



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

1700 Second Street, Suite 268  
Napa, California 94559  
(707) 259-8645 Telephone  
<http://napa.lafco.ca.gov>

Bill Dodd, Chair  
Lewis Chilton, Vice Chair  
Juliana Inman, Commissioner  
Brian J. Kelly, Commissioner  
Brad Wagenknecht, Commissioner  
Joan Bennett, Alternate Commissioner  
Mark Luce, Alternate Commissioner  
Gregory Rodeno, Alternate Commissioner

**REGULAR MEETING AGENDA**

Monday, April 4, 2011

County of Napa Administration Building  
1195 Third Street, Board Chambers  
Napa, California 94559

**1. CALL TO ORDER; ROLL CALL: 4:00 P.M.**

**2. PLEDGE OF ALLEGIANCE**

**3. AGENDA REVIEW**

Requests by Commissioners to re-arrange agenda items will be considered by the Chair at this time.

**4. PUBLIC COMMENTS**

In this time period, anyone may comment to the Commission regarding any subject over which the agency has jurisdiction. No comments will be allowed involving any subject matter that is scheduled for hearing, action, or discussion as part of the current agenda. Individuals will be limited to a three-minute presentation. No action will be taken by the Commission as a result of any item presented at this time.

**5. CONSENT ITEMS**

All items calendared as consent are considered ministerial or non-substantive. With the concurrence of the Chair, a Commissioner may request discussion of an item on the consent calendar.

**a) Meeting Minutes (Action)**

The Commission will consider approving draft meeting minutes prepared for the February 7, 2011 meeting.

**b) Current and Future Proposals (Information)**

The Commission will receive a report summarizing current and future proposals. The report is being presented for information. One new proposal has been submitted since the February 7, 2011 meeting.

**c) Assembly Committee on Local Government Hearing on LAFCOs (Information)**

The Commission will receive a publication prepared by the California Association of Local Agency Formation Commissions as part of its recent presentation to the Assembly Committee on Local Government. The publication provides a primer on LAFCOs' principal duties and objectives and is being presented for information.

**6. PUBLIC HEARING ITEMS**

Any member of the public may address the Commission with respect to a scheduled public hearing item. Comments should be limited to no more than five minutes unless additional time is permitted by the Chair.

**a) Final Report on the Lake Berryessa Region Municipal Service Review**

The Commission will receive a final report on its scheduled municipal service review on the Lake Berryessa region. Affected agencies include the Lake Berryessa Resort Improvement District, Napa Berryessa Resort Improvement District, and the Spanish Flat Water District. The report is being presented for filing. The Commission will also consider adopting a resolution confirming the determinative statements in the report, including a recommendation to reorganize the Napa Berryessa Resort Improvement District into a community services district.

**6. PUBLIC HEARING ITEMS CONTINUED...**

**b) Proposal to Reorganize the Napa Berryessa Resort Improvement District into the Napa Berryessa Community Services District**

The Commission will consider (a) initiating and (b) approving a proposal to reorganize the Napa Berryessa Resort Improvement District into a new community services district with the same boundary, duties, powers, assets, and liabilities. The reorganization is consistent with the recommendation of a municipal service review for the affected region and would position the agency to provide additional services – subject to future approval – consistent with the evolving needs of the community. Reorganization is also expected to facilitate transitioning governance from a dependent board, comprised of the County of Napa Board of Supervisors, to an independent board, comprised of locally elected registered voters.

**c) Proposed Budget for Fiscal Year 2011-2012**

The Commission will consider adopting a proposed budget setting operating expenses and revenues for the 2011-2012 fiscal year. The proposed budget is identical to a draft approved by the Commission in February and subsequently circulated for review. Budgeted expenses total \$422,522; an amount that represents a 2.2% increase over the current fiscal year. Budgeted revenues total \$395,441 with the remaining shortfall (\$27,081) to be covered by drawing down on agency reserves.

**7. ACTION ITEMS**

Items calendared for action do not require a public hearing before consideration by the Commission. Applicants may address the Commission. Any other member of the public may receive permission to provide comments on any item at the discretion of the Chair.

**a) Proposed Revisions to the Commission's General Policy Determinations and Policy on Outside Service Agreements along with the Creation of a New Application Packet**

The Commission will consider approving revisions to the agency's *General Policy Determinations and Policy on Outside Service Agreements*. The Commission will also consider approving the creation of a new application packet for processing all changes of organization.

**8. DISCUSSION ITEMS**

A member of the public may receive permission to provide comments on any item calendared for discussion at the discretion of the Chair. General direction to staff for future action may be provided by Commissioners.

**a) Legislative Report**

The Commission will receive a report on the first year of the 2011-2012 session of the California Legislature as it relates to bills directly or indirectly effecting Local Agency Formation Commissions. The Commission will also receive an update on efforts to amend California Government Code Section 56133 to provide more flexibility to LAFCOs in authorizing new or extended services outside spheres of influence.

**b) Update on the Countywide Law Enforcement Services Municipal Service Review**

The Commission will receive an update from staff on LAFCO's scheduled municipal service review on countywide law enforcement services.

**9. EXECUTIVE OFFICER REPORT**

The Commission will receive a verbal report from the Executive Officer regarding current staff activities, communications, studies, and special projects. This includes, but is not limited to, the following topics:

- Planning for the California Association of Local Agency Formation Commission's 2011 Annual Conference

**10. CLOSED SESSION**

None

**11. COMMISSIONER COMMENTS; REQUEST FOR FUTURE AGENDA ITEMS**

**12. ADJOURNMENT TO NEXT REGULAR SCHEDULED MEETING:**

June 6, 2011



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**Agenda Item No. 5a (Consent)**  
**April 4, 2011**

March 28, 2011

**TO:** Local Agency Formation Commission  
**FROM:** Kathy Mabry, Secretary  
**SUBJECT:** Approval of Minutes for February 7, 2011

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**A. Discussion and Recommendation**

Attached are summary minutes prepared for the Commission's February 7, 2011 meeting. Staff recommends approval.

Respectfully submitted,

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Kathy Mabry  
Secretary

~~Attachment: as stated~~

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Lewis Chilton, Vice Chair  
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*Executive Officer*



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**April 4, 2011**

**Agenda Item No. 5b (Consent: Information)**

March 30, 2011

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Brendon Freeman, Analyst

**SUBJECT: Current and Future Proposals**

The Commission will receive a report summarizing current and future proposals. The report is being presented for information. No new proposals have been submitted since the February 7, 2011 meeting.

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The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 delegates Local Agency Formation Commissions (LAFCOs) with regulatory and planning duties to coordinate the logical formation and development of local governmental agencies. This includes approving or disapproving proposals involving the formation, expansion, merger, and dissolution of cities and special districts.

**A. Information**

There are currently three active proposals on file with LAFCO of Napa County ("Commission"). A summary of these active proposals follows.

**Annexation of Stanly Ranch to the Napa Sanitation District**

The affected landowners propose the annexation of approximately 470 acres of incorporated land to the Napa Sanitation District (NSD). The underlying purpose of the proposal is to facilitate the development of 93 acres of the affected territory into a 245-room luxury resort with a commercial vineyard to be known as St. Regis. This development was approved by the City of Napa on April 20, 2010. The remaining lands have been included in the proposal to economize resources towards future connection to the NSD sewer line as new development is subsequently approved.

**Status:** Staff is reviewing the application and awaiting a determination from NSD with respect to consenting to the proposed annexation with or without terms and conditions.

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**Silverado Trail/Zinfandel Lane Annexation to the City of St. Helena**

The City of St. Helena proposes the annexation of approximately 100 acres of unincorporated territory located northwest of the intersection of Silverado Trail and Zinfandel Lane. The affected territory consists of one entire parcel and a portion of a second parcel, which are both owned and used by St. Helena to discharge treated wastewater from an adjacent treatment plant through a spray irrigation system. Both subject parcels are located outside the City's sphere of influence. Rather than request concurrent amendment, St. Helena is proposing only the annexation of a portion of the second parcel to ensure the affected territory is non-contiguous to its incorporated boundary and therefore eligible for annexation under Government Code Section 56742. This statute permits a city to annex non-contiguous land it owns and uses for municipal purposes without consistency with its sphere of influence. However, if sold, the statute requires the land be automatically detached. The two subject parcels are identified by the County Assessor as 030-240-017 (portion) and 030-250-018.

Status: Staff has completed its review of the proposal. St. Helena has filed a request with the Commission to delay consideration of the proposal in order to explore a separate agreement with the County to extend the current Williamson Act contract associated with the affected territory.

**Formation of the Villa Berryessa Water District**

This application has been submitted by Miller-Sorg Group, Inc. The applicant proposes the formation of a new special district under the California Water District Act. The purpose in forming the new special district is to provide public water and sewer services to a planned 100-lot subdivision located along the western shoreline of Lake Berryessa. A tentative subdivision map for the underlying project has already been approved by the County. The County has conditioned recording the final map on the applicants receiving written approval from the United States Bureau of Reclamation to construct an access road and intake across federal lands to receive water supplies from Lake Berryessa. Based on their own review of the project, the Bureau is requesting a governmental agency accept responsibility for the construction and perpetual operation of the water and sewer systems serving the subdivision.

Status: Staff is currently awaiting a response to an earlier request for additional information from the applicant.

There are no specific proposals expected to be submitted to the Commission in the immediate future.

**B. Commission Review**

The Commission is invited to discuss any of the proposals identified in this report.

Attachments: none



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**April 4, 2011**

**Agenda Item No. 5c (Consent: Information)**

March 29, 2011

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer

**SUBJECT: Assembly Committee on Local Government Hearing on LAFCOs**

The Commission will receive a publication prepared by the California Association of Local Agency Formation Commissions as part of its recent presentation to the Assembly Committee on Local Government. The publication provides a primer on LAFCOs' principal duties and objectives and is being presented for information.

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The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 delegates Local Agency Formation Commissions (LAFCOs) with regulatory and planning duties to coordinate the logical formation and development of local governmental agencies. This includes approving or disapproving proposals involving the formation, expansion, merger, and dissolution of cities and special districts.

**A. Information**

The Assembly Committee on Local Government conducted an information hearing on LAFCOs on March 23, 2011. The purpose of the hearing was to educate members on the roles and responsibilities of LAFCOs in coordinating logical changes in local governmental boundaries and review of services provided by local agencies; only one of the nine members have previously served on a LAFCO. The Committee was also interested in receiving an update on current issue facing LAFCOs. The informational hearing was attended by Executive Director William Chiat with the California Association of LAFCOs (CALAFCO). Staff is attaching the publication prepared by Director Chiat as part of his testimony. The publication serves as a good primer on LAFCO and is being presented to the Commission for general information.

**B. Commission Review**

The Commission is invited to review and discuss the attached publication as needed.

Attachments: as stated

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Keene Simonds  
Executive Officer

# An Overview of Local Agency Formation Commissions

## What Does LAFCo Do??

1. Forms new cities and special districts
2. Changes boundaries
3. Changes authorized services
4. Allows service extensions
5. Establishes Spheres of Influence
  - ◆ Performs municipal service reviews
6. Reorganizes local agencies
  - ◆ Annexation, consolidation, merger, dissolution, disincorporation

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## Why Create a LAFCo?

- ❖ Post World War II population and housing boom in California
- ❖ Freeway suburbs; scramble to finance and extend services
- ❖ City annexation "wars;" proliferation of limited purpose special districts
- ❖ Confusion with multiple local governments



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## Legislative Solution: Local Flexibility of State Law

- ❖ No state commission or statewide agency
- ❖ Local control; no state appointments
- ❖ A LAFCo in every county
- ❖ Each LAFCo independent
- ❖ Local flexibility – Local policies
- ❖ Unique to California

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## Nearly 50 Years of LAFCo

- ❖ **1963** – Knox Nisbet Act
- ❖ **1965** – District Reorganization Act
- ❖ **1971** – Spheres of Influence
- ❖ **1972** – Districts seated on LAFCo
- ❖ **1985** – Cortese Knox Local Government Reorganization Act
- ❖ **1993** – (Gotch) LAFCo Initiate Some Changes of Organization



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## The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

*Significantly amended mission and structure of LAFCo*

1. Spheres of Influence
2. Municipal Service Reviews
3. LAFCo Independence
4. Adopt local policies



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## LAFCo Composition Commissions a Unique Mix

- ❖ 58 Commissions
- ❖ All Local: 2 county supervisors, 2 city council members, 1 public member
- ❖ A few with special memberships
- ❖ 29 LAFCos have 2 special district members
- ❖ Alternate member in each category
- ❖ All members required by law to represent the interests of the entire public

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# An Overview of Local Agency Formation Commissions

## Jurisdiction – Local Agencies

- ❖ Includes:
  - ♦ Counties, cities, most special districts
- ❖ Does NOT include:
  - ♦ Redevelopment agencies or JPAs
  - ♦ Community facilities or Mello-Roos districts
  - ♦ School or college districts
  - ♦ County boundary lines
  - ♦ Bridge and highway districts
  - ♦ Transit or rapid transit districts
  - ♦ Improvement districts

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## As a REGULATORY Agency

- ❖ Approves modification of existing agencies – consolidations, annexations, reorganizations, dissolution – and formation of new ones
- ❖ Approves boundary changes if consistent with spheres
- ❖ Controls extension of public services
- ❖ Is prohibited from directly regulating how land is used, but ...

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## As a PLANNING Agency

- ❖ Develop and update Spheres of Influence for cities and districts
- ❖ Prepare Municipal Service Reviews for all local agencies
- ❖ Work cooperatively with public and private agencies and interests on growth, preservation and service delivery
- ❖ Share information with Metropolitan Planning Organizations and others

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## Spheres of Influence §56425

- ❖ In determining the SOI the commission considers ...
  1. Present and planned land uses, including agricultural and open-space
  2. Present and probable need for public facilities and services
  3. Present capacity of public facilities and adequacy of public services
  4. Existence of any social or economic communities of interest

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## Spheres of Influence Includes Recommended Reorganizations

"The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations."



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## Municipal Service Reviews

§56430

"In order to prepare and to update spheres of influence the commission shall conduct a service review of the municipal services provided in the county ..."

- ❖ All spheres updated by January 1<sup>st</sup> 2008
- ❖ Subsequent reviews every five years, *as necessary*



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# An Overview of Local Agency Formation Commissions

## Service Reviews Have Details on Local Agencies

- ❖ Growth projections of affected area
- ❖ Present and planned service and facility capacity
- ❖ Financial ability of agency
- ❖ Opportunities for shared facilities
- ❖ Accountability, structure, efficiencies
- ❖ Other matters of effective or efficient service delivery

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## LAFCo is Independent

- ❖ Adopt local policies
- ❖ Commissions make final decisions; cannot be appealed to other administrative bodies
- ❖ Appoint an Executive Officer and Legal Counsel
- ❖ Can contract for staff services
- ❖ Administrative authority as an independent public agency

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## LAFCo is Funded Locally

- ❖ Commissions adopt a budget each fiscal year
- ❖ Funded by the county, cities and – when seated on LAFCo – special districts
  - ♦ Local funding formulas allowed
- ❖ Processing fees offset expenses for specific applications
- ❖ Challenges of funding LAFCo in severe economic conditions

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## Subject to State Laws

- ❖ Political Reform Act
  - ♦ Annual filing of assets and campaign contributions is required
  - ♦ Automatic disqualification from decisions related to entitlements for use
  - ♦ No disqualification on actions related to home jurisdiction
- ❖ Brown Act
- ❖ CEQA

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## Courts Support LAFCo Authority

- ❖ “*Engaged in the pursuit of an overriding State purpose*”
- ❖ Is quasi-legislative; limited legal challenge to decisions
- ❖ Is the Legislature’s “*watch dog*” on local governments
  - ♦ 5th District Court of Appeals, *City of Ceres v. City of Modesto*, 1969

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**April 4, 2011**  
**Agenda Item No. 6a (Public Hearing)**

March 29, 2011

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Brendon Freeman, Analyst

**SUBJECT: Final Report on the Lake Berryessa Region Municipal Service Review**  
The Commission will receive a final report on its scheduled municipal service review on the Lake Berryessa region. Affected agencies include the Lake Berryessa Resort Improvement District, Napa Berryessa Resort Improvement District, and the Spanish Flat Water District. The report is being presented to the Commission to file. The Commission will also consider adopting a resolution confirming the determinative statements in the report, including a recommendation to reorganize the Napa Berryessa Resort Improvement District into a community services district.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 directs Local Agency Formation Commissions (LAFCOs) to review and update each local agency's sphere of influence every five years as needed. Spheres are planning policies used by LAFCOs to demark the territory it believes represents the affected agency's appropriate future service area and jurisdictional boundary within a specified time period. All jurisdictional changes and outside service extensions must be consistent with the affected agencies' spheres with limited exceptions. Sphere determinations may also lead LAFCOs to take other actions under their authority, such as initiating the formation or dissolution of a special district. LAFCOs must inform their sphere determinations by preparing municipal service reviews to consider the level, range, and need for governmental services within their county jurisdiction. LAFCOs must complete the municipal service review process prior to making related sphere determinations.

