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SLO LAFCO - Serving the Area of San Luis Obispo County

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TO: MEMBERS, FORMATION COMMISSION

FROM: DAVID CHURCH, AICP, EXECUTIVE OFFICER 

DATE: SEPTEMBER 15, 2011

SUBJECT: CALAFCO ANNUAL CONFERENCE AND LAFCO LEGISLATIVE UPDATE (INFORMATION ONLY)

CALAFCO Annual Conference. The Annual Conference for CALAFCO was held in Napa County on August 31 through September 2. Thanks to Commissioners Richard Roberts, Ed Eby, Kris Vardas and Frank Mecham for attending the conference which included a number of very relevant and important sessions. LAFCO Staff members Mike Prater, Ray Biering, and David Church were also in attendance. Mr. Church facilitated or coordinated three of the sessions including: LAFCO 101, LAFCO 201: Ethics and LAFCOs, and Terms and Conditions; How far can LAFCOs go?

Other sessions included a briefing by Bill Fulton, Mayor of Ventura and highly respected planner, regarding California's current growth issues and trends, Round Table discussions by Commissioners, Staff and Counsels, managing the agricultural/ urban interface, a regional approach to fire service, increasing the value of MSRs, Disincorporation/Consolidation of Cities, Issues and Trends with Special Districts, Recycled Water, California Forward Restructuring State-Local Relationships, and the Legislative Update. Overall, it was a content-rich conference with something to offer everyone.

Legislative Update. A number of legislative bills that may affect LAFCOs are being considered by the State Legislature. CALAFCO's Legislative Committee considers these bills and may recommend supporting or opposing bills if appropriate. The Legislative Committee's recommendations are considered by the CALAFCO Board of Directors. The CALAFCO Legislative Summary presented at the conference is attached for your consideration.

CALAFCO Legislative Summary

UPDATED 29 August 2011

PRIORITY LEGISLATION

AB 54 (Solorio D) Drinking water.

Current Text: Amended: 8/24/2011

Status: 8/29/2011 #313 SENATE ASSEMBLY BILLS-THIRD READING FILE

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 shall be known as a mutual water company. This bill contains other related provisions and other existing laws.

Position

SUPPORT

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. – CHAPTERED

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

Summary: Would authorize the commission, where the commission is considering a change of organization that consists of the dissolution of a district recommended for dissolution by a prior action of the commission, to immediately order the dissolution if the dissolution was initiated by the district board, or to, within 60 days following the application being deemed complete 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

SUPPORT

CALAFCO Comments: Provides an expedited process for a commission to dissolve certain special districts if identified for dissolution in an MSR or SOI update, or by resolution of the district board, after a public hearing and the lack of a majority protest.

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

Current Text: 8/17/2011

Status: 8/25/2011-Senate amendments concurred in. To Engrossing and Enrolling.

Summary: Existing 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.

Position

SPONSOR

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

ABX1 36 (Solorio D) Vehicle license fees.

Current Text: Introduced: 7/1/2011

Status: 7/5/2011-From printer.

Summary: Current law, as proposed to be amended by SB 89 of the 2011-12 Regular Session, would require that a specified amount of motor vehicle license fees deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund be allocated by the Controller, as specified, according to a specified order, with moneys allocated on or after July 1, 2004, but before July 1, 2011, first to the County of Orange, next to each city and county meeting specified criteria, and on or after July 1, 2011, to the Local Law Enforcement Services Account in the Local Revenue Fund 2011, for allocation to cities, counties, and cities and counties. This bill would instead require for all of those times that a specified portion of those revenues be distributed first to the County of Orange. By authorizing within the Motor Vehicle License Fee Account in the Transportation Tax Fund, a continuously appropriated fund, to be used for a new purpose, the bill would make an appropriation.

Position

Watch

CALAFCO Comments: This bill is under consideration as a fix to the SB 89 shift of VLF from cities to law enforcement programs. It would unwind the SB 89 transfer of VLF funds that dramatically affect incorporations and inhabited annexations. Currently only affects Orange county.

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

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

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

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) Land use: general plan: disadvantaged unincorporated communities.

Current Text: Amended: 8/29/2011

Calendar: 8/25/2011 #123 ASSEMBLY SENATE THIRD READING FILE

Summary: Would 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

Opposition removed

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 contiguous to a sphere of influence." The bill restricts a city's ability to annex undeveloped territory unless it files a separate application to annex a contiguous disadvantaged unincorporated community.

WILLIAMSON ACT LEGISLATION

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

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

Summary: Would beginning January 1, 2012, and until January 1, 2015, authorize a county, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue are less than ½ 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.

Position

SUPPORT

CALAFCO Comments: This bill reinstates the collaboratively-reached interim solution to preserve the Williamson Act that was in an earlier budget trailer bill, but was struck. It has no cost to the state.

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

Current Text: Introduced: 2/18/2011

Location: 7/14/2011 S. INACTIVE FILE

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

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.

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

Current Text: Amended: 8/26/2011

Location: 8/26/2011-A. SECOND READING

Summary: Would authorize a state or local public agency to provide funds to a nonprofit organization to acquire land or easements that satisfy the agency's mitigation obligations, including funds that have been set aside for the long-term management of any lands or easements conveyed to a nonprofit organization, as specified. This bill would, until January 1, 2022, require a nonprofit organization that holds funds on behalf of the Department of Fish and Game, or a special district or nonprofit organization that holds funds on behalf of a state or local agency, for the long-term management of land to comply with certain requirements, including certification by the department, and oversight by the Controller under specified circumstances. 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

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

Current Text: Amended: 7/6/2011

Location: 8/17/2011-A. APPR. SUSPENSE FILE

Summary: Would authorize the parties to a Williamson Act contract 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 10 years. This bill would require a county or city to include certain, and authorizes a county or city 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.

