

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
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December 7, 2011

TO: Sacramento Local Agency Formation Commission

FROM: Peter Brundage, Executive Officer

RE: Legislative Update

CONTACT: Don Lockhart, AICP, Assistant Executive Officer (916) 874-2937

RECOMMENDATION

Information only, no action is recommended.

SUMMARY

This report serves to remind the Commission of various new laws which will take effect January 1, 2012.

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

An ad-hoc committee appointed by the CALAFCO Board of Directors has considered and adopted positions on several bills. The Governor signed all six bills CALAFCO sponsored or supported this session. (Please see below.)

NEW LAWS

All of the following will take effect January 1, 2012.

AB 54 (Solorio D) Drinking water.

Current Text: Chaptered: 10/7/2011

Introduced: 12/6/2010

Last Amended: 8/30/2011

Status: 10/7/2011-Chaptered by the Secretary of State, Chapter Number 512, Statutes of 2011

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

Summary:

Would specify that any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for irrigation purposes, and any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for domestic use that provides in its articles or bylaws that the water shall be sold, distributed, supplied, or delivered only to owners of its shares and that those shares are appurtenant to certain lands shall be known as a mutual water company. This bill contains other related provisions and other current laws.

Position: Support

Subject: Water

CALAFCO Comments: Requires mutual water companies to respond to LAFCo requests for information, requires Mutuals to provide a map of boundaries to LAFCo, adds authority for LAFCo to request MSR data from mutuals and include compliance with safe drinking water standards in MSRs.

AB 912 (Gordon D) Local government: organization.

Current Text: Chaptered: 7/25/2011

Introduced: 2/17/2011

Last Amended: 5/27/2011

Status: 7/25/2011-Chaptered by the Secretary of State, Chapter Number 109, Statutes of 2011

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 requires a local agency formation commission, where the commission is considering a change of organization that consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, to either order a change of organization subject to confirmation of the voters, as specified, or order the change of organization without an election if the change of organization meets certain requirements. This bill would authorize the commission, where the commission is considering a change of organization that consists of the dissolution of a district that is consistent with a prior action of the commission, to

immediately order the dissolution if the dissolution was initiated by the district board, or if the dissolution was initiated by an affected local agency, by the commission, or by petition, 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: Support

Subject: Special District Consolidations, Special District Powers

CALAFCO Comments: Allows a commission to dissolve a special district - under specific circumstances - without a vote unless there is a majority protest.

AB 1430 (Committee on Local Government) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 omnibus bill.

Current Text: Chaptered: 9/21/2011

Introduced: 4/5/2011

Last Amended: 8/17/2011

Status: 9/21/2011-Chaptered by the Secretary of State, Chapter Number 300, Statutes of 2011

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

Summary:

Current law defines various terms for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This bill would revise various definitions within that act, and would make other conforming and technical changes. This bill contains other related provisions and other current laws.

Position: Sponsor

Subject: CKH General Procedures

CALAFCO Comments: CALAFCO Sponsored bill. Makes technical, non-substantive changes to Cortese-Knox-Hertzberg. Includes major definitions update.

SB 89 (Committee on Budget and Fiscal Review) Vehicles: vehicle license fee and registration fee.

Current Text: Chaptered: 7/1/

Introduced: 1/10/2011

Last Amended: 6/27/2011

Status: 6/30/2011-Chaptered by Secretary of State - Chapter 35, Statutes of 2011.

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

Summary:

Would require the Legislature to determine and appropriate annually an amount for the use of the DMV and the FTB for the enforcement of the Vehicle License Fee Law. The bill would deem, for the 2011-12 fiscal year, \$25,000,000 as the cost to the DMV for the collection of the motor vehicle license fee. This bill contains other related provisions and other current laws.

Position: Oppose

Subject: Annexation Proceedings, Incorporation Proceedings

CALAFCO Comments: This budget-related bill redirects VLF from cities to statewide public safety programs. Most impacted are cities formed after 2006 and inhabited annexations after 2006. Will likely result in disincorporations. Significantly this will also make most all future incorporations and inhabited annexations financially impossible. This language was added at the last minutes and voted on by the Members with little knowledge of the content of the bill. No one outside of the Capital was aware of the language until after the bill passed.