**A. Discussion/Analysis**

***Final Report on Lake Berryessa Region***

Staff has prepared a final report representing LAFCO of Napa County's ("Commission") scheduled municipal service review of the Lake Berryessa region; an area containing four distinct unincorporated communities – Berryessa Estates, Berryessa Highlands, Berryessa Pines, and Spanish Flat – with a combined resident population of approximately 1,800. The final report follows the presentation of a draft at the February 7, 2011 meeting and focuses on the level and range of governmental services provided in the region relative to present and projected community needs in anticipation of subsequent sphere of influence

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updates. This includes evaluating the availability and adequacy of public water and sewer provided by the three principal local service providers operating in the region: Lake Berryessa Resort Improvement District (LBRID); Napa Berryessa Resort Improvement District (NBRID); and Spanish Flat Water District (SFWD).

### ***Revisions from Draft Report***

Staff has made several revisions to the final report relative to the draft presented at the February 7<sup>th</sup> meeting and circulated for public review through March 10, 2011. The majority of these revisions are tied to addressing written comments received from the United States Bureau of Reclamation (USBR). This includes USBR clarifying its approved development plans for the two concession sites – Lupine Shores Resort and Foothill Pines Resort – lying within NBRID and SFWD’s respective jurisdictional boundaries. The approved development plans contemplate significantly *decreased* uses in both concession sites compared to uses incorporated into the draft, which among other issues, downgrades projected water and sewer demands for NBRID and SFWD (emphasis added).

A summary of substantive revisions made to the Executive Summary’s written determinations as part of the final report is provided below with corresponding changes also made to the Agency Profiles.

- Staff has revised Determination No. 1(g) under “Growth and Population Projections/Regional Statements.” This determination previously stated it would be appropriate to consider including the remaining five concessionaire sites in the Lake Berryessa region within the spheres of influence of existing or new special districts to help support their orderly growth and uses. Staff has revised this determination to clarify any future consideration of sphere expansions should incorporate and defer, as appropriate, to the input and preferences of USBR.
- Staff has revised Determination No. 1(c) under “Growth and Population Projections/Agency Specific Statements.” This determination previously stated NBRID’s buildout is expected to include the opening of Lupine Shores Resort with demands equivalent to 100 lots or users based on preliminary discussions with the site’s contracted concessionaire. Staff has revised this determination to reduce the expected equivalent demands in Lupine Shores Resort to 88 lots or users based on information provided by USBR.
- Staff has revised Determination No. 1(e) under “Growth and Population Projections/Agency Specific Statements.” This determination previously stated SFWD’s buildout is expected to include the opening of Foothill Pines Resort with demands equivalent to 221 lots or users based on preliminary discussions with the site’s contracted concessionaire. Staff has revised this determination to reduce the expected equivalent demands in Foothill Pines Resort to 36 lots or users based on information provided by USBR.

- Staff has revised Determination No. 2(f) under “Present and Planned Capacity of Public Facilities/Agency Specific Statements.” This determination previously estimated the buildout of NBRID’s jurisdictional boundary is expected to double the District’s current annual water demand from 71.4 to 142.5 acre-feet representing 48% of its contracted water supply. This determination has been revised in step with adjusted uses tied to Lupine Shores Resort’s approved development to decrease the annual water demand at buildout to 132.6 acre-feet, representing 44% of its contracted supply.
- Staff has revised Determination No. 2(l) under “Present and Planned Capacity of Public Facilities/Agency Specific Statements.” This determination previously estimated the buildout of SFWD’s jurisdictional boundary is expected to nearly triple the District’s current annual water demand from 59.0 to 167.8 acre-feet representing 84% of its contracted water supply. This determination has been revised in step with adjusted uses tied to Foothill Pines Resort’s approved development to decrease the annual water demand at buildout to 94.5 acre-feet, representing 47% of its contracted supply.
- Staff has deleted Determination No. 3(f) under “Financial Ability of Agencies/Agency Specific Statements” included in the draft report stating it would be appropriate for LBRID and NBRID to explore options to sell their excess water supplies to help address their unrestricted reserves. USBR notes these agencies are contractually prohibited from selling their water supplies for use outside the Lake Berryessa watershed.
- Staff has added a new Determination No. 3(f) under “Financial Ability of Agencies/Agency Specific Statements” in the final report. The new determination states the current financial position of SFWD is uncertain given no audit has been prepared on the District’s financial statements since 2006-2007; a year in which the District finished with an unrestricted fund balance of (\$0.26 million).
- Staff has added Determination No. 4(b) under “Status and Opportunities for Shared Facilities/Regional Statements” encouraging LBRID, NBRID, and SFWD to explore opportunities to contract with a single vendor to provide administrative and operational support services. This type of arrangement may help economize limited resources while establishing more uniform levels of management services. This type of arrangement may also serve as a litmus test in considering the merits of other resource sharing alternatives in the region.
- Staff has added Determination No. 4(c) under “Status and Opportunities for Shared Facilities/Agency Specific Statements” noting a significant portion of SFWD’s potable water system is located on federal property under an easement with USBR that expired in 1999. It is imperative SFWD renew its easement with USBR to ensure it has immediate and timely access to its service infrastructure.

### **Additional Information**

The following additional information is provided with respect to addressing comments received from Commissioner and public at the February 7<sup>th</sup> meeting.

- **NBRID's Financial Strategy**

Several Commissioners inquired as to NBRID's strategy in improving its fiscal standing given the District has developed an entrenched operating deficit with no undesignated reserves. In response, staff contacted NBRID and requested additional information regarding the District's short and long-term game plan to improve its fiscal standing. NBRID confirmed the District is expected to finish 2010-2011 with another operating deficit of approximately \$0.19 million, which will necessitate another loan from the County to maintain cash flow. (This would be in addition to the two loans the County has already provided NBRID over the last two years that have totaled 0.87 million).

NBRID believes its short-term solvency is improving, however, given the District's recently approved a 60% rate increase to both water and sewer service charges, which should – assuming usage remains constant – eliminate the operating deficit by 2011-12.<sup>1</sup> Notably, the rate increase was approved without a successful protest vote after NBRID reached agreed with community stakeholders on a transition plan; a plan that includes the Board of Supervisors remaining as the District Board with the goal of calling an election to delegate governance to registered voters on or before November 2012. NBRID's long-term strategy to improve its fiscal standing is less certain given it is primarily tied to first addressing the District's current Cease and Desist Order issued by the Regional Water Quality Control Board in 2008. In particular, the total capital improvement needs and related costs will not be known *until* NBRID's consultant, Larry Walker & Associates, completes a comprehensive inspection of the sewer collection system to mitigate existing inflow/infiltration problems (emphasis added). The inspection, which is being funded by Measure "A" monies, is expected to be completed later this summer.

Irrespective of the preceding comments, staff believes it is reasonable to assume reorganizing NBRID as recommended into a community services district would – at minimum – not further diminish the District's ability to adequately fund water and sewer services relative to existing conditions. It is also equally reasonable to assume proposal approval would improve baseline conditions if, as expected, governance transitions from the County to locally elected registered voters on or before November 2012. Importantly, the transition would respond to constituents' perceived preferences and their past reluctance to approve proposed water and sewer rate increases due to increasing displeasure with the County's management of NBRID.

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<sup>1</sup> No uses at Lupine Shores have been incorporated into NBRID's budget projection. The anticipated operating surplus in 2011-2012 is estimated by NBRID at \$0.021 million.

- **Difference Between a RID and CSD**

A member of the public requested additional information distinguishing the key differences between a resort improvement district (RID) and a community services district (CSD). Staff has accordingly added a new appendix to the final report providing a table comparison between the two types of special districts. The new appendix was prepared by NBRID Director Diane Dillon and provides a succinct description of each special district's governance set-up. Additionally, as noted throughout the final report, RIDs are legislatively prohibited from providing any other municipal services that they were not providing as of 1970. NBRID consequently is authorized only to provide water and sewer services. In comparison, CSDs are eligible to provide nearly all types of municipal services with the exception of land use planning. The recommended reorganization of NBRID would limit the District to only providing water and sewer service while establishing all other types of eligible municipal services as latent, which could only be activated upon subsequent Commission approval.

- **Require Pensus Group to Enter Into Water/Sewer Contracts with NBRID**

A member of the public inquired as to whether the Commission could condition reorganization to require the Pensus Group – concession operator for the Lupine Shores Resort – enter into new water and sewer contracts with NBRID. This inquiry parallels an identical request made by NBRID, which has asked for the condition to help ensure the District's largest potential customer continues to receive water and sewer for purposes of improving economies of scale. Importantly, NBRID's consent of the reorganization is contingent on this condition, which is necessary to qualify for the expedited proceedings provided under G.C. Section 56853.5; proceedings that waive protest provisions.

- **Maps of the Special Districts**

Commissioners requested enlarged maps showing the jurisdictional boundaries of all three special districts included in the municipal service review. Staff has accordingly added new appendices in the final report providing full-page maps for each special district.

## **B. Summary/Conclusion**

The final report notes the lack of planned development within the Lake Berryessa region has resulted in significant diseconomies of scale for LBRID, NBRID, and SFWD given their increasing service costs are spread out among relatively small customer bases. Notably, only one-tenth of the region has been developed as originally expected when the County of Napa approved subdivisions in the early 1960s for the four communities (Estates, Highlands, Pines, and Spanish Flat) served by the three Districts. The diseconomies of scale paired with past policy decisions to limit user charges have directly contributed to all three Districts developing structural deficits with no operating reserves. Consequently, all three Districts have deferred needed capital improvements resulting in

increasingly inefficient infrastructure – especially involving the sewer systems. LBRID and NBRID are particularly vulnerable financially given they have become dependent on the County over the last two years for emergency loans to maintain cash flow. The pending development of the USBR’s seven concession sites in the region has also created additional financial constraints on NBRID and SFWD with respect to losses in past and future operating revenues. Specifically, the two concession sites served by NBRID and SFWD were closed in 2008 and are not expected to be fully operational until 2021. Uses within these two concession sites are also expected to be developed at significantly lower densities indicating a measurable decline in associated revenues.

With regard to key conclusions, as referenced, the final report recommends the pending sphere of influence updates in the region should consider the merits of adding the remaining five USBR concessionaire sites within the spheres of existing or new special district to help support their quasi-urban uses in consultation with the Bureau. The final report also recommends reorganizing NBRID into a community services district as provided under Senate Bill 1023; new legislation that allows LAFCOs to reorganize resort improvement districts into community services districts with the same powers, duties, and boundaries while waiving protest proceedings. Importantly, though it will not in and of itself improve solvency, reorganizing NBRID into a community services district with the same powers and jurisdiction is merited. Reorganization would position the community to become more responsive to changes in constituent needs by having the power to provide additional municipal services in support of Berryessa Highlands’ continued development. Reorganization would also improve public accountability by presumably facilitating the delegation of responsibilities in planning for the present and future service needs of the community from the County to local residents.

### **C. Alternatives for Commission Action**

The following two alternatives are available for Commission action.

#### **Alternative One**

- a) Approve by motion to receive and file the attached final report representing the scheduled municipal service review on the Lake Berryessa region; and
- b) Adopt by motion the attached draft resolution making determinative statements as outlined in the final report with or without changes.

#### **Alternative Two**

- a) Continue consideration to a later date and provide direction to staff as needed regarding any additional information requests.

#### **D. Recommendation**

Staff recommends the Commission take the prescribed actions identified under Alternative One in the preceding section.

#### **E. Procedures for Consideration**

The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from staff;
- 2) Open the public hearing (required);
- 3) Receive public comments, if any;
- 4) Close the public hearing; and
- 5) Discuss item and consider action on recommendation.

Respectfully submitted,

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Keene Simonds  
Executive Officer

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Brendon Freeman  
Analyst

#### Attachments:

- 1) ~~Final Report on Municipal Service Review on the Lake Berryessa Region  
(Includes all written comments received on draft report)~~
- 2) Draft Resolution Approving Determinative Statements

**RESOLUTION NO. \_\_\_\_\_****RESOLUTION OF THE  
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY  
MAKING DETERMINATIONS****LAKE BERRYESSA REGION:  
MUNICIPAL SERVICE REVIEW**

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission”, adopted a schedule to conduct studies of the provision of municipal services within Napa County and studies of spheres of influence of the local governmental agencies whose jurisdictions are within Napa County; and

**WHEREAS**, the Executive Officer of the Commission, hereinafter referred to as the “Executive Officer”, prepared a municipal service review on the Lake Berryessa region pursuant to said schedule and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code; and

**WHEREAS**, the Executive Officer designated the geographic area of the municipal service review to generally include all unincorporated lands located along the Lake Berryessa shoreline and includes the unincorporated communities of Berryessa Estates, Berryessa Highlands, Berryessa Pines, and Spanish Flat; and

**WHEREAS**, the Executive Officer prepared a written report on the municipal service review on the Lake Berryessa region that includes considering the adequacy of governmental services provided by the Lake Berryessa Resort Improvement District, Napa Berryessa Resort Improvement District, and Spanish Flat Water District, hereinafter referred to as “LBRID,” “NBRID,” and “SFWD,” respectively; and

**WHEREAS**, the Executive Officer’s report was presented to the Commission in the manner provided by law; and

**WHEREAS**, the Commission heard and fully considered all the evidence presented at its public meetings concerning the municipal service review on the Lake Berryessa region on December 6, 2010, February 7, 2011, and April 4, 2011; and

**WHEREAS**, as part of the municipal service review, the Commission is required pursuant to California Government Code Section 56430(a) to make a statement of written determinations with regards to certain factors.

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER** as follows:

1. In accordance with the adopted Local Agency Formation Commission Environmental Impact Report Guidelines, and applicable provisions of the California Environmental Quality Act (CEQA), the Commission hereby determines this municipal service review is exempt from the provisions of CEQA under Section 15306 of the State CEQA Guidelines (Title 14 of the California Code of Regulations Section 15306). The municipal service review is a data collection and research study. The information contained within the municipal service review may be used to consider future actions that will be subject to environmental review.
2. The Commission adopts the statement of written determinations prepared as part of the municipal service review on the Lake Berryessa region set forth in "Exhibit A," which is attached and hereby incorporated by reference.

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on April 4, 2011 by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

ABSTAIN: Commissioners

ATTEST: Keene Simonds  
Executive Officer

Recorded by: \_\_\_\_\_  
Kathy Mabry  
Commission Secretary

## **EXHIBIT A**

### **LAKE BERRYESSA REGION: MUNICIPAL SERVICE REVIEW**

#### **WRITTEN STATEMENT OF DETERMINATIONS**

1. Growth and population projections for the affected area (Government Code 56430(a)(2)):

#### ***Regional Statements***

- a) LBRID, NBRID, and SFWD are the governmental agencies solely responsible for providing public water and sewer services in support of the four unincorporated communities located within the region: Berryessa Estates; Berryessa Highlands; Berryessa Pines; and Spanish Flat. The current and future welfare of these communities is dependent on the solvent operations of these three agencies.
- b) The combined estimated resident service population within LBRID, NBRID, and SFWD totals 1,804 and represents 6.3% of the overall unincorporated population.
- c) It is estimated LBRID, NBRID, and SFWD have experienced a combined 1.9% annual growth rate over the last five years resulting in 153 new residents within their respective jurisdictional boundaries. This combined growth rate exceeded growth in the remaining unincorporated areas over the last five years by a ratio of six to one.
- d) It is reasonable to assume the rate of population growth within LBRID, NBRID, and SFWD relative to the last five years will decrease by nearly one-half from its current annual estimate of 1.9% to 1.0% based on demographic information recently issued by the Association of Bay Area Governments. If this assumption proves accurate, the combined resident population in all three districts will be 1,896 by 2015.
- e) Current non-residential growth within the Lake Berryessa region is primarily limited to relatively small commercial and local-serving sites predominantly located within SFWD's Spanish Flat service area. Limited public recreational uses also currently exist throughout the region and are tied to private concessionaire arrangements managed by the United States Bureau of Reclamation. These existing non-residential uses have relatively minimal impact on public water and sewer service demands.

- f) It is reasonable to assume public recreational uses in the Lake Berryessa region will significantly expand in the timeframe of this review in conjunction with the United States Bureau of Reclamation's redevelopment plans for the seven concessionaire sites located along the shoreline. Two of the seven concessionaire sites, Lupine Shores and Foothill Pines Resorts, are located within NBRID and SFWD's respective jurisdictional boundaries and will – based on the development plans recently approved by the Bureau – measurably impact these agencies' water and sewer systems.
- g) The planned uses for the remaining five concessionaire sites in the Lake Berryessa region suggest it would be appropriate to consider including the affected lands within the spheres of influence of existing or new special districts to help support their orderly growth and uses given the Commission's policies and objectives. Consideration should incorporate and defer, as appropriate, to the input and preferences of the United States Bureau of Reclamation.

