



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

June 3, 2013

Agenda Item No. 8c (Discussion)

May 28, 2013

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: Legislative Report

The Commission will receive a status report on the first year of the 2013-2014 session of the California Legislature as it relates to items directly or indirectly effecting Local Agency Formation Commissions. The report also updates the Commission on the agency's ongoing efforts to seek amendments to the section of law involving outside municipal service extensions. The report is being presented for discussion with possible direction for staff with regard to issuing comments on specific items.

Local Agency Formation Commissions (LAFCOs) are political subdivisions of the State of California tasked with providing regional growth management services in all 58 counties. LAFCOs' duties and powers have increasingly expanded since their creation in 1963 as more than 200 bills have been subsequently enacted and resulting in two distinct responsibilities: regulating the physical development of cities and special districts and informing such decisions through various planning activities.

A. Background

The California Association of LAFCOs or "CALAFCO" was established in 1971 to assist all 58 members in fulfilling their prescribed regulatory and planning duties. This includes serving as an advocacy resource in proposing and/or reviewing new legislation and facilitated through an appointed 16-member Legislative Committee. The Committee meets on a regular basis to review, discuss, and offer recommendations to the CALAFCO Board of Directors with regard to new legislation that would have either a direct impact on LAFCO law or laws LAFCO helps to administer. Committee actions are guided by the Board's adopted policies, which are annually reviewed and amended to reflect current year priorities. LAFCO of Napa County ("Commission") currently has two appointed representatives on the Committee: Juliana Inman and Keene Simonds.

Joan Bennett, Commissioner
Councilmember, City of American Canyon

Gregory Pitts, Commissioner
Councilmember, City of St. Helena

Juliana Inman, Alternate Commissioner
Councilmember, City of Napa

Brad Wagenknecht, Chair
County of Napa Supervisor, 1st District

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Brian J. Kelly, Vice Chair
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

B. Discussion and Analysis

Current Legislative Items

The Committee held a conference call on May 10, 2013 to update and discuss legislative interests for the first year of the 2013-2014 session. As of date, there are 25 bills the Committee is currently tracking that propose either direct or indirect impacts on LAFCOs; the latter representing the largest category and predominately tied to several bills introduced this session as part of the Governor's coordinated effort to reform the California Environmental Quality Act. Further, in terms of the remaining tracked bills, staff believes only two would have substantive impact on the Commission if enacted given local conditions. These two bills of local interest are summarized below.

- **Assembly Bill 743 (Logue) Island Annexation Proceedings**
This legislation is sponsored by CALAFCO and would make substantive amendments to the existing statute governing expedited island annexation proceedings; proceedings that presently allow LAFCOs to waive protest for proposals filed by cities to annex entire or substantially surrounded county islands so long as certain conditions are satisfied. These amendments are highlighted by eliminating the statute's approaching sunset date of January 1, 2014. This bill unanimously passed through the Assembly and is currently scheduled for hearing in the Senate's Governance and Finance Committee on June 5th.

The Commission discussed AB 743 in detail at the April meeting and authorized staff to issue a letter of support given the nexus with the agency's ongoing efforts to work with the City of Napa on an island annexation program predicated on community education; substance for which is aimed at eliminating the 20 islands existing within the City's sphere of influence. A copy of the Commission's letter of support is attached. A letter of support from the City of Napa is also attached.

- **Senate Bill 772 (Emmerson) Private Water Service Providers**
This legislation is sponsored by the Eastern Municipal Water District in Riverside County and as proposed would make substantive changes to the statute governing LAFCOs' municipal service review process. The underlying focus of the bill is to expand the scope of the municipal service review process by directing LAFCOs to begin reviewing private entities providing wholesale or retail drinking water. The bill would also require LAFCOs to file applicable municipal service reviews with various third party agencies, such as the Public Utilities Commission. This bill has been converted to a two-year item as it remains in the Senate with the author having asked that no hearings take place this session in order to work with the numerous stakeholders that have expressed concern, including CALAFCO.

