "Unincorporated island community" means any inhabited and unincorporated territory that is surrounded or substantially surrounded by one or more cities or by one or more cities and a county boundary or the Pacific Ocean.

(4) "Unincorporated legacy community" means a geographically isolated community that is inhabited and has existed for at least 50 years.

(b) Prior to January 1, 2014, and thereafter upon each revision of its housing element made pursuant to Section 65588, the legislative body of a city or county shall review and update one or more elements of its general plan as necessary to include data and analysis, goals, implementation measures, policies, and objectives to address the presence of unincorporated island, fringe, or legacy communities inside or near its boundaries. The updated general plan shall also include all of the following:

(1) An identification of each unincorporated island, fringe, or legacy community within or proximate to the boundaries of the city or county. This identification shall include a description of the community and a map designating its location.

(2) For each identified community, a quantification and analysis of all of the following:

(A) The number of housing units and residents that lack access to sanitary sewer service.

(B) The number of housing units and residents that lack access to municipal water service.

(C) The number of residential neighborhoods within a community that lack one or more of the following:

(i) Paved roads.

(ii) Storm drainage.
(iii) Sidewalks.
(iv) Street lighting.
(D) The number of households within one-quarter of a mile of public transit.
(E) The number of housing units that are in substandard condition.
(F) The number of households paying more than 30 percent of their income toward housing.
(G) The number of households in overcrowded housing.
(3) An analysis of the city's or county's current programs and activities to address the conditions or deficiencies described in paragraph (2), and an identification of any constraints to addressing those conditions or deficiencies. The analysis shall evaluate the annexation of any identified island or fringe communities.
(4) A statement setting forth the city's or county's specific, quantified goals for eliminating or reducing the conditions or deficiencies described in paragraph (2) and found to be present in an unincorporated island, fringe, or legacy community within or proximate to the boundaries of the city or county.
(5) A set of flexible implementation measures designed to carry out the goals described in paragraph (4), including an identification of resources and a timeline of actions.
(c) After the initial revision of its general plan pursuant to this section, on or before the due date for the next revision of its housing element, the planning agency shall review, and if necessary amend, its general plan to update the analysis, goals, and actions required by this section.
~~SEC. 3.~~
SEC. 6. No reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

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ASSEMBLY BILL No. 307

Introduced by Assembly Member Nestande

February 9, 2011

An act to amend Section 6500 of, to add Section 6529.5 to, and to repeal Sections 6529 and 6530 of, the Government Code, relating to joint powers agreements.

LEGISLATIVE COUNSEL'S DIGEST

AB 307, as introduced, Nestande. Joint powers agreements: public agency: federally recognized Indian tribe.

Existing law authorizes 2 or more public agencies, as defined, to enter into an agreement to exercise common powers. Existing law also permits certain federally recognized Indian tribes to enter into joint powers agreements with particular parties and for limited purposes.

This bill would include a federally recognized Indian tribe as a public agency that may enter into a joint powers agreement. This bill would also make conforming changes by repealing now redundant code sections.

This bill would also prohibit any joint powers authority that includes a federally recognized Indian tribe from authorizing or issuing bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985 unless the public improvements to be funded by the bonds will be owned and maintained by the authority or one or more of its public agency members, and the revenue streams pledged to repay the bonds derive from the authority or one or more of its public agency members.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6500 of the Government Code is amended to read:

6500. As used in this article, "public agency" includes, but is not limited to, the federal government or any federal department or agency, this state, another state or any state department or agency, a county, county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission of this state or another state, *a federally recognized Indian tribe,* or any joint powers authority formed pursuant to this article by any of these agencies.

SEC. 2. Section 6529 of the Government Code is repealed.

~~6529. (a) The Elk Valley Rancheria Tribal Council, as the governing body of the Elk Valley Rancheria, California, a federally recognized Indian tribe, may enter into a joint powers agreement with the County of Del Norte and the City of Crescent City, or both, and shall be deemed to be a public agency for purposes of this chapter.~~

~~(b) On and after January 1, 2004, the joint powers authority created pursuant to subdivision (a) shall not have the power to authorize or issue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584)) unless the public improvements to be funded by the bonds will be owned and maintained by the authority or one or more of its public agency members, and the revenue streams pledged to repay the bonds derive from the authority or one or more of its public agency members.~~

SEC. 3. Section 6529.5 is added to the Government Code, to read:

6529.5. Any joint powers authority that includes a federally recognized Indian tribe shall not have the authority to authorize or issue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584)) unless the public improvements to be funded by the bonds will be owned and maintained by the authority or one or more of its public agency members, and the revenue streams pledged to repay the bonds derive from the authority or one or more of its public agency members.

SEC. 4. Section 6530 of the Government Code is repealed.

~~6530. (a) Notwithstanding any other provision of law, the Torres-Martinez Desert Cahuilla Indians are authorized to enter into a joint powers agreement to participate in the Salton Sea Authority.~~

~~(b) On and after January 1, 2002, the Salton Sea Authority shall not have the power to authorize or issue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584)) unless the public improvements to be funded by the bonds will be owned and maintained by the authority or one or more of its public agency members, and the revenue streams pledged to repay the bonds derive from the authority or one or more of its public agency members.~~

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SAN DIEGO LAFCO
2011 SPECIAL DISTRICTS MAILED-BALLOT ELECTION SCHEDULE

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Positions Subject to Election

LAFCO: One (1) Alternate Member Position with term expiring in 2015

Special Districts Advisory Committee: Eight (8) with terms expiring in 2015
One (1) with terms expiring in 2012

Date	Item
April 22, 2011	Send letter announcing election and soliciting nominations
June 3, 2011	Deadline for receipt of nominations by LAFCO
July 15, 2011	Appoint Nominating Committee

Eligible	Not Eligible
Gary Arant	Gary Croucher
Ron Fuller	Judy Hanson
Douglas Humphrey	Larry Jackman
Margarette Morgan	John Pastore
Augie Scalzitti	Tom Pocklington
Dennis Shepard	Jim Poltl
Diana Towne	Teresa Thomas
Vacant	Kimberly Thorner

July 22, 2011	Send all nominations received by deadline to Nominating Committee
August 18, 2011	Candidates' Forum
August 18, 2011	Nominating Committee meet and prepare report
August 26, 2011	Send ballots, nominating committee report, and voting instruction to districts
October 7, 2011	Deadline for return of ballots to LAFCO
October 14, 2011	Send letter announcing election results
November 7, 2011	Seat LAFCO member
November 18, 2011	Seat Special District Advisory Committee members