***Agency Specific Statements***

- a) Residential uses comprise nearly all development within LBRID and currently include 188 developed single-family lots with an estimated resident population of 483. Buildout would presumably involve the development of the remaining 193 privately-owned lots in Berryessa Estates' Unit One and Unit Two and result in the District's resident population more than doubling to 979.
- b) Residential uses in NBRID currently comprise 358 developed single-family lots with an estimated resident population of 920. Buildout would presumably involve the development of the remaining 267 privately-owned lots in Berryessa Highlands' Unit One and Unit Two and result in the District's resident population increasing by over one-half to 1,606.
- c) NBRID's buildout is also expected to include the opening of Lupine Shores Resort with demands equivalent to 88 lots or users; an amount measurably less than the 228 equivalent lots associated with the former Steele Park Resort.
- d) Residential uses in SFWD currently comprise 167 single-family and mobile home residences with an estimated population of 401. Buildout would presumably involve the development of the remaining 62 privately-owned lots within Berryessa Pines and Spanish Flat and result in the District's resident population increasing by over one-third to 560.
- e) SFWD's buildout is also expected to include the opening of Foothill Pines Resort with demands equivalent to 36 lots or users; an amount measurably less than the 221 equivalent lots associated with the former Spanish Flat Resort.

2. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies (Government Code 56430(a)(1)):

***Regional Statements***

- a) LBRID, NBRID, and SFWD's infrastructure systems – particularly relating to sewer – are becoming increasingly inefficient in meeting current demands as a result of antiquated facilities coupled with new regulatory standards.
- b) Contracted water supplies with the Napa County Flood Control and Water Conservation District are sufficient with respect to accommodating current and projected annual demands at buildout within LBRID, NBRID, and SFWD's respective jurisdictional boundaries. These supplies are a byproduct of the United States Bureau of Reclamation's Solano Project and considered reliable during single and multiple-dry year conditions based on historical levels at Lake Berryessa.
- c) LBRID, NBRID, and SFWD's water treatment and storage capacities are adequately sized to meet current and projected peak day demands within the timeframe of this review. These existing capacities help to ensure adequate reserves are available during an emergency or interruption in service as required under State law.
- d) Moderate to significant water treatment and storage capacity expansions will be needed to meet projected peak day demands at buildout within LBRID, NBRID, and SFWD's Spanish Flat service area.
- e) Other pertinent public services in the region, including law enforcement, fire protection, street maintenance, and waste disposal, are provided directly or indirectly by the County of Napa and appear to have sufficient capacities relative to existing community needs. Community preferences to elevate the range and level of these County-provided services would require local funding and presumably need to delegate to an existing or new special district.

***Agency Specific Statements***

- a) The buildout of LBRID's jurisdictional boundary is expected to more than double its annual water demand from 29.5 to 65.7 acre-feet. This projected buildout demand can be reliably accommodated by the District given the total would represent only 33% of its contracted water supply.
- b) LBRID's water treatment and storage facilities have surplus capacity in meeting the current peak day demand total of 0.40 acre-feet. This total represents 52% and 32% of the District's available treatment and storage capacities, respectively, and is expected to accommodate peak day demands through the timeframe of this review.

Exhibit A

- c) A moderate expansion to LBRID's water treatment capacity in the amount of 0.08 acre-feet would be needed for the District to meet its projected peak day demand of 0.85 acre-feet at buildout within Berryessa Estates.
- d) LBRID's sewer system is designed with sufficient capacity to meet average day demands within its jurisdictional boundary through the timeframe of this review. Current peak day wet-weather demands, however, substantially exceed existing capacities by over 40%. These excessive totals are attributed to increasing infiltration into the collection system and have directly resulted in a series of unauthorized spills leading to two substantial fines by the Regional Water Quality Control Board.
- e) Excessive peak day wet-weather demands for LBRID are expected to continue without significant improvements to the collection system to reduce infiltration, and therefore subject the District to additional fines and related sanctions.
- f) The buildout of NBRID's jurisdictional boundary – including the planned development of Lupine Shores Resort – is expected to nearly double the District's current annual water demand from 71.4 to 132.6 acre-feet. This projected buildout demand can be reliably accommodated by the District given the total would represent only 44% of its contracted water supply.
- g) NBRID's water treatment and storage facilities have surplus capacity in meeting the current peak day demand total of 1.5 acre-feet. This total represents 79% and 98% of the District's available treatment and storage capacities, respectively, and is expected to accommodate peak day demands through the timeframe of this review.
- h) Significant improvements would be needed to increase NBRID's water treatment and storage capacities to meet the projected peak day demand of 2.6 acre-feet at buildout within Berryessa Highlands.
- i) NBRID's sewer system is designed with sufficient capacity to meet current average day demands within its jurisdictional boundary through the timeframe of this review. Current peak day wet-weather demands, however, substantially exceed the District's existing capacity by over 50% due to pervasive infiltration into the collection system as well as poor drainage at its spray field site.
- j) Excessive demands on the sewer system during extended storm events have directly resulted in NBRID receiving multiple violation notices from the Regional Water Quality Control Board as well as a recent Cease and Desist Order directing the District to limit its average day sewer flows to 50,000 gallons; an amount the District will continue to exceed without significant improvements to its collection system.

Exhibit A

- k) The need for substantial improvements to NBRID's sewer collection system to reduce infiltration is evident given current average day demands during dry weather equal close to 100% of the District's daily water demands.
- l) The buildout of SFWD's entire jurisdictional boundary – including the planned development of Foothill Pines Resort – is expected to raise the District's annual water demand by over three-fifths from 59.0 to 94.5 acre-feet. This projected buildout demand can be reliably accommodated by the District given the total would represent only 47% of its contracted water supply.
- m) SFWD's water treatment and storage facilities within the Berryessa Pines service area have surplus capacities in meeting the current peak day demand total of 0.17 acre-feet. This total represents 39% and 55% of the District's available treatment and storage capacities, respectively, in the service area and is expected to accommodate peak day demands through the timeframe of this review.
- n) No additional capacity expansions would be needed to SFWD's water treatment and storage facilities within the Berryessa Pines service area to meet the projected peak day demand of 0.22 acre-feet at buildout.
- o) SFWD's sewer system in the Berryessa Pines service area appears to be adequately designed to accommodate current average and peak day demands, although specific capacity levels are not documented. The lack of documentation creates uncertainty in assessing the ability of the District to sufficiently accommodate additional sewer demands within Berryessa Pines.
- p) SFWD's water treatment capacity within the Spanish Flat service area has surplus capacity in meeting the projected peak day demand total of 0.31 acre-feet. This total represents 58% of SFWD's available treatment capacity and is expected to accommodate peak day demands through buildout.
- q) Overall storage capacities within SFWD's Spanish Flat service area are presently operating beyond capacity relative to accommodating the current peak day demand total of 0.31 acre-feet. This existing constraint is specifically tied to deficient storage within the initial pressure zone, which currently serves close to three-fourths of the customer base and is undersized by one-fifth in meeting its proportional share of the peak day water demand.
- r) Significant improvements would be needed to nearly double SFWD's overall water storage capacities within the Spanish Flat service area to meet the projected peak day demand of 0.52 acre-feet at buildout.
- s) SFWD's sewer system in the Spanish Flat service area is designed with sufficient capacity to meet current and projected average as well as peak day demands through the timeframe of this review. Improvements would be needed to increase capacity during wet-weather conditions at buildout.

3. Financial ability of agencies to provide services (Government Code 56430(a)(3)):

***Regional Statements***

- a) The ability of LBRID, NBRID, and SFWD to generate adequate operating revenues in the absence of high user charges is difficult given the lack of planned development within their respective jurisdictional boundaries. The diseconomies of scale associated with the lack of planned development coupled with past policy decisions to limit user charges have directly contributed to all three agencies developing structural deficits with no operating reserves.

***Agency Specific Statements***

- a) Solvency for LBRID and NBRID remains a critical issue as both districts have experienced precipitous declines in their unrestricted reserves due to persistent operating shortfalls resulting in negative balances.
- b) LBRID has experienced over a 400% decline in its unrestricted fund balance over the last five years from \$0.14 to \$(0.72) million. This decrease is attributed to \$1.01 million in net income losses since 2006.
- c) NBRID has experienced over a 300% decline in its unrestricted fund balance over the last five years from \$0.25 to \$(0.58) million. This decrease is attributed to \$0.96 million in net income losses since 2006.
- d) Due to their structural deficits in which expenses have been consistently exceeding revenues, LBRID and NBRID have become entirely dependent on discretionary loans from the County of Napa to maintain positive cash flows.
- e) The ability and consent of LBRID and NBRID constituents to assume additional costs is uncertain since they currently pay on average \$304 and \$217 per month, respectively, for water and sewer related services; totals believed to be the highest in Napa County.
- f) The current financial position of SFWD is uncertain given no audit has been prepared on the District's financial statements since the 2006-2007 fiscal year; a year in which the District finished with an unrestricted fund balance of (\$0.26 million).

4. Status of, and opportunities for, shared facilities (Government Code 56430(a)(4)):

***Regional Statements***

- a) LBRID, NBRID, and SFWD serve unincorporated communities with common social and economic interests directly tied to residential, commercial, and recreational activity at Lake Berryessa. These common interests suggest all three districts continue to pursue existing and new opportunities to share resources for the collective benefit of their respective constituents.

- b) LBRID, NBRID, and SFWD should explore opportunities to contract with a single vendor to provide administrative and operational support services. This type of arrangement may help economize limited resources while establishing more uniform levels of management services. This type of arrangement may also serve as a litmus test in considering the merits of other resource-sharing alternatives in the region.

***Agency Specific Statements***

- a) LBRID and NBRID's organizational dependency to the County of Napa provides continual cost-savings with respect to the districts sharing staff, equipment, and materials. It is reasonable to assume separating one or both of the districts from the County would result in moderate to significant cost increases to the agencies.
  - b) SFWD reports it has made a concerted effort to no avail in the past to explore mutually beneficial opportunities to share resources with other districts in the greater area, including NBRID and Circle Oaks County Water District. The Commission commends these efforts and encourages SFWD to continue pursuing cost sharing efficiencies with other neighboring agencies.
  - c) A significant portion of SFWD's potable water system is located on federal property under an easement with the United States Bureau of Reclamation that expired in 1999. It is imperative SFWD renew its easement with the Bureau to ensure the District has immediate and timely access to its service infrastructure.
5. Accountability for community service needs, including governmental structure and operational efficiencies (Government Code 56430(a)(5)):

***Regional Statements***

- a) LBRID, NBRID, and SFWD are governed and managed by responsive and dedicated public servants operating under challenging circumstances with respect to maximizing the use and benefit of limited resources on behalf of their respective constituents.
- b) LBRID and NBRID have made concerted efforts over the last several years to improve outreach with their respective constituents. These efforts have helped clarify the roles and responsibilities of the Districts apart from the County of Napa and contributed to strengthening the social and economic interests within the communities.
- c) It would be advantageous for LBRID, NBRID, and SFWD to each develop and maintain agency websites for purposes of posting pertinent service and financial information for public viewing. These actions will strengthen the Districts' accountability to their respective constituents while helping to foster needed civic engagement regarding the current and planned services of the agencies.

*Agency Specific Statements*

- a) LBRID and NBRID were formed to provide a broad range of municipal services for the Berryessa Estates and Berryessa Highlands communities. However, due to an amendment to their principal act, the Districts are limited to providing only water and sewer services with all other pertinent public services generally provided at a basic level by the County of Napa.
- b) It is reasonable to assume the continued development of the Berryessa Estates and Berryessa Highlands communities will eventually necessitate the need for other elevated public services to support existing development; services that would require either expanding LBRID and NBRID's powers through reorganizations or creating new special districts.
- c) LBRID and NBRID are governed by the County of Napa Board of Supervisors who are elected by, and accountable to, registered voters residing in their assigned ward. This governance system diminishes local accountability given constituents are limited to voting for only one of the five District board members.
- d) There is increasing acrimony among LBRID and NBRID constituents with respect to the County of Napa's management of the two Districts. This acrimony has led to growing desire among landowners and residents within both Districts to reorganize their respective agencies to become independent. The desire for reorganization appears strongest among NBRID constituents based on communication with the Commission.
- e) Given underlying governance and service challenges, it would be appropriate to expedite NBRID's reorganization into a community services district with the same powers and jurisdiction as authorized under Senate Bill 1023. Reorganization would position the community to become more responsive to changes in constituent needs by having the power – subject to subsequent Commission approval – to provide additional municipal services in support of Berryessa Highlands' continued development. Reorganization would also improve public accountability by presumably facilitating the delegation of responsibilities in planning for the present and future service needs of the community from the County to local residents.
- f) Reorganization of NBRID into a community services district can serve as a model for LBRID and its constituents in assessing preferences and objectives as it relates to the governance of public services in the community.
- g) Reorganization of SFWD is not a priority given the constituents' apparent satisfaction of the District's governance and management. Nonetheless, given the potential future need for additional public services that are outside SFWD's existing powers, reorganization may be appropriate at a later time.

Exhibit A

6. Relationship with regional growth goals and policies (Government Code 56430(a)(6)):

***Regional Statements***

- a) LBRID, NBRID, and SFWD serve vital roles in supporting the County of Napa's land use policies with regard to providing necessary public water and sewer services to four of the largest planned unincorporated communities in Napa County.



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

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**April 4, 2011**

**Agenda Item No. 6b (Public Hearing)**

March 29, 2011

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Brendon Freeman, Analyst

**SUBJECT: Proposal to Reorganize the Napa Berryessa Resort Improvement District into the Napa Berryessa Community Services District**

The Commission will consider (a) initiating and (b) approving a proposal to reorganize the Napa Berryessa Resort Improvement District into a new community services district with the same boundary, duties, powers, assets, and liabilities. The reorganization is consistent with the recommendation of a municipal service review for the affected region and would position the agency to provide additional services – subject to future approval – consistent with the evolving needs of the community. Reorganization is also expected to facilitate transitioning governance from a dependent board, comprised of the County of Napa Board of Supervisors, to an independent board, comprised of locally elected registered voters.

Local Agency Formation Commissions (LAFCOs) are responsible under State law to approve all city and special district change of organizations consistent with adopted written policies and procedures (Government Code Section 56375). Common examples of change of organizations include formations, annexations, detachments, consolidations, and dissolutions. Two or more of these actions in a single proposal are referred to as a reorganization. State law also empowers LAFCOs to establish conditions in approving changes of organization or reorganizations as long as they do not directly regulate land uses. Underlying LAFCOs' decision-making is to consider the logical and timely development of the affected agencies in context with local circumstances and needs.

**A. Summary**

***Proposal Description***

A public hearing has been scheduled for LAFCO of Napa County (“Commission”) to consider (a) initiating and (b) approving the expedited reorganization of the Napa Berryessa Resort Improvement District (NBRID) into a new community services district (CSD) with the same boundary, duties, powers, assets, and liabilities. The proposal is consistent with a recommendation of a municipal service review prepared on the region and involves two distinct and concurrent actions. The first action involves dissolving NBRID for purposes of terminating all of its corporate powers. The second action involves forming – as a successor agency to NBRID – the Napa Berryessa CSD or

Lewis Chilton, Vice Chair  
Councilmember, Town of Yountville

Juliana Inman, Commissioner  
Councilmember, City of Napa

Joan Bennett, Alternate Commissioner  
Councilmember, City of American Canyon

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

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

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

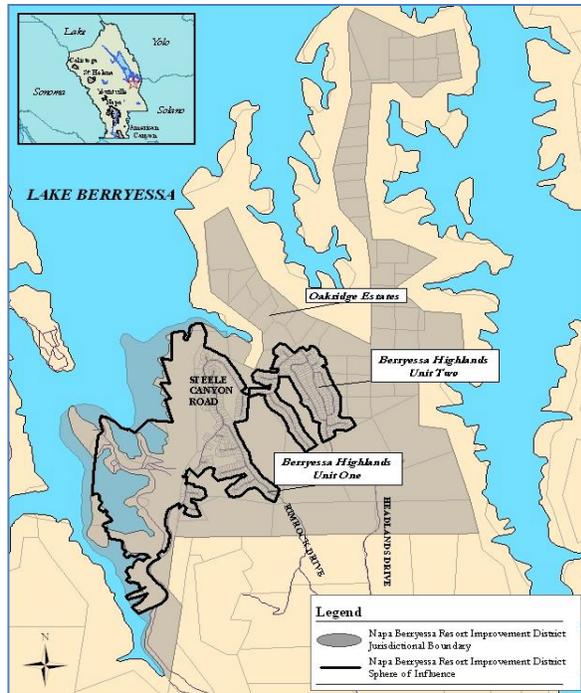
Brian J. Kelly, Commissioner  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Keene Simonds  
Executive Officer

NBCSD. The proposal is consistent with a request filed by the NBRID Board on November 9, 2010 and revised on March 15, 2011 to also ask the Commission to condition approval on the District finalizing a new water and sewer service contract with its largest customer, the Pensus Group. Notably, the Pensus Group is the new concessionaire under contract with the United States Bureau of Reclamation (USBR) to operate the former Steele Park Resort, which is now known as Lupine Shores Resort.

