



Utilities Department

M E M O

TO: Chair Mohler and Commissioners of LAFCO of Napa County
FROM: Phil Brun, Utilities Director
DATE: April 2, 2021
SUBJECT: Comments on April 5, 2021 Agenda, Item 7b – Legislative Report

This memo provides comments on Item 7b – Legislative Report on your April 5, 2021 agenda. Specifically, comments are related to item (5) in the staff report, San Diego LAFCO’s proposed amendment to Government Code Section 56133.

San Diego LAFCO’s proposed amendment to G.C. §56133 would have an impact on the City. It would require the City to first obtain approval from LAFCO (or its executive officer) for water uses that are currently within the discretion of the City pursuant to the exceptions identified in the current law under G.C. §56133 (e). **This adds an unnecessary layer of approval, placing an additional burden on the City, LAFCO and the water user.**

The staff report indicates that LAFCO staff believe the amendment would eliminate the potential for a city or district to self-exempt in a manner inconsistent with G.C. §56133. I understand from talking with Napa LAFCO Executive Director Brendon Freeman that there have been some challenges in a few counties in this regard. I feel that the existing language provides exceptions that are specific, clearly described and narrowly written in a manner that leaves little room for interpretation. Notwithstanding the challenges noted above, a city or district interprets and applies the law in many cases as it conducts business and is more than qualified to apply the exceptions set forth in G.C. §56133. A review by LAFCO seems unnecessary. **If the concern is that the exceptions lack specificity or clarity, then an amendment should be proposed that provides this.**

In my conversation with Mr. Freeman, he also suggested that the interest is to have cities and districts consultant with LAFCO’s before proceeding under the exception. The proposed amendment appears to give LAFCO the authority to require all outside services to be approved by LAFCO, if the individual commission or executive director decides to take this approach. **If the intent is consultation with LAFCO or notice prior to proceeding under the existing exceptions, then the language in the amendment should be changed to reflect this.**