Staff agrees with the Committee's standing position that SB 772 as proposed is overall problematic given it significantly broadens the scope of the municipal service review process to include entities that lie outside LAFCOs' regulatory purview. Additionally, and to the central concern of the Committee, the bill takes on the form of an unfunded mandate given the potential high costs of expanding municipal service reviews to incorporate private water service providers are not addressed and therefore would need to be covered through existing resources (i.e., local funding agencies and applicant charges.) Staff believes, nonetheless, there is merit in working with the author to narrow down the scope of the bill to avoid/mitigate the reference concerns. One potential alternative staff is advocating within the Committee is to amend the bill to reduce the directive on LAFCOs to only document the whereabouts of private water service providers in municipal service reviews; an activity that would seemingly address an underlying interest of the bill to further sunlight the operations of these private entities that play an important role in supporting development in California.

Pending Legislative Items

The CALAFCO Board continues to consider the Commission's initiated amendments to Government Code Section 56133; the statute requiring cities and special districts to request and receive written approval from LAFCOs before providing new or extended municipal services outside their jurisdictional boundaries and spheres of influence as of January 1, 2001. As previously discussed, the proposed amendments advocated by the Commission are predicated on expanding LAFCOs' authority to approve outside service extensions beyond spheres of influence without making a public health or safety determination if certain safeguard findings can be made at noticed public hearings.¹ The Committee has previously approved and reapproved the proposed amendments for the Board's consideration in separate actions taken in April 2011 and January 2013, respectively. The Board – which also took action in April 2011 to approve the proposed amendments subject to soliciting membership input – most recently reviewed the proposed amendments at its February 8th meeting in Irvine. The Board received approximately two hours of testimony from proponents and opponents of the proposed amendments and decided to create a new subcommittee to determine if further edits could reconcile the interests and concerns of both sides. The main area of debate, notably, among proponents and opponents is centered on whether the amendments should be permissive in allowing *new* development and growth to occur outside spheres (emphasis).

¹ As currently proposed, the required safeguard findings involve determining the extension is (a) adequately contemplated in a municipal service, (b) will not result in adverse impacts on agricultural and open space resources, and (c) consistent with locally adopted policies.

The subcommittee and its own working group have held several teleconference meetings since February 8th focused on whether further edits of the proposed amendments can achieve a satisfactory compromise. The next subcommittee meeting is scheduled for May 29th and after this agenda report is issued. The key discussion/conclusion points from the teleconference meeting will be provided to the Commission as part of a supplemental verbal report.

C. Commission Review

Commissioners are encouraged to discuss and provide feedback on the report. This includes providing direction to staff with respect to its ongoing efforts to seek amendments to Government Code Section 56133.

Attachments:

- 1) Commission Support Letter for AB 743
- 2) City of Napa Support Letter for AB 743
- 3) Proposed Amendments to G.C. Section 56133 as Supported by the Commission



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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

April 8, 2013

Honorable Dan Logue
 California State Assembly
 State Capitol, Room 4158
 Sacramento, California 94249-0003

SUBJECT: Support for Assembly Bill (AB) 743

Honorable Assemblymember Logue:

The Local Agency Formation Commission (LAFCO) of Napa County is pleased to support AB 743. Striking the approaching January 1, 2014 sunset date for utilizing the expedited annexation procedures codified under Government Code Section 56375.3, markedly, represents good public policy given it would permanently encourage LAFCOs, cities, and counties to proactively collaborate in eliminating islands and the service inefficiencies they perpetuate. AB 743, further, would assist Napa and other LAFCOs that have invested considerable resources in developing an island annexation program predicated on community education by ensuring this valuable governance tool remains available going forward.

Thank you for your referenced efforts in improving planning law in California with the authorship of AB 743. Should you or your staff have any questions, please contact me by telephone at 707-259-8645 or by e-mail at ksimonds@napa.lafco.ca.gov.