The affected territory is legally inhabited with 529 registered voters. LAFCO staff estimates the resident population at 920. If the proposal is approved as submitted, protest proceedings would be waived consistent with California Government Code (G.C.) Section 56853.5. This statute was enacted on January 1, 2011 and authorizes LAFCOs to expeditiously reorganize RIDs into CSDs with the same boundary, powers, duties, assets, and liabilities without holding protest proceedings and election as long as the affected agency does not file written objection before the close of the hearing.



### ***Proposal Purpose***

The underlying purpose of the proposal is two-fold as detailed in the Commission's municipal service review prepared on the region; determinations for which are expected to be formally adopted on April 4, 2011. First, reorganization would position NBCSD to become more responsive to changes in constituent needs by having the power to provide additional municipal services in support of Berryessa Highlands' continued development. This statement is particularly pertinent given State law restricts NBRID to only provide water and sewer services due to a 1971 amendment to its principal act. In contrast, State law would allow NBCSD – subject to future Commission approval – to provide a full range of municipal services, such as roads, parks, and fire protection.<sup>1</sup> Second, reorganization would improve public accountability by facilitating the delegation of responsibilities in planning for the present and future service needs of the community from the County of Napa to local residents. Specifically, though not a condition, reorganization is expected to directly lead NBCSD to call and conduct an election to replace the County Board of Supervisors with registered voters on or before November

<sup>1</sup> The proposed reorganization would authorize NBCSD to only provide water and sewer services; all other services outlined under the Community Services District Act (Government Code Section 61000 et. seq.) would be latent and require subsequent approval from the Commission to activate.

2012; a date that surpasses the one-year deadline for LAFCO approval terms to be completed under State law.

### ***Proposal Review***

Staff recommends approval of the proposal subject to the standard reorganization conditions outlined under G.C. Section 56853.5(d). This includes specifying NBCSD shall succeed to, and is vested with, the same powers, duties, responsibility, obligations, liabilities and jurisdiction of the dissolved NBRID. NBCSD will also assume the same jurisdictional boundary and sphere of influence on file with the Commission as of the effective date. Staff also recommends approval of a special condition requested by NBRID to require the District to reach a new water and sewer service agreement with the Pensus Group as it relates to serving Lupine Shores Resort. Additional discussion on this special request is provided on page 12 of this report.

The Commission may consider requiring additional special conditions of approval if needed. Any additional special conditions, however, would require the Commission provide written notice to NBRID before approving the reorganization. The Commission may not take further action for 30 days from the date of notice without the written consent of NBRID. In effect, this gives NBRID an opportunity to file comments or objections to any additional special conditions. If a resolution of object is filed with respect to the special conditions, the proceedings shall be terminated.<sup>2</sup>

### **B. Analysis**

G.C. Section 56375 delegates to LAFCOs the responsibility to approve or disapprove, with or without amendment, proposals for changes of organization or reorganizations consistent with its adopted written policies, procedures, and guidelines. LAFCOs are also authorized to establish conditions in approving proposals as long as they do not directly regulate land uses. Underlying LAFCOs' determination in approving or disapproving proposed changes of organization or reorganizations is to consider the logical and timely development of the affected agencies in context with statutory objectives and local circumstances.

### ***Required Factors for Review***

G.C. Section 56668 requires the Commission to consider certain factors anytime it reviews proposed changes of organization. No single factor is determinative. The purpose in considering these factors is to help inform the Commission in its decision-making process. An evaluation of these factors as it relates to the proposal follows.

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<sup>2</sup> If the proposal is terminated, the Commission may initiate a standard reorganization, but would not be allowed to outright waive protest proceedings as allowed under the expedited process.

**1) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent areas, during the next 10 years.**

The affected territory is coterminous with NBRID's existing jurisdictional boundary and is approximately 1,320 acres in size. Current land uses include 358 single-family residences divided between Berryessa Highlands' three distinct subdivisions: Unit One; Unit Two; and Oakridge Estates. Lupine Shores Resort also lies within the affected territory with current uses limited to day activities, including boat launching, pending the site's redevelopment. In all, there are currently 920 estimated residents with 529 registered voters. The total assessed value is \$83.2 million.

Topography in the affected territory varies with an elevation ranging from 0 to 78 feet above sea level. The affected territory is situated along the southern shoreline of Lake Berryessa with Steele Canyon to the west and Wragg Canyon to the east.

A significant portion – approximately three-fifths – of the affected territory is undeveloped; a sizeable portion involving the 212 remaining undeveloped lots within Berryessa Highlands' Units One and Two. It is reasonable to assume the proposal, if approved, would not in and of itself result in any new significant urban growth within the affected territory in the next 10 years given no new boundary changes or service powers would be directly authorized; any new boundary changes or service powers indirectly tied to the proposal would be subject to future approval processes. Irrespective of proposal approval, residential growth within the affected territory is expected to increase incrementally over the next 10 years at 1.26% annually resulting in an estimated resident population of 1,054 by 2021. Additionally, irrespective of proposal approval, non-residential growth is also expected to increase with the planned development of Lupine Shores Resort and its commercial recreational amenities that are expected to include visitor lodging, retail, and restaurants. No new significant growth in adjacent lands to the affected territory is expected within the next 10 years due to restrictive County land use policies that require minimum lot sizes of 160 acres.

**2) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.**

There is an existing need for organized water and sewer services within the affected territory to support the current and future development of Berryessa Highlands as well pending developing of Lupine Shores Resort. These specific services are needed to provide adequate public health and safety given the use of

private groundwater wells and septic systems are impractical due to density and topography within the community. Proposal approval would transfer water and sewer service responsibilities for the affected territory from NBRID to NBCSD with both services continuing to operate as an enterprise in which user charges would be expected to recover operating costs. Additional organized services that may be needed in the future relative to supporting the continued development of Berryessa Highlands and visitor uses tied to Lupine Shores include elevated fire protection, roads, and parks. Proposal approval would provide a direct mechanism for these and other organized services to be established by NBCSD subject to Commission approval.

**3) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.**

Proposal approval would strengthen social and economic interests within the affected territory by allowing NBCSD – subject to Commission approval – to establish additional municipal services consistent with the evolving needs of constituents. Proposal approval is also *expected* to facilitate the subsequent transition of NBCSD from a dependent agency governed by the County Board of Supervisors to an independent agency governed by locally elected registered voters; a transition that will improve public accountability by delegating decision-making authority to constituents (emphasis added).

**4) The conformity of the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies set forth in G.C. Section 56377.**

Proposal approval would conform with the adopted policies of the Commission with respect to favoring multi-service special districts over limited-service special districts in supporting unincorporated areas designated for urban-type uses under the County General Plan (General Policy Determination IV(B)).

No open-space lands would be converted as a result of proposal approval and therefore factors for consideration under G.C. Section 56377 do not apply.

**5) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by G.C. Section 56016.**

A small portion of the affected territory qualifies as agricultural land under LAFCO law given the existence of a limited number of commercial vineyards. The approval of the proposal, however, would not adversely affect the physical and economic integrity of these existing agricultural uses since it does not involve boundary changes or establish new service powers.

- 6) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.**

The affected territory is coterminous to NBRID's existing jurisdictional boundary on file with the Commission and recorded with the State Board of Equalization.

- 7) Consistency with the city or county general plans, specific plans, and adopted regional transportation plan.**

The proposal is consistent with the County General Plan with respect to a sizeable portion of the affected territory having been designated for an urban-type use (*Rural Residential*). The remaining portion of the affected territory is designated for a non-urban use (*Agriculture, Watershed, and Open Space*). This latter designation does create a policy conflict with forming a multiple-service special district, such as the proposed NBCSD, but is sufficiently mitigated given the local circumstance that the existing development was previously approved under the territory's former zoning standard of *Planned Community* in 1965.

- 8) The sphere of influence of any local agency applicable to the proposal.**

Close to one-fifth of the affected territory lies within NBRID's adopted sphere of influence. This portion of the affected territory comprises Berryessa Highlands' Units One and Two as well as Lupine Shores Resort. The remaining four-fifths of the affected territory was excluded from the sphere of influence at the time of its establishment in 1985 given the lack of expected urban development. The Commission updated the sphere of influence with no changes in 2007 in deference to first completing a review of reorganization options due to diseconomies of scale and issues raised in earlier studies. If the proposal is approved, it is expected the Commission will perform a sphere of influence update on the newly created NBCSD within the calendar year.

- 9) The comments of any affected local agency or other public agency.**

NBRID has previously submitted comment letters to the Commission concerning the potential reorganization of NBRID into NBCSD. These letters were filed on November 9, 2010 and March 1, 2011 and provide NBRID's consent to the proposal with a request for a special condition that the District first reach a new water and sewer service agreement with the Pensus Group to serve Lupine Shores Resort. NBRID is requesting this special condition due to a difference in RID and CSD law. Specifically, RIDs have the authority to require all residents and property owners within its boundaries to connect to both its water and sewer systems while CSDs only have the authority to require sewer connection. NBRID states this special condition would help NBCSD realize economies of scale by

ensuring Lupine Shores Resort pays its proportional share in support of operating and capital improvement costs. Copies of the comment letters are attached.

Additionally, in the course of processing this proposal, the County of Napa requested clarification regarding various issues tied to reorganization approval. Brief responses to the issues raised by the County follow.

- **Are There Additional Noticing Requirements for the Reorganization?**  
Standard noticing requirements have applied to the proposal and involve publishing a one-eighth page announcement in the local newspaper along with door posting 21 days in advance of the hearing. No additional noticing will be required of the Commission if the proposal is approved unless a special condition is included that has not been formally requested of the affected agency under G.C. Section 56853.5(c); this section would require the Executive Officer to provide a 30 day notice to the affected agency before any Commission action at which time the affected agency could terminate proceedings if it files a written objection.
- **Does the Commission Resolution Approving the Reorganization Need to Specify the County Board of Supervisors Will Continue to Serve as NBRID Board?**  
It is implicit that the current NBRID Board (i.e. County Supervisors) will succeed as the NBCSD Board under G.C. Section 56853.5(d)(3), which is one of the standard conditions included in the draft resolution. No election is being called as a condition of the reorganization.
- **Community Services Districts Can Provide Multiple Services. How Does This Apply to the Reorganization?**  
The expedited reorganization proceedings codified under G.C. Section 56853.5 explicitly states no new powers are authorized as part of the proceedings. Accordingly, if approved, NBCSD will be authorized only to provide water and sewer services. All other services outlined under the Community Services District Act are latent and would require subsequent Commission approval to activate.
- **The Reorganization Is Intended to Facilitate An Election to Seat New Board of Directors. Is the Commission Appropriating Election Costs?**  
The reorganization is intended to facilitate the eventual transition to an independent governing body. However, since the Commission is not initiating the call for an election of a new board, it is not empowered to condition the reorganization on the appropriation of future election costs.

**10) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.**

Information collected and analyzed in the Commission's recent municipal service review on the Lake Berryessa region indicates NBRID is nearing financial insolvency. Specifically, NBRID has developed a persistent structural budget deficit and has become dependent on discretionary loans from the County to maintain cash flow for the last three fiscal years. This ongoing deficit of expenses exceeding revenues coupled with these loan obligations have contributed to NBRID experiencing over a 300% decline in its unrestricted fund balance over the last five years from \$0.25 to (\$0.58) million. A more detailed summary of the financial standing of NBRID is provided in the following passage from Section 7.1 of the municipal service review:

“Calculations performed assessing NBRID's liquidity, capital, and profitability for 2009-2010 indicate the District finished the fiscal year with marginally adequate resources to meet short-term operational costs with significant uncertainties regarding its long-term solvency. In particular, NBRID finished with low liquidity as measured by current liabilities exceeding current assets by close to one-half. NBRID did finish with cash reserves sufficient to cover 141 days of operating expenses, but this measurement is misleading given the majority of available cash was tied to a loan from the County. Additionally, along with finishing with long-term debt equal to nearly half of its net assets, NBRID's operating expenses exceeded operating revenues by one-half.”

It is reasonable to assume proposal approval would – at minimum – not further diminish the agency's ability to adequately fund water and sewer services relative to existing conditions. Equally, it is also reasonable to assume proposal approval would improve baseline conditions if, as expected, governance transitions from the County to locally elected registered voters on or before November 2012. Importantly, this expected transition would respond to the perceived preferences of constituents and their past reluctance to approve proposed water and sewer rate increases due to increasing displeasure with the County.

Correspondence with NBRID in the course of preparing this proposal identifies the District is expected to finish 2010-2011 with another operating deficit of approximately \$0.19 million and will require another loan from the County to maintain cash flow. NBRID's short-term solvency, however, appears to be improving with the District recently approving a 60% rate increase to both water and sewer service charges, which should – assuming usage remains constant – eliminate the operating deficit by 2011-12.<sup>3</sup> NBRID's long-term strategy to improve solvency is less certain given its primarily tied to first addressing the District's current Cease and Desist Order issued by RWQCB in 2008. In particular, the total capital improvement needs and related costs will not be

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<sup>3</sup> No uses at Lupine Shores have been incorporated into this projection. The anticipated operating surplus in 2011-2012 is estimated by NBRID at \$0.021 million.

known until NBRID's consultant, Larry Walker & Associates, completes a comprehensive inspection of the sewer collection system to mitigate existing inflow/infiltration problems. The inspection, which is being funded by Measure "A" monies, is expected to be completed later this summer.

**11) Timely availability of water supplies adequate for projected needs as specified in G.C. Section 65352.5.**

Information collected and analyzed in the Commission's municipal service review on the Lake Berryessa region indicates NBRID has sufficient water supplies to meet existing and projected buildout demands within the affected territory. The following passage from Section 6.1 of the municipal service review states:

"NBRID's water supply is entirely drawn from Lake Berryessa and secured through an agreement with NCFWCWD. The agreement was initially entered into in 1966 and most recently amended in 2006. It provides NBRID an annual entitlement of 300 acre-feet of raw water through 2028. The agreement also allows NBRID to purchase an additional 40 acre-feet of annual entitlement. Raw water from Lake Berryessa is captured from a floatable submerged intake system and powered by two electric pumps with a combined daily conveyance capacity of 755,000 gallons or 2.3 acre-feet.

The full delivery of NBRID's entitlement is considered reliable based on current and historical storage levels at Lake Berryessa relative to the location of the District's floatable intake system. The supply entitlement also appears sufficient to accommodate current as well as projected demands within NBRID in the timeframe of this review, which has been calculated by staff to total 42.7 acre-feet by 2015. Buildout demands are addressed in the succeeding section."

**12) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 of Chapter 3 of Division 1 of Title 7.**

Approval of the proposal would have a de minimis impact on the County meeting its future regional housing needs as determined by the Association of Bay Area Governments (ABAG).

**13) Any information or comments from the landowner or owners, voters, or residents of the affected territory.**

One written comment was received from a landowner within the affected territory relating to the proposal. This comment was submitted by USBR regarding the earlier municipal service review on the Lake Berryessa region. USBR acknowledges the municipal service review's recommendation to reorganize NBRID into NBCSD without providing support or objection. No other written comments from landowners or registered voters were received.

**14) Any information relating to existing land use designations.**

The County General Plan designates the majority of the affected territory as *Agriculture, Watershed, and Open Space* with a minimum parcel of 160 acres. This designation contemplates the subject lands will be generally used for agriculture, processing of agricultural products, and single-family residences. The remaining portion of the affected territory is designated *Rural Residential* under the County General Plan with a minimum parcel size of 10 acres. This designation contemplates predominately low density single-family residential uses in areas that are close to existing urbanized areas. Other general uses contemplated under this designation include day care centers, large residential care homes, and tourist-serving commercial. The following chart summarizes key land use allowances under both of the referenced designations.

<b>County of Napa General Plan: Designations for Affected Territory</b>		
Designation	<i>Agriculture, Watershed, and Open Space</i>	<i>Rural Residential</i>
General Uses	Agriculture, processing of agricultural products, single-family dwellings	Single-family dwellings, day care centers, medical care facilities, private schools, agriculture, stables
Lot Density	Minimum: 160 acres	Minimum: 10 acres

**15) The extent to which the proposal will promote environmental justice.**

There is no documentation or evidence suggesting the proposal would have a measurable effect with respect to promoting environmental justice.

***Terms and Conditions***

Standard terms prescribed for expedited reorganizations under G.C. Section 56853.5 would apply to the proposal if approved. These standard terms include the following:

- NBCSD is declared a community services district subject to all provisions under the Community Services District Act beginning with G.C. Section 61000 et seq. The exterior boundary and sphere of influence of NBCSD shall be the exterior boundary and sphere of influence of the dissolved NBRID.
- NBCSD succeeds and is vested with the same powers, duties, responsibilities, obligations, and liabilities of the dissolved NBRID.
- The status, position, and rights of any NBRID officer or employee shall not be affected by the reorganization and shall be retained by NBCSD.
- NBRID’s unexpended fund balance as of the effective date of the reorganization shall be available for use by NBCSD.