SB 244 (Wolk D) Local government: land use: general plan: disadvantaged unincorporated communities.

Current Text: Chaptered: 10/7/2011

Introduced: 2/10/2011

Last Amended: 9/8/2011

Status: 10/7/2011-Chaptered by the Secretary of State, Chapter Number 513, Statutes of 2011

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

Summary:

The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan for the physical development of the city or county and of any land outside its boundaries that bears relation to its planning. That law also requires the general plan to contain specified mandatory elements, including a housing element for the preservation, improvement, and development of the community's housing. This bill would require, on or before the next adoption of its housing element, a city or county to review and update the land use element of its general plan to include an analysis of the presence of island, fringe, or legacy unincorporated communities, as defined, 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 current 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 fire 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."

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

Current Text: Chaptered: 10/4/2011

Introduced: 1/25/2011

Last Amended: 8/15/2011

Status: 10/4/2011-Chaptered by the Secretary of State, Chapter Number 451, Statutes of 2011

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 Controller, Attorney General, and other state agencies in identifying local government agencies that are at high risk.

Position: None taken.

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 at being at high risk for waste, fraud, abuse or mismanagement.

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

Current Text: Chaptered: 9/7/2011

Introduced: 2/9/2011

Last Amended: 6/22/2011

Status: 9/6/2011-Chaptered by the Secretary of State, Chapter Number 266, Statutes of 2011

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

Summary:

Current law authorizes 2 or more public agencies, as defined, to enter into an agreement to exercise common powers. Current law also permits certain federally recognized Indian tribes to enter into joint powers agreements with particular parties and for limited purposes. This bill would include a federally recognized Indian tribe as a public agency that may enter into a joint powers agreement. This bill would also make conforming changes by conforming related code sections. This bill contains other related provisions.

Position: Watch

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. NOTE: There is a LAFCo question on whether this would allow a tribe to enter into a JPA with a city and district and circumvent the LAFCo process for delivery of municipal services. Counsel is currently evaluating this potential and the options for LAFCo.

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

Current Text: Chaptered: 7/15/2011

Introduced: 2/18/2011

Last Amended: 6/30/2011

Status: 7/15/2011-Chaptered by the Secretary of State, Chapter Number 90, Statutes of 2011

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

Summary:

Current law, the Williamson Act, authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Current law sets forth procedures for reimbursing cities and counties for property tax revenues not received as a result of these contracts. This bill would, beginning January 1, 2011, and until January 1, 2016, authorize a county, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue are less than 1/2 of the participating county's actual foregone general fund property tax revenue, to revise the term for newly renewed and new contracts and require the assessor to value the property, as specified, based on the revised contract term. The bill would provide that a landowner may choose to nonrenew and begin the cancellation process. The bill would also provide that any increased revenues generated by properties under a new contract shall be paid to the county. This bill contains other related provisions.

Position: Support

Subject: Ag Preservation - Williamson

CALAFCO Comments: Creates an interim solution to the loss of state subventions for Williamson Act lands by giving counties and alternative landowner-funding approach.

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

Current Text: Chaptered: 10/8/2011

Introduced: 2/16/2011

Last Amended: 9/2/2011

Status: 10/8/2011-Chaptered by the Secretary of State, Chapter Number 590, Statutes of 2011

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

Summary:

Would, until January 1, 2022, require a special district or nonprofit organization that holds funds on behalf of a local agency, for the long-term management of land, to comply with certain requirements. The bill would also state the findings and declarations of the Legislature with respect to the preservation of natural resources through mitigation, and would state that it is in the best interest of the public 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: Support

Subject: Ag/Open Space Protection

CALAFCO Comments: Would allow a local agency to provide funds to a non-profit to acquire land or easements to satisfy an agency's mitigation requirements. May be an important tool for LAFCo in agricultural and open space preservation.