Respectfully,

Keene Simonds
 Executive Officer

cc: Brad Wagenknecht, Chair
 Pamela Miller, Director, CALAFCO
 Rick Tooker, Community Development Director, City of Napa
 Larry Florin, Intergovernmental Affairs Director, County of Napa

Lewis Chilton, Commissioner
 Councilmember, Town of Yountville

Joan Bennett, Commissioner
 Councilmember, City of American Canyon

Juliana Inman, Alternate Commissioner
 Councilmember, City of Napa

Brad Wagenknecht, Chair
 County of Napa Supervisor, 1st District

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 Representative of the General Public

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Keene Simonds
 Executive Officer



CITY MANAGER
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April 17, 2013

Honorable Dan Logue
California State Assembly
State Capitol, Room 4158
Sacramento, CA 94249-0003

Re: Support for Assembly Bill (AB) 743

Honorable Assembly Member Logue:

This letter is intended to express support by the City of Napa for AB 743 which seeks to strike the approaching sunset date of January 1, 2014 for utilizing the expedited annexation procedures codified under Government Code Section 56375.3.

AB 743 represents good public policy given it would permanently encourage LAFCOs, cities and counties to continue to proactively collaborate in eliminating islands and the resulting service inefficiencies. Further, AB 743 would assist the City of Napa which has invested considerable resources in supporting development of an island annexation program by our Napa LAFCO partner predicated on community education by ensuring this valuable governance tool remains available into the future.

Thank you for your continued support improving local and county-wide planning through authorship of AB 743. If you have any questions, please do not hesitate to contact me.

Sincerely,



Mike Farness
City Manager

C: Mayor Techel and Council Members
Brad Wagenknecht, Chair, LAFCO of Napa County

**Proposed Amendments to G.C. Section 56133
(Approved by the CALAFCO Board on April 29, 2011)**

- (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional ~~boundaries-boundary~~ only if it first requests and receives written approval from the commission ~~in the affected county~~. ~~The commission may delegate approval of requests made pursuant to subdivisions (b) and (c)(1) below to the Executive Officer.~~
- (b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional ~~boundaries-boundary~~ but within its sphere of influence in anticipation of a later change of organization.
- (c) ~~If consistent with adopted policy,~~ the commission may authorize a city or district to provide new or extended services outside its jurisdictional ~~boundaries-boundary~~ and outside its sphere of influence under any of the following circumstances:
- ~~(1) To~~ respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:
- ~~(1A)~~ The entity applying for ~~the contract~~ approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.
- ~~(2B)~~ The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.
- ~~(2) To support existing or planned uses involving public or private properties subject to approval at a noticed public hearing that includes all of the following determinations:~~
- ~~(A) The extension of service or service deficiency was identified and evaluated in a municipal service review prepared by the commission pursuant to section 56430.~~
- ~~(B) The effect of the extension of service would not result in adverse impacts on open space or agricultural lands or result in adverse growth inducing impacts.~~
- ~~(C) A later change of organization involving the subject property and the affected agency is not feasible or desirable based on the adopted policies of the commission.~~
- (d) The executive officer, within 30 days of receipt of a request for approval by a city or district ~~of a contract~~ to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of ~~those~~ requests made under this section to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the ~~contract for~~ extended services. If the ~~extended services are contract~~ ~~is~~ disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.
- (e) This section does not apply to ~~contracts or agreements solely involving~~ two or more public agencies where the commission determines the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.
- ~~(f)~~ This section does not apply to ~~contracts for~~ the transfer of nonpotable or nontreated water.
- ~~(g)~~ This section does not apply to ~~contracts or agreements solely involving~~ the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.
- ~~(h)~~ This section does not apply to an extended service that a city or district was providing on or before January 1, 2001.
- ~~(i)~~ This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.
- ~~(j)~~ The application of this section rests solely within the jurisdiction of the commission in the county in which the extension of service is proposed.

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