- NBCSD shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the dissolved NBRID.
- No payment for the use, or right of use, of any property, real or personal, acquired or constructed by NBRID shall be required by reason of the succession pursuant to the reorganization, nor shall any payment for NBCSD's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.
- All ordinances, rules, and regulations adopted by NBRID in effect immediately preceding the effective date of the reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by NBCSD, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the reorganization, or that may be enacted or adopted with reference to the NBRID shall mean NBCSD.
- All allocations of shares of property tax revenue pursuant to California Revenue and Taxation Code along with special taxes, benefit assessments, fees, charges, or any other impositions of NBRID shall remain in effect unless amended or repealed by NBCSD, or they expire by their own terms.
- NBRID's established appropriations limit shall be NBCSD's appropriations limit.
- Any court action by or against NBRID shall continue in the name of NBCSD. The substitution shall not in any way affect the rights of the parties to the action.
- No contract, lease, license, permit, entitlement, bond, or any other agreement to which NBRID is a party shall be void or voidable by reason of the reorganization.
- NBRID's existing obligations, including bonds and other indebtedness, shall be the obligations of NBCSD. Any continuing obligations or responsibilities of NBRID for managing and maintaining bond issuances shall be transferred to NBCSD without impairment to any security contained in the bond instrument.
- The affected territory will be subject to all previously authorized rates, charges, fees, assessments, and taxes that were lawfully enacted by NBRID upon the effective date of the reorganization.

With respect to special conditions, as previously discussed, NBRID requests that reorganization be contingent on the District first reaching a water and sewer service agreement with the Pensus Group to serve Lupine Shores Resort. NBRID is requesting this special condition due to a difference in RID and CSD law. Specifically, RIDs have the authority to require all residents and property owners within its boundaries to connect

to both its water and sewer systems while CSDs only have the authority to require sewer connection. NBRID states this special condition would help NBCSD realize economies of scale by ensuring Lupine Shores Resort pays its proportional share in support of operating and capital improvement costs. Importantly, NBRID's consent of the reorganization is contingent on inclusion of this special condition, which is necessary in order to qualify for the expedited proceedings provided under G.C. Section 56853.5; proceedings that waive protest proceedings. Irrespective of the issue of consent, staff believes the requested special condition is reasonable and helps to ensure NBCSD's success by providing a larger revenue base to support future operations.

### ***Property Tax Exchange***

G.C. Section 56810(a)(2) specifies the Commission shall determine the amount of property tax to be exchanged for proposals that include the formation of a special district. Consistent with the expedited reorganization proceedings provided under G.C. Section 56853.5, the Commission shall determine as a condition of proposal approval that NBRID's existing share of property tax revenues be allocated in full to NBCSD.<sup>4</sup>

### ***Environmental Review***

Discretionary actions by public agencies are subject to the California Environmental Quality Act (CEQA) any time an underlying activity will result in a direct or indirect physical change to the environment. A lead agency has the principal responsibility for carrying out or approving a project consistent with the provisions of CEQA. This includes determining whether the underlying activity qualifies as a project under CEQA. If the activity is determined to be a project, the lead agency must determine if an exemption applies or if additional environmental review is needed. A responsible agency is accountable for approving an associated aspect of the underlying activity and must rely on the lead agency's determination in making its own CEQA finding.

The Commission serves as lead agency for the proposal given it has discretionary approval authority regarding the approval or denial of the project: concurrent dissolution of NBRID and formation of NBCSD. Staff has reviewed the proposal in accordance with CEQA and finds the project is exempt from further review under Title 14 of the California Code of Regulations Section 15320. This exemption applies to any reorganization of a local governmental agency where there are no changes to the geographic area in which previously existing powers are exercised. Staff has identified no responsible agencies to the project.

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<sup>4</sup> NBRID's current share of the 1% property tax is 0.00017%. In 2009-10, NBRID received a total of \$0.07 million in property tax revenues.

### **Conducting Authority Proceedings**

The Commission is authorized to waive conducting authority proceedings and election under G.C. Section 56853.5 as long as a resolution of objection is not filed by NBRID by the close of the hearing.

### **D. Options for Commission Action**

Staff has identified three broad options for Commission consideration with respect to the proposal. These options are summarized below.

- Option One:** Approve the proposal as prepared by staff subject to the standard and special conditions outlined on pages 10 to 12 of this report.
- Option Two:** Continue consideration of the item to a future meeting if more information is required. This includes identifying and discussing additional possible conditions of approval with NBRID if desired.
- Option Three:** Disapprove the proposal. Disapproval would statutorily prohibit the initiation of a similar proposal for one year.

### **E. Recommendation**

Staff recommends the Commission approve the proposal consistent with Option One as outlined in the preceding section.

### **F. Procedures for Consideration**

The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from staff;
- 2) Invite public comment, if any (discretionary);
- 3) Discuss item and consider action on recommendation.

Respectfully submitted,

\_\_\_\_\_  
Keene Simonds  
Executive Officer

\_\_\_\_\_  
Brendon Freeman  
Analyst

Attachments:

- ~~1) Draft Resolution of Approval~~
- ~~2) Correspondence from NBRID~~
- ~~3) NBRID Resolution No. 2011-01~~
- ~~4) Chaptered Senate Bill 1023~~



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

1700 Second Street, Suite 268  
Napa, California 94559  
Telephone: (707) 259-8645  
Facsimile: (707) 251-1053  
<http://napa.lafco.ca.gov>

**April 4, 2011**  
**Agenda Item No. 6c (Public Hearing)**

March 28, 2011

**TO:** Local Agency Formation Commission

**FROM:** Budget Committee (Chilton, Kelly, and Simonds)

**SUBJECT: Proposed Budget for Fiscal Year 2011-2012**

The Commission will consider adopting a proposed budget setting operating expenses and revenues for the 2011-2012 fiscal year. The proposed budget is identical to a draft approved by the Commission in February and subsequently circulated for review. Budgeted expenses total \$422,522; an amount that represents a 2.2% increase over the current fiscal year. Budgeted revenues total \$395,441 with the remaining shortfall (\$27,081) to be covered by drawing down on agency reserves.

The Local Agency Formation Commission of Napa County (“Commission”) is responsible for annually adopting a proposed budget by May 1<sup>st</sup> and a final budget by June 15<sup>th</sup>. In preparing for its own provisions, the Commission has established a Budget Committee (“Committee”) consisting of two appointed Commissioners and the Executive Officer. The Committee’s initial responsibility is to prepare and present a draft proposed budget for approval by the Commission before it is circulated for comment to each funding agency. It has been the practice of the Commission to receive proposed and final budgets from the Committee for adoption at its April and June meetings, respectively.

**A. Background**

***Prescriptive Funding Sources***

The Commission’s annual operating expenses are primarily funded by the County of Napa and the Cities of American Canyon, Calistoga, Napa, St. Helena, and Yountville. State law specifies the County is responsible for one half of the Commission’s operating expenses while the remaining amount is to be apportioned among the five cities. The current formula for allocating the cities’ share of the Commission’s budget was adopted by the municipalities in 2003 as an alternative to the standard method outlined in State law and is based on a weighted calculation of population and general tax revenues. Additional funding – typically representing less than one-fifth of total expenses – is budgeted from application fees and interest earned on the Commission’s fund balance.

The Commission’s unreserved/undesignated fund balance totaled \$168,819 as of July 1, 2010 and is currently projected to decrease by 4.2% to \$161,077 by June 30, 2011.

Lewis Chilton, Vice Chair  
Councilmember, Town of Yountville

Juliana Inman, Commissioner  
Councilmember, City of Napa

Joan Bennett, Alternate Commissioner  
Councilmember, City of American Canyon

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

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

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

Brian J. Kelly, Commissioner  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Keene Simonds  
Executive Officer

### ***Recent Changes in the Budgeting Process***

In 2010, the Commission made several substantive amendments to its budget process to improve the fiscal management of the agency. Most notably, this included eliminating annual appropriations for an operating reserve and consultant contingency in favor of establishing a fund balance policy to maintain no less than three months of operating expenses for unexpected costs. A key motivation underlying this amendment was to reduce the amount of unexpended monies accruing at the end of the fiscal years, which were being returned to the funding agencies in the form of credits against their subsequent year budget contribution. Importantly, by eliminating this practice, the Commission clarifies its financial position at the end of each fiscal year by reducing the amount of agency credits remaining in the fund balance. The funding agencies also benefit from eliminating the practice by enjoying more cost-certainty by receiving a more accurate appropriation charge at the beginning of each fiscal year.

### ***Draft Proposed Budget for 2011-2012***

The Committee met on January 12, 2011 to review the Commission's operating expenses for the upcoming fiscal year. The Committee created a spending baseline to identify agency costs to maintain the current level of services at next fiscal year's projected price for labor and supplies. In reviewing the baseline, the Committee considered actual expenses from previous fiscal years and whether adjustments in spending are appropriate to reflect anticipated changes in demand or need. Two specific and interrelated policy objectives guided the Committee's review: (a) allocating sufficient resources to maintain current service levels while (b) limiting cost increases to the funding agencies.

The Committee incorporated the preceding factors in preparing and presenting a draft proposed budget at the Commission's February 7, 2011 meeting. The draft represented a "status-quo" budget in terms of maintaining existing service levels – including preserving present staffing levels – with expenses increasing by 2.2% over the current fiscal year at \$422,522. Revenues in the draft totaled \$395,441 with the remaining shortfall (\$27,081) to be covered by drawing down on agency reserves. Markedly, the reserve amount proposed for use in the draft was calculated by splitting the total increase in agency contributions (\$54,162) over the current fiscal year if no reserves were utilized.

The Commission approved the draft proposed budgeted as submitted at the February 7<sup>th</sup> meeting and directed staff to seek comments from the funding agencies in anticipation of consideration formal adoption of the item in April. Staff mailed notice to all six funding agencies the following week inviting their review and comment on the approved draft through March 10, 2011. No comments were received.<sup>1</sup>

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<sup>1</sup> Staff did receive a request for more information concerning the proposed increase in expenses incorporated into the approved draft proposed budget from the City of Calistoga on February 21, 2010. Staff responded immediately and appears to have satisfactorily addressed Calistoga's question with no follow-up inquiries from the City as of the date of this report.

## B. Discussion

The Committee returns with a proposed budget for consideration by the Commission as part of a noticed public hearing. The proposed budget is identical to the draft approved by the Commission at its February 7<sup>th</sup> meeting. A detailed discussion of projected operating expenses and revenues follows.

### *Operating Expenses*

The Committee proposes \$422,522 in budgeted operating expenses. This amount represents an increase of \$9,043 or 2.2% over the current fiscal year. The majority of the increase is attributed to two pass-through costs tied to the Commission's staff support service agreement with the County involving (a) group insurance and (b) information technology. The former is projected to rise by \$7,694 or 20% and is primarily tied to escalating premium costs with Kaiser. The latter is expected to rise by \$6,191 or 34% as a result of recalculating the Commission's proportional share of the County's Information Technology Service (ITS) Department's budget – which is increasing by 4% – based on the number of employees and personal computers. Significantly, due to a reporting error, the Commission's ITS share for the current fiscal year was under-billed as a result of calculating only three of the four personal computers. This error has been addressed in recalculating next fiscal year's Commission share and is primarily responsible for the approximate one-third increase in costs. Other budgeted expense increases include salaries at \$1,300 or 0.7% tied to a scheduled step increase for the analyst position and retirement benefits at \$1,212 or 3.5% due in part to the Commission assuming a larger portion of the California Public Employment Retirement System's (CalPERS) rate.

Importantly, to reduce the impact of the two pass-through cost increases outlined above, the Committee has identified approximately \$8,000 in discretionary savings. These savings will help absorb close to one-half of all projected increases and involve reducing allocations for legal services, office supplies, and communications; all in amounts the Committee believes can be reasonably absorbed without adversely affecting service levels. The following table summarizes proposed operating expenses in 2011-2012:

Expense Unit	Adopted FY10-11	Proposed FY11-12	Change %
1) Salaries/Benefits	293,973	304,503	3.4
2) Services/Supplies	115,575	114,088	(1.3)
3) Capital Replacement	3,931	3,931	0.0
	\$413,479	\$422,522	2.2

### Operating Revenues

The Committee proposes \$395,441 in budgeted operating revenues. Nearly this entire amount – \$383,101 – is proposed to be drawn from new agency contributions, which would mark an increase of \$27,082 or 7.6% increase over the current fiscal year. The rationale for the increase in agency contributions is two-fold. First, as detailed in the preceding section, the Committee is recommending the Commission’s operating expenses increase by \$9,043. Second, the amount of reserves to be drawn down for operating revenues is \$15,379 less than the amount budgeted for the current fiscal year. Markedly, the reserve amount proposed for use for the upcoming fiscal year was calculated by splitting the total difference in agency contributions between the two fiscal years if no reserves were utilized.<sup>2</sup>

Budgeted application fees and interest earned on the fund balance invested by the County Treasurer represent the remaining portion of budgeted revenues. No changes in application fees have been made relative to the current fiscal year. A small reduction, however, has been made to earned interest to reflect the current return rate on the Commission’s fund balance generated through the current fiscal year. The following table summarizes proposed operating revenues in 2011-2012

Revenue Unit	Adopted Final FY10-11	Proposed FY11-12	Change %
1) Agency Contributions	356,019	383,101	7.6
<i>County of Napa</i>	178,009	191,550	7.6
<i>City of Napa</i>	119,647	128,748	7.6
<i>City of American Canyon</i>	27,468	29,558	7.6
<i>City of St. Helena</i>	12,657	13,619	7.6
<i>City of Calistoga</i>	10,642	11,452	7.6
<i>Town of Yountville</i>	7,596	8,173	7.6
2) Application Fees	10,000	10,000	0.0
3) Interest	5,000	2,340	(53.0)
Total	\$371,019	\$395,441	6.6

### C. Analysis

As detailed, the proposed budget for 2011-2012 is identical to the draft approved by the Commission in February and accomplishes the Committee’s core policy goals to (a) provide sufficient resources to maintain current service levels while (b) minimizing impacts on the funding agencies by limiting overall cost-increases. The former accomplishment allows the Commission to preserve present staffing levels that the Committee believes are merited given the agency’s workload ranging from processing proposals to preparing state-mandated studies, all of which are performed in-house. Notably, in 2011-2012, this will include preparing a municipal service review and related sphere of influence updates for the four agencies operating within the central county

<sup>2</sup> In other words, in the absence of using reserves, the funding agencies’ collective contribution to the Commission in 2011-2012 as proposed would increase from \$383,101 to \$410,182, a difference of \$27,081.

region.<sup>3</sup> Staff has also assumed additional duties ranging from implementing an electronic document management system to expanding roles within the statewide association. Any reduction in staffing levels would create a corresponding decrease in fulfilling current duties.

The Committee also believes the recommendation to reduce agency contributions by drawing down on reserves in the amount of \$27,081 serves two key objectives. First, the reduction memorializes the Commission's commitment to proactively assist the funding agencies by cutting their potential contribution by exactly one-half given the current economic downturn underlying municipal operations. Second, the Commission will be similarly positioned for the following fiscal year to once again drawn down on its reserves, without exceeding the agency's three-month operating fund balance limit if the economic downturn persists.

#### **D. Recommendation**

It is recommended for the Commission to take the following actions:

- 1) Adopt the attached draft resolution approving the proposed budget for 2011-2012 with any desired changes;
- 2) Direct the Executive Officer to circulate the adopted proposed budget for final review and comment to each funding agency; and
- 3) Direct the Executive Officer to schedule a public hearing for the Commission to consider adopting a final budget at its June 6, 2011 meeting.

#### **E. Procedures for Consideration**

The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from the Committee;
- 2) Open the public hearing (required);
- 3) Receive public comments, if any;
- 4) Close the public hearing; and
- 5) Discuss item and consider action on recommendation.

Respectfully submitted on behalf of the Committee,

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Keene Simonds  
Executive Officer

Attachment:

- 1) Draft Resolution Adopting a Proposed Budget for FY 2011-2012

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<sup>3</sup> The Central Napa County Study will include reviews of the City of Napa, Napa Sanitation District, Congress Valley Water District, and the Los Carneros Water District.

**RESOLUTION NO. \_\_\_\_****RESOLUTION OF  
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY  
ADOPTING A PROPOSED BUDGET FOR THE 2011-2012 FISCAL YEAR**

**WHEREAS**, the Local Agency Formation Commission of Napa County (hereinafter referred to as “the Commission”) is required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq., hereinafter referred to as “Act”) to adopt a proposed budget for the next fiscal year; and

**WHEREAS**, Government Code Section 56381 requires the Commission to adopt a proposed budget no later than May 1; and

**WHEREAS**, at the direction of the Commission, the Executive Officer circulated for review and comment an approved draft proposed budget to the administrative and financial officers of each of the six local agencies that contribute to the Commission budget; and

**WHEREAS**, the Commission reviewed all substantive written and verbal comments concerning the draft proposed budget; and

**WHEREAS**, the Executive Officer prepared a report concerning the proposed budget, including his recommendations thereon; and

**WHEREAS**, the Executive Officer’s report was presented to the Commission in the manner provided by law; and

**WHEREAS**, the Commission heard and fully considered all the evidence presented at its public hearing on the proposed budget held on April 4, 2011; and

**WHEREAS**, the Commission determined the proposed budget projects the staffing and program costs of the Commission as accurately and appropriately as is possible;

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER** as follows:

1. The proposed budget as outlined in Exhibit “A” is approved.
2. The proposed budget provides the Commission sufficient resources to fulfill its regulatory and planning responsibilities in accordance with Government Code Section 56381(a).