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

Current Text: Chaptered: 9/7/2011

Introduced: 2/18/2011

Last Amended: 6/22/2011

Status: 9/6/2011-Chaptered by the Secretary of State, Chapter Number 254, Statutes of 2011

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

Summary:

Would, until January 1, 2016, authorize a nonprofit land-trust organization, a nonprofit entity, or a public agency to enter into a contract with a landowner who has also entered into a Williamson Act contract, upon approval of the city or county that holds the Williamson Act contract, to keep that landowner's land in contract under the Williamson Act, for a period of up to 10 years in exchange for the open-space district's, land-trust organization's, or nonprofit entity's payment of all or a portion of the foregone property tax revenue to the county, where the state has failed to reimburse, or reduced the subvention to, the city or county for property tax revenues not received as a result of Williamson Act contracts.

Position: None at this time

Subject: Ag Preservation - Williamson

CALAFCO Comments: Would allow an open space district, land trust or non profit to contract with a Williamson Act landowner to keep land in Williamson Act in exchange for paying all or a portion of the foregone property tax to the county if the state has failed to provide subventions.

AB 506 (Wickowski D) Local government: bankruptcy: neutral evaluation.

Current Text: Chaptered: 10/9/2011

Introduced: 2/15/2011

Last Amended: 9/8/2011

Status: 10/9/2011-Chaptered by the Secretary of State, Chapter Number 675, Statutes of 2011

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

Summary:

Would prohibit a local public entity from filing under federal bankruptcy law unless the local public entity has participated in a specified neutral evaluation process with interested parties, as defined, or the local public entity has declared a fiscal emergency and has adopted a resolution by a majority vote of the governing board at a noticed public hearing that includes findings that the financial state of the local public entity jeopardizes the health, safety, or well-being of the residents of the local public entity's jurisdiction or service area absent bankruptcy protections.

Position: Watch

Subject: Financial Viability of Agencies

CALAFCO Comments: This bill creates a complex "neutral evaluator" process which a local agency must follow prior to being able to file Chapter 9 bankruptcy.

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

Current Text: Chaptered: 7/25/2011

Introduced: 2/9/2011

Last Amended: 6/9/2011

Status: 7/25/2011-Chaptered by the Secretary of State, Chapter Number 122, Statutes of 2011

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

Summary:

The Water Conservation District Law of 1931 generally governs the formation of water conservation districts and specifies the powers and purposes of those districts. This bill would authorize a water conservation district with a board of directors consisting of 7 directors, to reduce the number of directors to 5, consistent with specified requirements. The bill would not apply to districts within the County of Ventura.

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 618 (Wolk D) Local government: solar-use easement.

Current Text: Chaptered: 10/8/2011

Introduced: 2/18/2011

Last Amended: 9/8/2011

Status: 10/8/2011-Chaptered by the Secretary of State, Chapter Number 596, Statutes of 2011

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

Summary:

Would authorize the parties to a Williamson Act contract, after approval by the Department of Conservation, in consultation with the Department of Food and Agriculture, to mutually agree to rescind the contract in order to simultaneously enter into a solar-use easement that would require that the land be used for solar photovoltaic facilities for a term no less than 20 years, except as specified. The bill would require the city or county to charge the property owner a rescission fee based upon the fair market value of the property at the time of the rescission, as specified. This bill would require a city or county to include certain, and authorizes a city or county to include other, restrictions, conditions, or covenants in the deed or instrument granting a solar-use easement. This bill would provide that a solar-use easement would be automatically renewed annually, unless either party filed a notice of nonrenewal. This bill would provide that a solar-use easement may only be extinguished on all or a portion of the parcel by nonrenewal, termination, or by returning the land to its previous contract under the Williamson Act. This bill would require that if the landowner extinguishes the contract either by filing a notice of nonrenewal or by terminating the solar-use easement, the landowner shall restore the property to the conditions that existed before the easement by the time the easement terminates. This bill would authorize a landowner to terminate a solar-use easement by complying with certain procedures, and paying a termination fee based upon the termination value of the property, as determined by the county assessor. This bill would provide that specified parties may bring an action to enforce the easement if it is violated. This bill contains other related provisions and other current laws.

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.