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on April 4, 2010 by the following vote:

AYES: Commissioners \_\_\_\_\_

NOES: Commissioners \_\_\_\_\_

ABSTAIN: Commissioners \_\_\_\_\_

ABSENT: Commissioners \_\_\_\_\_

ATTEST: Keene Simonds  
Executive Officer

RECORDED: Kathy Mabry  
Commission Secretary



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

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**April 4, 2011**  
**Agenda Item No. 7a (Action)**

March 29, 2011

**TO:** Local Agency Formation Commission

**FROM:** Policies and Procedures Committee (Luce, Rodeno and Simonds)

**SUBJECT: Proposed Revisions to the Commission's General Policy Determinations and Policy on Outside Service Agreements along with the Creation of a New Application Packet**

The Commission will consider approving revisions to the agency's *General Policy Determinations* and *Policy on Outside Service Agreements*. The Commission will also consider approving the creation of a new application packet for processing all changes of organization.

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Local Agency Formation Commissions (LAFCOs) are political subdivisions of the State of California responsible for regulating the formation and development of local governmental agencies and their municipal services under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH"). Commonly exercised regulatory powers include forming and expanding cities and special districts for purposes of facilitating orderly urban growth. LAFCOs are required to inform their regulatory actions through various planning activities, namely preparing municipal service reviews and sphere of influence updates. State law specifies all regulatory actions undertaken by LAFCOs must be consistent with their written policies and procedures. LAFCOs may also condition approval as long as they do not directly regulate land use.

### **A. Background**

#### ***Establishment of an Ad Hoc Committee***

At its May 3, 2010 meeting, the Commission established an ad hoc committee ("Committee") to comprehensively review and update the agency's written policies and procedures; documents that have not been comprehensively updated since the 1980s. This action coincided with the appointments of Commissioners Luce and Rodeno and followed comments made by several Commissioners at an earlier workshop identifying the need for clear direction in meeting the agency's directives in a manner responsive to current local conditions. In particular, the Committee was charged with reviewing and making recommendations with respect to the following four tasks:

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Lewis Chilton, Vice Chair  
Councilmember, Town of Yountville

Juliana Inman, Commissioner  
Councilmember, City of Napa

Joan Bennett, Alternate Commissioner  
Councilmember, City of American Canyon

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

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

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

Brian J. Kelly, Commissioner  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Keene Simonds  
*Executive Officer*

- a) Review and update the Commission's objectives and priorities
- b) Develop baseline standards with respect to the review of proposals
- c) Examine and amend Commission policies and procedures for consistency
- d) Create a codified policies and procedures document

### ***Initial Focus***

The Committee's initial focus has been directed at accomplishing the first two tasks prescribed by the Commission: (a) review and update principal agency objectives and priorities and (b) develop baseline standards with respect to the review of proposals. Specific focus has involved possible changes to the Commission's *General Policy Determinations* to help ensure it is consistent with the present preferences and objectives of the Commissioners in administering their regulatory and planning responsibilities. Markedly, the *General Policy Determinations* serves as the Commission's "general plan" and have not been comprehensively updated since the 1980s, resulting in a number of blind-spots relative to addressing the significant expansion of Commission duties and responsibilities tied to the enactment of CKH. Similarly, the Commission's existing application, titled "Justification of Proposal," was created in 1985 and has become increasingly antiquated with respect to considering the growing number of factors prescribed for review of all changes of organization.

The *General Policy Determinations* serves as the Commission's "general plan" and have not been comprehensively updated since the 1980s, resulting in a number of blind-spots relative to addressing the significant expansion of Commission duties and responsibilities tied to CKH.

### ***Presentation and Discussion on Draft Revisions to General Policy Determinations and Creation of a New Application Packet***

At the February 7, 2011 meeting, the Committee presented the Commission with draft revisions to the *General Policy Determinations*. Key revisions included in the draft are outlined below along with implementation examples.

- **Purpose Statement**

The document has been revised to include a purpose statement to clarify LAFCO's intent in considering and applying its policies. This includes explicitly stating LAFCO reserves *discretion* in administering its policies to address special conditions and circumstances as needed (emphasis added). This statement would memorialize the Commission's commitment to provide applicants the opportunity to present special conditions and circumstances with regard to justifying waiver of a particular policy. This new purpose statement is included on page one.

- **Prescribing Urban Development Timing**

The document has been revised to include an amended statement on prescribing timing factors as it relates to urban development. This revision signals LAFCO shall *discourage* proposals involving annexations of undeveloped or underdeveloped lands to cities and special districts that provide certain urban services unless subject to a known development plan or agreement (emphasis

added). Importantly, the revision would create a high threshold in approving city or water/sewer district applications involving lands that are not already developed to their maximum allowed density without an existing project approval or development agreement. The underlying goal is to improve coordination between LAFCO and affected land use authorities with respect to timing new urban growth and related environmental review. Contemplated exceptions include addressing a public health or safety issue, such as extending sewer service to underdeveloped lands in response to a failing septic system. The amended statement is included on page three and identified as II/B/3.

- **Addressing New Sphere of Influence Review and Update Responsibilities**  
The document has been revised to include a new statement encouraging cities and the County to meet and agree to sphere of influence changes in anticipation of LAFCO's regular review cycle. The document has also been amended to state LAFCO shall review and update, as appropriate, each local agency's sphere of influence every five years. These revisions are consistent with recent amendments to California Government Code and reflect LAFCO's preference for the County and five cities to proactively discuss potential sphere of influence updates in anticipation of regularly scheduled updates. Notably, agreements between the County and cities on sphere of influence updates that are consistent with LAFCO policies would be given significant consideration. The new statements are included on page five and identified as III/A/3 and III/A/4.
- **Encouraging Comprehensive Sphere of Influence Updates**  
The document has been revised to include a new statement discouraging proposals from residents, landowners, and agencies seeking individual amendments to spheres of influence unless justified by special conditions and circumstances. This revision would formalize LAFCO's existing preference to consider changes to spheres of influence only as part of comprehensive updates tied to the Commission's regular five year review cycle. Requests to make incremental changes to spheres of influence would be deferred and incorporated into the next scheduled update. The new statement is included on page six and identified as III/B/3.
- **Consideration of Urban Growth Boundaries in Establishing, Amending, and Updating Spheres of Influence**  
The document has been revised to include a new statement directing LAFCO to *consider* adopted urban growth boundaries as one of the planning factors tied to establishing and updating spheres of influence (emphasis added). This statement reflects the recent practice of LAFCO in making changes to the Cities of American Canyon and Napa's spheres of influence and is included on page six and identified as III/B/3.

- **Establishing Criteria for Considering Sphere of Influence Reductions**  
The document has been revised to establish new criteria for LAFCO to consider the merits of reducing an agency's existing sphere of influence. This includes triggering consideration of a reduction for land lying outside an agency's jurisdictional boundary, but has been within the sphere of influence for 10 or more years. An additional trigger applies to land lying within an agency's jurisdictional boundary, but is not expected to be developed for urban uses or require urban-type services within the next 10 years based on existing land use policies. This revision would encourage cities and special districts to annex non-jurisdictional lands within their sphere of influence within a 10 year period. The revision would also affirm LAFCO's policy for spheres of influence to explicitly designate areas appropriate for urban development regardless of jurisdictional authority. Accordingly, as part of its update process, LAFCO would consider removing non-urban lands within cities from their spheres of influence to signal and facilitate future detachment proceedings. The new criteria is included on page seven and identified as III/B/5.
- **Establishing Commission Definitions**  
The document has been revised to include definitions for specific terms associated with (a) spheres of influence, (b) outside service agreements, and (c) establishing new district services or divestiture of existing district services. These definitions are intended to provide general administrative direction in processing future applications. This includes establishing criteria in identifying local service expansions triggering compliance with Government Code Section 56133. For example, "extended" under Section 56133 has been defined to correspond directly with changes in land use designations or zoning standards. Accordingly, this definition would clarify that extending service to accommodate a room addition or second unit on a lot already with service from the affected agency would not require LAFCO approval. The new definitions are included on pages 15, 16, and 17 and identified as III/B/1, V/B/2, VI/C/2, and VI/D/2.

Also presented for review at the February meeting was a new application packet for all types of change of organizations that combines under one cover all of the related materials and information needed to process a proposal with the Commission. This includes providing applicants with a sequential checklist to help identify and complete all the necessary processing steps. The application packet also incorporates a revised Justification of Proposal form addressing the expanded factors required for consideration by the Commission anytime it reviews a change of organization or reorganization.

Upon review and discussion, the Commission requested the Committee circulate the proposed revisions to the *General Policy Determinations* for comment by all local agencies. Several Commissioners also expressed interest in the Committee drafting policy language to prescribe criteria in addressing public health and safety threats specific as it relates to administering outside service agreements in Napa County under G.C. Section 56133; a section that restricts agencies in providing new or extended services outside their spheres of influence unless approved by LAFCO and in response to an

existing or impending threat to public safety or health. Specifically, Commissioners noted their interest in establishing inclusive criteria relating to public health and safety threats in order to accommodate otherwise logical extensions of services beyond agency spheres of influence given local conditions.

## **B. Discussion**

### ***Comments from Local Agencies***

At the direction of the Commission, the proposed revisions to the *General Policy Determinations* were circulated on February 15, 2011 to all local agencies (County, cities, and special districts) for their review and comment. The comment period ended on March 10, 2011 with written comments received from the County of Napa's Conservation, Development and Planning Department ("County"). In all, the County's letter includes 10 comments addressing both technical and policy related issues. Brief summaries and responses to three specific comments staff believes are particularly pertinent for the Commission's review follows:

County Comment: *"Some of the updated policy language proposed for adoption by the commission has potentially far reaching consequences, and we urge you and your Commission to reach out to all jurisdictions and districts to ensure they have reviewed and understood the proposal before the Commission takes action. There may also be community leaders, property owners, and other stakeholders with specific concerns and expertise who should be consulted in advance of any action."*

LAFCO staff agrees the proposed revisions will have significant influence in directing future growth and development in Napa County. Staff also believes sufficient outreach has been performed by providing copies of the proposed revisions to all local agencies as part of a four week comment period. Staff also notes the alternative public member – one of two positions on the Commission specifically tasked with representing the interests of the general public – serves on Committee.

County Comment: *"While the proposal acknowledges the Commission's ability to consider special conditions and circumstances as needed (Section II), it provides specific definitions that may reduce the Commission's ability to interpret State statutes as needed. For example, the definitions of "new" and "extended" proposed in Sections V(B)(2) and VI(D)(2) would have potentially precluded the Commission from taking the action in October 2007 to ensure the provision of water services within the Airport Industrial Area. We urge you to reconsider whether such specific definitions are necessary or desirable."*

LAFCO staff agrees it is important for the Commission to retain flexibility in implementing LAFCO law in Napa County to address local conditions. Accordingly, as the County references, the proposed revisions include a new statement specifying the Commission reserves discretion with respect to implementing all of its policies as needed. The definitions proposed for “new” and “extended” services are purposefully broad with the foremost goal of expediting LAFCO’s ability to confirm with agencies and parties of real interest whether approval for an outside service extension does or does not require LAFCO approval. For example, the proposed definition of extended would only apply to the intensification of uses directly tied to a redesignation or rezoning; a relatively high threshold that exempts – among other types of common requests – granny units.

County Comment: *“The new text proposed in Section III(B)(5)(b) runs counter to the philosophy espoused by the City of St. Helena’s General Plan, which designates agricultural areas within the City boundaries that are not intended for urban development. Other cities may have similar areas/policies.”*

The County references a proposed revision that, arguably, generated the most discussion within the Committee. The referenced revision establishes criteria for the Commission to consider sphere of influence reductions as part of its regular review cycle; a distinct change from practice in which the Commission generally focuses only on potential expansions. A motivating factor underlying this proposed revision is to help reinforce the meaning of spheres of influence in designating what the *Commission* believes is the appropriate future jurisdictional boundary for the affected agency while reinforcing urban services belong in urban areas (emphasis added). Additionally, the revision does not presuppose removal of non-urban lands from a sphere of influence. It would, however, engender discussion with the affected agency as to the justification for retaining non-urban lands in the agency or within their sphere of influence relative to regional growth management objectives.

County Comment: *“Section III(D)(6)(a) should be amended to acknowledge that historical service areas may extend beyond the sphere of influence of a jurisdiction (e.g. American Canyon’s water service area). Specifically, this would mean deleting “as delineated by the sphere of influence.””*

LAFCO staff agrees with the County and suggests amending the proposed revision as follows:

“The service area of a special district as delineated by the sphere of influence or other boundary adopted by the Commission should recognize and considered as part of the planning and development programs of any affected district, city and the County.”

LAFCO staff also believes it would be appropriate to include this cooperative planning comment for city spheres of influence. Accordingly, a similar new statement has been added to the criteria affecting city sphere of influence establishments, amendments, and updates.

### ***Revision to the Policy on Outside Service Agreements***

In response to Commissioner comments, the Committee has prepared a revision to the *Policy on Outside Service Agreements* to incorporate language prescribing criteria for use by cities and special districts to propose outside services beyond their spheres of influence under the public health and safety threat provision in G.C. Section 56133(c). Underlying the proposed revision is recognizing the importance of proactively addressing impending public health and safety issues as it relates to supporting existing and planned residential uses when certain criteria applies; whether it relates to providing adequate water pressure for fire protection purposes or abating future septic failures. The criteria identified by the Committee is intended to address “low-hanging fruit” in which the extension of services can be readily provided to a subject property while maintaining safeguards to protect against sprawl. This includes limiting potential extensions to residential lots contiguous to public right-of-ways in which the service line exist and were of legal record as of January 1, 2001.

Irrespective of the preceding comments, as the Commission is aware, staff has been working with CALAFCO since January 2008 to pursue an amendment to G.C. Section 56133 to provide LAFCOs flexibility in approving new or extended outside services beyond spheres of influence. On March 25, 2011, the CALAFCO Legislative Committee unanimously approved a proposal initiated by Napa LAFCO that would – among other things – make approval of outside services beyond spheres of influence permissible without making a public health or safety finding. The proposal is expected to be considered by the CALAFCO Board at its April 29, 2011 meeting. If approved by the Board, staff will work on securing an author with the goal of introducing a bill for the 2012 legislative session. In the event the amendment is enacted, staff would return to the Commission to consider striking the proposed revision to the *Policy on Outside Service Agreements* given it would become unnecessary. Further discussion on this proposed amendment to G.C. Section 56133 is provided as part of Agenda Item 8a.

### **C. Analysis**

The proposed revisions to the *General Policy Determinations* and *Policy on Outside Service Agreements* substantially improves the implementation of LAFCO law in Napa County relative to reflecting local conditions and circumstances. Revisions to the *General Policy Determinations* continue to emphasize high thresholds in protecting agricultural and open-space resources throughout the county while providing measured criteria in facilitating reasonable urban growth expansions as needed. Revisions to the *Policy on Outside Service Agreements* establishes a path in approving limited and otherwise logical extension of outside services beyond spheres of influence while transferring responsibility for defining threats to public health and safety from the local agencies to the Commission. Further, the new application packet improves customer service by establishing a user-friendly resource aimed at assisting all applicants in understanding the process and thresholds associated with processing changes of organization with the Commission.

### **D. Alternatives for Commission Action**

The following two broad actions are available for Commission consideration with respect to this report:

- 1) Approve by one or separate motions with or without changes:
  - (a) Revisions to the *General Policy Determinations* as provided in Attachment One;
  - (b) Revisions to the *Policy on Outside Service Agreements* as provided in Attachment Two; and
  - (c) Creation of a new application packet as provided in Attachment Three.
- 2) Continue consideration of the item to a future meeting while providing additional direction to the Committee as needed.

### **E. Recommendation**

The Committee recommends Alternative One as outlined in the preceding section.

## **F. Procedures for Consideration**

The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from the Committee;
- 2) Invite public comment; and
- 3) Discuss item and consider action on recommendation.

Respectfully submitted on behalf of the Committee,

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Keene Simonds  
Executive Officer

Attachments:

- ~~1) Track Changes to *General Policy Determinations*~~
- ~~2) Track Changes to Policy on Outside Service Agreements~~
- ~~3) New Application Packet~~
- ~~4) Comments from the County of Napa, dated March 11, 2011~~



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

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**April 4, 2011**  
**Agenda Item No. 8a (Action)**

March 28, 2011

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer

**SUBJECT: Legislative Report** *KS*  
The Commission will receive a report on the first year of the 2011-2012 session of the California Legislature as it relates to bills directly or indirectly effecting Local Agency Formation Commissions. The Commission will also receive an update on efforts to amend California Government Code Section 56133 to provide more flexibility to LAFCOs in authorizing new or extended services outside spheres of influence.

The Executive Officer and Commissioner Inman are appointed members of the California Association of Local Agency Formation Commissions' (CALAFCO) Legislative Committee. The Committee meets on a regular basis to review, discuss, and offer recommendations to the CALAFCO Board of Directors relating to new legislation that have either a direct impact on LAFCO law or the 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.

**A. Discussion and Analysis**

***Current Bills***

The Committee is currently tracking 35 bills with direct or indirect impacts on LAFCOs as part of the first year of the 2011-2012 session. Several of the bills introduced are placeholders at this time and will be amended over the next several months to clarify their specific purpose. A complete list of the bills under review is attached. Two bills of specific interest of the Committee are discussed and analyzed below.

**Senate Bill 244 (Lois Wolk): Disadvantaged Unincorporated Communities**

This legislation is sponsored by the California Rural Legal Assistance and would require LAFCOs to consider disadvantaged unincorporated communities as part of the municipal service review and sphere of influence update process. LAFCOs' consideration would begin in July 2012 and includes making determinative statements on the infrastructure needs of the affected communities along with the feasibility of annexing the lands to local governmental agencies as needed. The bill defines disadvantaged unincorporated communities as "fringe, island, or legacy

Lewis Chilton, Vice Chair  
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County of Napa Supervisor, 4th District

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County of Napa Supervisor, 1st District

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County of Napa Supervisor, 2nd District

Brian J. Kelly, Commissioner  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Keene Simonds  
Executive Officer

communities in which the median household income is 80% or less than the statewide median household income.” The intent of the bill is for LAFCOs to proactively address the service needs of predominately poor minority communities by facilitating annexations to nearby cities. Concurrent changes to planning law are also proposed to require cities and counties to identify and provide specific information regarding disadvantaged unincorporated communities inside or near their jurisdictions in their housing elements beginning in January 2014.

This bill, if approved, would further direct LAFCOs to focus on environmental justice issues; a focus that began in January 2008 with the requirement that LAFCOs consider the effect of boundary changes in promoting environmental justice. It is unclear at this time whether the bill would measurably impact municipal service reviews and sphere of influence updates in Napa County given the referenced definition of disadvantaged unincorporated communities. This comment appears applicable statewide as several LAFCOs have expressed concern regarding the unknown consequences tied to the bill. Accordingly, the Committee has recommended a “watch” position with the goal of CALAFCO working with the author in further defining the scope of proposed activities. The Board will consider this recommendation at its April 29, 2011 meeting.

**Assembly Bill 54 (Jose Solorio): Mutual Water Companies**

This legislation as currently proposed would require mutual water companies to comply with information requests from LAFCOs. A number of amendments, however, are under consideration by the author to significantly expand the scope of the legislation. Most notably, this includes requiring mutual water companies to file boundary maps with LAFCOs and receiving LAFCO approval for all boundary changes beginning in January 2014.

The author’s stated objective is to make mutual water companies more accountable to the public. Locally, there is little information presently available regarding the extent of mutual water companies operating in Napa County. With this in mind, requiring mutual water companies to file boundary maps with LAFCOs and having to respond to information requests would be extremely beneficial. The benefits of mandating LAFCO approval for boundary changes for mutual water companies is less certain given it would – arguably – result in mission creep; i.e., expanding LAFCOs’ powers and duties beyond public agencies. The Committee, accordingly, has recommended a “support” position for the information and map requirements of the bill while advocating the removal of LAFCO oversight for boundary changes. The Board will consider this recommendation at its April 29, 2011 meeting.

### ***Amending Government Code Section 56133***

The Executive Officer has worked with CALAFCO since 2008 in developing interest and consensus on amending Government Code (G.C.) Section 56133 to expand LAFCOs existing authority in approving new and extended outside services beyond agencies' spheres of influence. Markedly, LAFCOs are currently allowed to approve outside services beyond the affected agencies' spheres of influence *only* to respond to existing or impending public health or safety threats based on documentation provided by the agency (emphasis added). This existing threshold has proven problematic given LAFCOs and agencies may disagree on the constitution of a public health and safety threat. Staff also believes this existing threshold is also misplaced given it does not recognize there are instances when it is logical for local agencies to provide new or extended services beyond their spheres of influence simply based on local conditions, such as proximity to existing service lines coupled with appropriate land use restrictions.

At the March 25, 2011 meeting, after three plus years of discussion and rewrites, the Committee approved a proposal from a working group chaired by the Executive Officer to establish a new division – 2 – to G.C. Section 56133. This new division would authorize LAFCOs to approve new or extended services beyond agencies' spheres of influence without making a public health or safety threat finding so long as LAFCO determines at a noticed public hearing the extension was:

- (A) considered in a municipal service review;
- (B) will not result in adverse impacts on agricultural and open-space lands or growth inducement; and
- (C) a later change of organization is not expected based on local policies.

A copy of the approved proposal to amend G.C. Section 56133 – which includes other clarifying revisions – is attached. The Board will consider the recommendation at its April 29, 2011 meeting. If approved, staff will work with Senator Noreen Evans' office to hopefully secure the Senator as the author with the goal of introducing the legislation for the second year of the 2011-2012 session.

### **B. Commission Review**

The Commission is invited to discuss any of the legislation outlined in this report or in the attached report prepared by CALAFCO. The Commission may also provide direction to staff with respect to returning with comment letters on any current or future legislation.

#### Attachments:

- 1) CALAFCO Legislative Policies
- 2) CALAFCO Status Report on Current Legislation
- 3) Committee Approved Revisions to G.C. Section 56133



# CALAFCO 2011 Legislative Policies

Adopted by Board of Directors on 18 February 2011

## 1. LAFCo Purpose and Authority

- 1.1. Support legislation which enhances LAFCo authority and powers to carry out the legislative findings and authority in Government Code §56000 et. seq.
- 1.2. Support authority for each LAFCo to establish local policies to apply Government Code §56000 et. seq. based on local needs and conditions, and oppose any limitations to that authority.
- 1.3. Oppose additional LAFCo responsibilities which require expansion of current local funding sources. Oppose unrelated responsibilities which dilute LAFCo ability to meet its primary mission.
- 1.4. Support alignment of responsibilities and authority of LAFCo and regional agencies which may have overlapping responsibilities in orderly growth, preservation, and service delivery, and oppose legislation or policies which create conflicts or hamper those responsibilities.
- 1.5. Oppose grants of special status to any individual agency or proposal to circumvent the LAFCo process.
- 1.6. Support individual commissioner responsibility that allows each commissioner to independently vote his or her conscience on issues affecting his or her own jurisdiction.

## 2. LAFCo Organization

- 2.1. Support the independence of LAFCo from local agencies.
- 2.2. Oppose the re-composition of any or all LAFCos without respect to the existing balance of powers that has evolved within each commission or the creation of special seats on a LAFCo.

- 2.3. Support representation of special districts on all LAFCos in counties with independent districts and oppose removal of special districts from any LAFCo.
- 2.4. Support communication and collaborative decision-making among neighboring LAFCos when growth pressures and multicounty agencies extend beyond a LAFCo's boundaries.

## 3. Agricultural and Open Space Protection

- 3.1. Support legislation which clarifies LAFCo authority to identify, encourage and insure the preservation of agricultural and open space lands.
- 3.2. Encourage a consistent definition of agricultural and open space lands.
- 3.3. Support policies which encourage cities, counties and special districts to direct development away from prime agricultural lands.
- 3.4. Support policies and tools which protect prime agricultural and open space lands.

## 4. Orderly Growth

- 4.1. Support the recognition and use of spheres of influence as the management tool to provide better planning of growth and development, and to preserve agricultural, and open space lands.
- 4.2. Support adoption of LAFCo spheres of influence by other agencies involved in determining and developing long-term growth and infrastructure plans.
- 4.3. Support orderly boundaries of local agencies and the elimination of islands within the boundaries of agencies.
- 4.4. Support communication between cities, counties, and special districts

through a collaborative process that resolves service, housing, land use, and fiscal issues prior to application to LAFCo.

- 4.5. Support cooperation between counties and cities on decisions related to development within the city's designated sphere of influence.

**5. Service Delivery and Local Agency Effectiveness**

- 5.1. Support the use of LAFCo resources to prepare and review Regional Transportation Plans and other growth plans to ensure reliable services, orderly growth, sustainable communities, and conformity with LAFCo's legislative mandates.
- 5.2. Support LAFCo authority and tools which provide communities with local governance and efficient service delivery options, including the authority to impose conditions that assure a proposal's conformity with LAFCo's legislative mandates.
- 5.3. Support the creation or reorganization of local governments in a deliberative, open process which will fairly evaluate the proposed agency's long-term financial viability, governance structure and ability to efficiently deliver proposed services.
- 5.4. Support the availability of tools for LAFCo to insure equitable distribution of revenues to local government agencies consistent with their service delivery responsibilities.

**2011 Legislative Priorities**

**Primary Issues**

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<b>Viability of Local Governments</b>	Support legislation that maintains or enhances LAFCo's ability to review and act to assure the efficient and sustainable delivery of local services and the financial viability of agencies providing those services to meet current and future needs. Support legislation which provides LAFCo and local communities with options for local governance and service delivery, including incorporation as a city or formation as a special district. Support efforts which provide tools to local agencies to address fiscal challenges and maintain services.
<b>Authority of LAFCo</b>	Support legislation that maintains or enhances LAFCo's authority to condition proposals to address any or all financial, growth, service delivery, and agricultural and open space preservation issues.
<b>Agriculture and Open Space Protection</b>	Preservation of prime agriculture and open space lands that maintain the quality of life in California. Support policies that recognize LAFCo's ability to protect and mitigate the loss of prime agricultural and open space lands, and that encourage other agencies to coordinate with local LAFCOs on land preservation and orderly growth.
<b>Water Availability</b>	Promote adequate water supplies and infrastructure planning for current and planned growth. Support policies that assist LAFCo in obtaining accurate and reliable water supply information to evaluate current and cumulative water demands for service expansions and boundary changes including impacts of expanding private and mutual water company service areas on orderly growth.

**Issues of Interest**

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- Housing** Provision of territory and services to support affordable housing and the consistency of regional land use plans with local LAFCo policies.
- Transportation** Effects of Regional Transportation Plans and expansion of transportation systems on future urban growth and service delivery needs, and the ability of local agencies to provide those services.
- Flood Control** The ability and effectiveness of local agencies to maintain and improve levees and the public safety of uninhabited territory proposed for annexation to urban areas which is at risk for flooding. Support legislation that includes assessment of agency viability in decisions involving new funds for levee repair.
- Adequate Municipal Services in Inhabited Territory** Expedited processes for inhabited annexations should be consistent with LAFCo law and be fiscally viable. Funding sources should be identified for extension of municipal services to underserved inhabited communities, including option for annexation of contiguous disadvantaged unincorporated communities.

**CALAFCO Daily Legislative Report  
as of 3/23/2011**

1

**AB 54 (Solorio D) Drinking water.**

**Current Text:** Introduced: 12/6/2010 [pdf](#) [html](#)

**Introduced:** 12/6/2010

**Status:** 3/22/2011-In committee: Hearing postponed by committee. (Refers to 3/22/2011 hearing)

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Calendar:**

4/6/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH,  
Chair

**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. This bill contains other related provisions and other existing laws.

**Position:** None at this time

**Subject:** Water

**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.

**AB 912 (Gordon D) Local government: organization.**

**Current Text:** Introduced: 2/17/2011 [pdf](#) [html](#)

**Introduced:** 2/17/2011

**Status:** 3/14/2011-Referred to Com. on L. GOV.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**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.

**Position:** None at this time

**Subject:** Special District Consolidations, Special District Powers

**CALAFCO Comments:** Allows a commission to immediately dissolve a special district with a zero SOI or to dissolve a districts after a public hearing and the lack of a majority protest.

**SB 244 (Wolk D) Land use: general plan: disadvantaged unincorporated communities.**

**Current Text:** Amended: 3/15/2011 [pdf](#) [html](#)

**Introduced:** 2/10/2011

**Last Amended:** 3/15/2011

**Status:** 3/15/2011-From committee with author's amendments. Read second time and amended. Re-referred to Com. on Gov. & F.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**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.

**Position:** None at this time

**Subject:** Disadvantaged Communities

**CALAFCO Comments:** Amended to require LAFCo review of disadvantaged unincorporated communities. It adds a definition for disadvantaged unincorporated communities, requires LAFCo to review water, sewer and fore services to the communities in the next SOI update, places more emphasis on LAFCo recommendations on reorganizations for efficient and effective services, requires LAFCo to identify service deficiencies to these communities in MSRs, and specifically requires LAFCo to assess alternatives for efficient and affordable infrastructure and services, including consolidations, in MSRs. Bill requires LAFCo to look at communities "in or adjacent to the sphere of influence."

2

**AB 46 (John A. Pérez D) Local government: cities.**

**Current Text:** Amended: 2/28/2011 [pdf](#) [html](#)

**Introduced:** 12/6/2010

**Last Amended:** 2/28/2011

**Status:** 3/1/2011-Re-referred to Com. on L. GOV.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Summary:**

Would provide that every city with a population of less than 150 people as of January 1, 2010, would be disincorporated into those cities' respective counties 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.

**Position:** None at this time

**Subject:** Disincorporation/dissolution

**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.

**AB 187 (Lara D) State Auditor: audits: high-risk local government agency audit program.**

**Current Text:** Introduced: 1/25/2011 [pdf](#) [html](#)

**Introduced:** 1/25/2011

**Status:** 1/26/2011-From printer. May be heard in committee February 25.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**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

**Subject:** Financial Viability of Agencies, Service Reviews/Spheres

**CALAFCO Comments:** Would allow the State Auditor to audit and issue reports on any local agency it identifies as being at high risk for waste, fraud, abuse or mismanagement.

**AB 555 (Norby R) Local agency formation.**

**Current Text:** Introduced: 2/16/2011 [pdf](#) [html](#)

**Introduced:** 2/16/2011

**Status:** 2/17/2011-From printer. May be heard in committee March 19.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**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.

**Position:** None at this time

**Subject:**

**CALAFCO Comments:** Placeholder bill, currently targeted to C-K-H.

**AB 781 (John A. Pérez D) Agricultural preserve.**

**Current Text:** Introduced: 2/17/2011 [pdf](#) [html](#)

**Introduced:** 2/17/2011

**Status:** 3/10/2011-Referred to Com. on AGRI.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Calendar:**

4/6/2011 1:30 p.m. - State Capitol, Room 126 ASSEMBLY AGRICULTURE, GALGIANI, Chair

**Summary:**

Would authorize a county or city having a general plan, after a public hearing, to establish an agricultural preserve.

**Position:** None at this time

**Subject:** Ag/Open Space Protection

**CALAFCO Comments:** Allows a city or county with a general plan to establish an agricultural preserve following a public hearing.

**AB 1266 (Nielsen R) Local government: Williamson Act: agricultural preserves: advisory board.**

**Current Text:** Introduced: 2/18/2011 [pdf](#) [html](#)

**Introduced:** 2/18/2011

**Status:** 3/21/2011-Referred to Coms. on L. GOV. and AGRI.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**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.

**Position:** None at this time

**Subject:** Ag Preservation - Williamson

**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.

**ACA 17 (Logue R) State-mandated local programs.**

**Current Text:** Introduced: 2/15/2011 [pdf](#) [html](#)

**Introduced:** 2/15/2011

**Status:** 2/16/2011-From printer. May be heard in committee March 18.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Summary:**

br> ACA 17, as introduced, Logue.

**Position:** None at this time

**Subject:** LAFCo Administration

**CALAFCO Comments:** Changes state mandate law in a proposed constitutional amendment. Included is specific language that releases mandate responsibility if the local agency can change an individual or applicant for the cost of providing the mandated service. Would likely exempt some mandates to LAFCo from state funding.

**SB 46 (Correa D) Local government: compensation disclosure.**

**Current Text:** Amended: 3/7/2011 [pdf](#) [html](#)

**Introduced:** 12/9/2010

**Last Amended:** 3/7/2011

**Status:** 3/17/2011-Set for hearing April 6.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Calendar:**

4/6/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

**Summary:**

Would until January 1, 2019, require each public official, defined to mean a public official required to file a statement of economic interest pursuant to the Political Reform Act of 1974, to annually file a compensation disclosure form that provides compensation information for the preceding calendar year, as specified. The bill would specify that compensation disclosure forms are open to public inspection, as specified. This bill contains other related provisions and other existing laws.

**Position:** None at this time  
**Subject:** LAFCo Administration  
**CALAFCO Comments:** Similar to a 2010 bill, this would require all those who file a Form 700 to also file a compensation disclosure report.

**SB 160 (Huff R) Local government: reorganization.**

**Current Text:** Introduced: 2/2/2011 [pdf](#) [html](#)

**Introduced:** 2/2/2011

**Status:** 2/10/2011-Referred to Com. on RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**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.

**Position:** None at this time

**Subject:**

**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.

**SB 191 (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/8/2011 [pdf](#) [html](#)

**Introduced:** 2/8/2011

**Status:** 3/17/2011-Read second time. Ordered to consent calendar.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**Calendar:**

3/23/2011 #44 SENATE CONSENT CALENDAR-SECOND LEGISLATIVE DAY

**Summary:**

This bill would enact the First Validating Act of 2011, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

**Attachments:**

[CALAFCO Support Letter](#)

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.

**SB 192 (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/8/2011 [pdf](#) [html](#)

**Introduced:** 2/8/2011

**Status:** 3/17/2011-Read second time. Ordered to consent calendar.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**Calendar:**

3/23/2011 #45 SENATE CONSENT CALENDAR-SECOND LEGISLATIVE DAY

**Summary:**

This bill would enact the Second Validating Act of 2011, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

**Attachments:**

[CALAFCO Support Letter](#)

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.

**SB 193 (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/8/2011 [pdf](#) [html](#)

Introduced: 2/8/2011

Status: 3/17/2011-Read second time. Ordered to consent calendar.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar:

3/23/2011 #46 SENATE CONSENT CALENDAR-SECOND LEGISLATIVE DAY

Summary:

This bill would enact the Third Validating Act of 2011, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Attachments:

[CALAFCO Support Letter](#)

Position: Support

Subject: LAFCo Administration

CALAFCO Comments: One of three annual acts which validate the boundaries of all local agencies.

**SB 194 (Committee on Governance and Finance) Local government: omnibus bill.**

Current Text: Introduced: 2/8/2011 [pdf](#) [html](#)

Introduced: 2/8/2011

Status: 2/19/2011-Set for hearing April 27.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar:

4/27/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary:

Would increase the maximum amount from \$1,000 to \$5,000. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject:

CALAFCO Comments: This is the Senate local government Omnibus Bill. At this point CALAFCO does not have any items in the bill nor has any objections to any of the items currently in the bill.

**SB 618 (Wolk D) Local government: Williamson Act: compatible uses.**

Current Text: Introduced: 2/18/2011 [pdf](#) [html](#)

Introduced: 2/18/2011

Status: 3/9/2011-Set for hearing April 27.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar:

4/27/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary:

Would additionally provide that the erection, construction, alteration, operation, or maintenance of renewable energy, and the operation of gas, electric, water, communication, or agricultural laborer housing are considered compatible uses within any agricultural preserve.

Position: None at this time

Subject: Ag Preservation - Williamson

CALAFCO Comments: Allows renewable energy generation (wind, solar farms) as an acceptable use for Williamson Act lands.

**SB 648 (Berryhill R) Local government: Williamson Act.**

Current Text: Introduced: 2/18/2011 [pdf](#) [html](#)

Introduced: 2/18/2011

Status: 3/3/2011-Referred to Coms. on Gov. & F. and APPR.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

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.

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

**SB 668 (Evans D) Local government: Williamson Act.**

**Current Text:** Introduced: 2/18/2011 [pdf](#) [html](#)

**Introduced:** 2/18/2011

**Status:** 3/3/2011-Referred to Com. on RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Summary:**

Would express the intent of the Legislature to enact legislation that would authorize local governments to accept donations from private entities to offset any reduced amount the local government receives in subvention payments for Williamson Act contracts.

**Position:** None at this time  
**Subject:** Ag Preservation - Williamson  
**CALAFCO Comments:** Would allow cities and counties to accept private donations to offset loss of Williamson Act subventions.

3

**AB 83 (Jeffries R) Environment: CEQA exemption: recycled water pipeline.**

**Current Text:** Introduced: 1/5/2011 [pdf](#) [html](#)

**Introduced:** 1/5/2011

**Status:** 3/21/2011-In committee: Set, first hearing. Hearing canceled at the request of author.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Calendar:**

4/4/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY NATURAL RESOURCES, CHESBRO, Chair

**Summary:**

Would additionally exempt a project for the installation of a new pipeline, not exceeding a specified length, for the distribution of recycled water within an improved public street, highway, or right-of-way. Because a lead agency, which may include a local agency, is required to determine whether a project qualifies for those exemptions, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

**Position:** None at this time  
**Subject:** CEQA  
**CALAFCO Comments:** Exempts recycled water pipelines from CEQA in certain circumstances.

**AB 148 (Smyth R) Local government: ethics training: disclosure.**

**Current Text:** Amended: 3/16/2011 [pdf](#) [html](#)

**Introduced:** 1/14/2011

**Last Amended:** 3/16/2011

**Status:** 3/17/2011-Re-referred to Com. on L. GOV.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Calendar:**

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

**Summary:**

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

**Position:** None at this time  
**Subject:** Financial Disclosure Requirements, LAFCo Administration  
**CALAFCO Comments:** Would add compensation setting guidelines to the ethics training requirements for officials.

**AB 162 (Smyth R) Local government: financial reports.**

**Current Text:** Introduced: 1/19/2011 [pdf](#) [html](#)

**Introduced:** 1/19/2011

Status: 2/18/2011-Referred to Com. on L. GOV.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**Calendar:**

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

**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.

**Position:** None at this time

**Subject:** Financial Viability of Agencies

**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.

**AB 253 (Smyth R) Local agencies: accounting.**

**Current Text:** Amended: 3/15/2011 [pdf](#) [html](#)

**Introduced:** 2/3/2011

**Last Amended:** 3/15/2011

**Status:** 3/16/2011-Re-referred to Com. on L. GOV.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**Calendar:**

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

**Summary:**

Would instead require the Controller to prescribe uniform accounting procedures that are applicable only to specified types of special districts, subject to these provisions. The bill would require the Controller to prescribe uniform accounting procedures for cities, subject to specified criteria, in collaboration with the Committee on City Accounting Procedures, which would be created by the bill.

**Position:** None at this time

**Subject:** Financial Viability of Agencies

**CALAFCO Comments:** Establishes uniform accounting practices for special districts and cities.

**AB 307 (Nestande R) Joint powers agreements: public agency: federally recognized Indian tribe.**

**Current Text:** Introduced: 2/9/2011 [pdf](#) [html](#)

**Introduced:** 2/9/2011

**Status:** 2/24/2011-Referred to Com. on L. GOV.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**Calendar:**

4/6/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

**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.

**Position:** None at this time

**Subject:** Municipal Services

**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.

**AB 392 (Alejo D) Ralph M. Brown Act: posting agendas.**

**Current Text:** Introduced: 2/14/2011 [pdf](#) [html](#)

**Introduced:** 2/14/2011

**Status:** 3/3/2011-Referred to Coms. on L. GOV. and G.O.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**Calendar:**

4/6/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

**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.

**Position:** None at this time

**Subject:** LAFCo Administration

**CALAFCO Comments:** Adds additional posting requirements to Brown Act.

**AB 582 (Pan D) Open meetings: local agencies.**

**Current Text:** Introduced: 2/16/2011 [pdf](#) [html](#)

**Introduced:** 2/16/2011

**Status:** 3/7/2011-Referred to Com. on L. GOV.

<b>2Year</b>	<b>Desk</b>	<b>Policy</b>	Fiscal	Floor	<b>Desk</b>	<b>Policy</b>	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
<b>Dead</b>	<b>1st House</b>				<b>2nd House</b>				Conc.			

**Calendar:**

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

**Summary:**

Would require that proposed compensation increases for unrepresented employees be publicly noticed, as prescribed. By adding to the duties of local officials, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

**Position:** None at this time

**Subject:** Financial Disclosure Requirements

**CALAFCO Comments:** Requires public disclosure of compensation increases for unrepresented employees.

**AB 1198 (Norby R) Land use: housing element: regional housing need assessment.**

**Current Text:** Introduced: 2/18/2011 [pdf](#) [html](#)

**Introduced:** 2/18/2011

**Status:** 3/21/2011-Referred to Coms. on H. & C.D. and L. GOV.

<b>2Year</b>	<b>Desk</b>	<b>Policy</b>	Fiscal	Floor	<b>Desk</b>	<b>Policy</b>	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
<b>Dead</b>	<b>1st House</b>				<b>2nd House</b>				Conc.			

**Calendar:**

4/27/2011 Anticipated Hearing ASSEMBLY H. & C.D., Not in daily file.

**Summary:**

Would repeal the requirement that the department determine the existing and projected need for housing for each region, as specified, and other specified provisions relating to the assessment or allocation of regional housing need.

**Position:** None at this time

**Subject:** Housing

**CALAFCO Comments:** Would repeal the entire RHNA process and Housing and Community Development authority over housing.

**AB 1265 (Nielsen R) Local government: Williamson Act.**

**Current Text:** Introduced: 2/18/2011 [pdf](#) [html](#)

**Introduced:** 2/18/2011

**Status:** 3/21/2011-Referred to Coms. on L. GOV. and AGRI.

<b>2Year</b>	<b>Desk</b>	<b>Policy</b>	Fiscal	Floor	<b>Desk</b>	<b>Policy</b>	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
<b>Dead</b>	<b>1st House</b>				<b>2nd House</b>				Conc.			

**Summary:**

Would specify that payments under the contracts that are authorized until January 1, 2015, may be collected after January 1, 2015.

**Position:** None at this time

**Subject:** Ag Preservation - Williamson

**CALAFCO Comments:** Defers payments until 2015.

**AB 1287 (Buchanan D) Local government: audits.**

**Current Text:** Introduced: 2/18/2011 [pdf](#) [html](#)

**Introduced:** 2/18/2011

**Status:** 3/21/2011-Referred to Com. on L. GOV.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**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.

**Position:** None at this time

**Subject:** Financial Viability of Agencies

**CALAFCO Comments:** Would require regular audits of all local agencies.

**SB 27 (Simitian D) Public retirement: final compensation: computation: retirees.**

**Current Text:** Amended: 3/3/2011 [pdf](#) [html](#)

**Introduced:** 12/6/2010

**Last Amended:** 3/3/2011

**Status:** 3/22/2011-From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 0.) (March 21). Re-referred to Com. on APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**Summary:**

Would revise the definition of creditable compensation for these purposes and would identify certain payments, reimbursements, and compensation that are creditable compensation to be applied to the Defined Benefit Supplement Program. The bill would prohibit one employee from being considered a class. The bill would revise the definition of compensation with respect to the Defined Benefit Supplemental Program to include remuneration earnable within a 5-year period, which includes the last year in which the member's final compensation is determined, when it is in excess of 125% of that member's compensation earnable in the year prior to that 5-year period, as specified. The bill would prohibit a member who retires on or after January 1, 2013, who elects to receive his or her retirement benefit under the Defined Benefit Supplemental Program as a lump-sum payment from receiving that sum until 180 days have elapsed following the effective date of the member's retirement. This bill contains other related provisions and other existing laws.

**Position:** None at this time

**Subject:** LAFCo Administration

**CALAFCO Comments:**

**SB 31 (Correa D) Local government: lobbyist registration.**

**Current Text:** Introduced: 12/6/2010 [pdf](#) [html](#)

**Introduced:** 12/6/2010

**Status:** 1/20/2011-Referred to Com. on RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**Summary:**

Would state the intent of the Legislature to enact legislation that will require each local government to create a lobbyist registration program as a condition of the local government being eligible to apply for any discretionary grant from any state agency or department.

**Position:** Watch

**Subject:** LAFCo Administration

**CALAFCO Comments:** Likely not to affect LAFCos as they rarely apply for state grants, but watching anyway.

**SB 186 (Kehoe D) The Controller.**

**Current Text:** Amended: 3/22/2011 [pdf](#) [html](#)

**Introduced:** 2/7/2011

**Last Amended:** 3/22/2011

**Status:** 3/22/2011-Read second time and amended. Re-referred to Com. on APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

**Summary:**

Would authorize the Controller to exercise discretionary authority to perform an audit or investigation

of any county, city, special district, joint powers authority, or redevelopment agency, if the Controller possesses documentation that results in reason to believe that the local agency is not complying with the financial requirements in state law, grant agreements, local charters, or local ordinances. 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.

**Position:** None at this time

**Subject:** Financial Viability of Agencies

**CALAFCO Comments:** Allows Controller to audit local agencies and determine fiscal viability.

**SB 235 (Negrete McLeod D) Water conservation districts: reduction in number of directors.**

**Current Text:** Amended: 3/14/2011 [pdf](#) [html](#)

**Introduced:** 2/9/2011

**Last Amended:** 3/14/2011

**Status:** 3/17/2011-Read second time. Ordered to third reading.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Calendar:**

3/23/2011 #16 SENATE SENATE BILLS-THIRD READING FILE

**Summary:**

Would authorize 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.

**Position:** None at this time

**Subject:** Special District Principle Acts

**CALAFCO Comments:** Allows specified water districts to reorganize their board of directors to reduce the number of directors, by action of the Board.

**SB 288 (Negrete McLeod D) Local government: independent special districts.**

**Current Text:** Introduced: 2/14/2011 [pdf](#) [html](#)

**Introduced:** 2/14/2011

**Status:** 3/1/2011-Set for hearing April 6.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**Calendar:**

4/6/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

**Summary:**

Would additionally authorize the governing board of an independent special district, as defined, to provide, by resolution, for the establishment of a revolving fund in an amount not to exceed 110% of 1/12 of the independent special district's adopted budget for that fiscal year, and would require the resolution establishing the fund to make specified designations relating to the purposes for which the fund may be expended, the district officer with authority and responsibility over the fund, the necessity for the fund, and the maximum amount of the fund. This bill contains other related provisions and other existing laws.

**Position:** None at this time

**Subject:** Special District Powers, Special District Principle Acts

**CALAFCO Comments:** Allows special districts as defined by C-K-H to set up special revolving funds.

**SB 436 (Kehoe D) Land use: mitigation lands: nonprofit organizations.**

**Current Text:** Introduced: 2/16/2011 [pdf](#) [html](#)

**Introduced:** 2/16/2011

**Status:** 2/24/2011-Referred to Com. on RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**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.

**Position:** None at this time

**Subject:** Ag/Open Space Protection

**CALAFCO Comments:** Placeholder bill that indicates it relates to additional tools for the

preservation and mitigation of ag and open space lands.

**SB 449 (Pavley D) Controller: local agency financial review.**

**Current Text:** Introduced: 2/16/2011 [pdf](#) [html](#)

**Introduced:** 2/16/2011

**Status:** 3/1/2011-Set for hearing April 6.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

**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.

**Position:** None at this time

**Subject:** Financial Viability of Agencies

**CALAFCO Comments:** Allows state controller to audit local agencies.

Total Measures: 35

Total Tracking Forms: 35

**Proposed Amendments to G.C. Section 56133  
(Updated on March 25, 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, ~~r~~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~~ 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 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.



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

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**April 4, 2011**  
**Agenda Item No. 8b (Discussion)**

March 30, 2010

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Brendon Freeman, Analyst

**SUBJECT: Update on the Lake Law Enforcement Municipal Service Review**  
The Commission will receive an update on its scheduled municipal service review on law enforcement services. Staff anticipates presenting a draft report on the law enforcement municipal service review at the next regularly scheduled meeting.

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The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 directs Local Agency Formation Commissions (LAFCOs) to review and update each local agency's sphere of influence every five years as needed. Spheres are planning policies used by LAFCOs to demark the territory it believes represents the affected agency's appropriate future service area and jurisdictional boundary within a specified time period. All jurisdictional changes and outside service extensions must be consistent with the affected agencies' spheres with limited exceptions. Sphere determinations may also lead LAFCOs to take other actions under their authority, such as initiating the formation or dissolution of a special district. LAFCOs must inform their sphere determinations by preparing municipal service reviews to consider the level, range, and need for governmental services within their county jurisdiction. LAFCOs must complete the municipal service review process prior to making related sphere determinations.

**A. Discussion**

*Municipal Service Review on Law Enforcement Services*

Consistent with LAFCO of Napa County's ("Commission") adopted study schedule, staff has initiated work on a municipal service review for law enforcement services provided throughout Napa County. The municipal service review's immediate objective is to develop and expand the Commission's knowledge and understanding of the current and planned provision of law enforcement services relative to present and projected conditions and circumstances. This includes evaluating the availability and adequacy of law enforcement services provided by the five principal service providers operating in Napa County: American Canyon Police Department (ACPD); Calistoga Police Department (CPD); Napa Police Department (NPD); St. Helene Police Department (SHPD); and Napa County Sheriff Department (NCSD).

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Lewis Chilton, Vice Chair  
Councilmember, Town of Yountville

Juliana Inman, Commissioner  
Councilmember, City of Napa

Joan Bennett, Alternate Commissioner  
Councilmember, City of American Canyon

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

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

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

Brian J. Kelly, Commissioner  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Keene Simonds  
Executive Officer

***Current Status***

Staff has initiated contact with NCSO as well as the police chiefs of each of the four police departments. This includes accumulating information relative to the availability and sufficiency of resources to accommodate current and future demands within each department. Staff has also initiated work on a draft law enforcement municipal service review, which is expected to be presented to the Commission at its June 6, 2011 meeting.

**B. Commission Review**

Commissioners are encouraged to provide feedback to staff on the update on the law enforcement municipal service review for. Unless otherwise directed, staff anticipates presenting a complete draft report on the municipal service review for discussion at the Commission's next regular scheduled meeting, which is set for June 6, 2011.

Attachments:

None