Position

None at this time

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

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

Current Text: Amended: 8/22/2011

Location: 8/22/2011-S. ENROLLMENT

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

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.

AUDIT LEGISLATION

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

Current Text: Amended: 8/15/2011

Calendar: 8/29/2011 #9 SENATE ASSEMBLY BILLS-SECOND READING FILE

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

Position

None at this time

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

COMPENSATION LEGISLATION

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

Current Text: Amended: 6/2/2011

Status: 8/22/2011-In Assembly. Read first time. Held at Desk.

Summary: Would, commencing on January 1, 2013, and continuing until January 1, 2019, require every designated employee and other person, except a candidate for public office, who is required to file a statement of economic interests to include, as a part of that filing, a compensation disclosure form that provides compensation information for the preceding calendar year, as specified. This bill contains other related provisions and other current laws.

Position

Oppose

CALAFCO Comments: Similar to a 2010 bill, this would require all those who file a Form 700 to also file a compensation disclosure report. Those forms would be required to be posted on a LAFCo website. Filing includes all compensation, including reimbursements.

OTHER LEGISLATION OF INTEREST

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

Current Text: Amended: 6/28/2011

Calendar: 8/29/2011 #163 SENATE ASSEMBLY BILLS-THIRD READING FILE

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

CALAFCO Comments: As written applies only to Vernon. It bypasses much of the C-K-H disincorporation process, leaving LAFCo only the responsibility of assigning assets and liabilities following disincorporation. This bill is double-joined to AB 781.

AB 781 (John A. Pérez D) Local government: counties: unincorporated areas.

Current Text: Amended: 7/12/2011

Calendar: 8/29/2011 #5 SENATE ASSEMBLY BILLS-SECOND READING FILE

Summary: Would create a community services district in the unincorporated area of a county if that unincorporated area of the county was previously a city that was disincorporated by statute and had, immediately prior to disincorporation, provided fire protection, water, telecommunications, gas, or electric utility services, or maintained streets or roads. The district would continue to provide those services within the territory in which the disincorporated city provided those services, and would be a successor in interest as to any contract entered into by the disincorporated city with respect to the provision of those services.

The bill would, for a one-year period, limit the authority of the community services district to increase gas or electric utility rates within that territory. This bill contains other related provisions and other current laws.

Position

Watch

CALAFCO Comments: This bill was gutted and amended on 20 June to create a CSD in any unincorporated area that was previously a city and was disincorporated by the legislature. It is specifically targeted at Vernon. It also contains language directing LAFCo on the terms and conditions of the disincorporation. This bill is double-joined to AB 46.

AB 119 (Committee on Budget) State government. – CHAPTERED

Status: 6/29/2011-Chaptered by the Secretary of State, Chapter Number 31, Statutes of 2011

Summary: Makes various statutory changes to various general government and state administration-related programs that are necessary to implement provisions of the revised FY 2011-12 budget. Includes provisions that remove the requirement for a special district to file written statements regarding functions and services with a LAFCo whenever the commission adopts, amends or updates a sphere of influence. Instead allows the LAFCo to require such written statements. This removes a state mandate.

Position Subject:

Watch

CALAFCO Comments: Language has been added to this budget bill which changes the requirement for special districts to respond to SOI requests for information from a state mandate to a local requirement. This change would eliminate the state requirement to reimburse special districts for the costs of responding to a LAFCo request. It is not anticipated to have any actual change in process.

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

Current Text: Amended: 6/22/2011

Status: 8/22/2011-Enrolled and presented to the Governor at 10:30 a.m.

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

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.

NOTE: CALAFCO Counsel believes 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 outside the boundaries of a local agency.

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

Current Text: Amended: 8/15/2011

Status: 8/25/2011-Joint Rule 62(a), file notice suspended. (Ayes 22. Noes 16.) In committee: Placed on APPR. suspense file.

Summary: Would prohibit a local public entity from filing under federal bankruptcy law unless the local public entity has participated in a neutral evaluation process with interested parties, as defined, has received a certificate of good faith participation, and if the neutral evaluation results in either an agreement for debt readjustment, or if the neutral evaluator certifies in writing that continued neutral evaluation will not contribute to a resolution of the parties' dispute, under certain circumstances. The bill would also require the California Debt and Investment Advisory Commission to maintain a list of qualified neutral evaluators on its Internet Web site. This bill contains other related provisions.

Position

Watch

CALAFCO Comments: This bill imposes a complex process a city or district must engage in before it is eligible to declare bankruptcy. It is opposed by most local agency associations and many local agencies.

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

Current Text: Introduced: 2/15/2011

Status: 4/14/2011-Referred to Com. on L. GOV.

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

Position

None at this time

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

SB 191 (Committee on Governance and Finance) Validations.

Status: 6/6/2011-Ordered to Senate inactive file on request of Senator Wolk.

SB 192 (Committee on Governance and Finance) Validations.

Calendar: 8/29/2011 #105 SENATE UNFINISHED BUSINESS

SB 193 (Committee on Governance and Finance) Validations.

Calendar: 8/29/2011 #105 SENATE UNFINISHED BUSINESS

Current Text: Amended: 5/16/2011

Summary: These three bills would enact the First, Second and Third Validating Acts 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.

Position

SUPPORT

CALAFCO Comments: These three annual acts validate the boundaries of all local agencies. They have been placed in the inactive file because they removed language related to redevelopment agencies.

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

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

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

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. – CHAPTERED

Status: 7/8/2011-Chaptered by Secretary of State - Chapter 66, Statutes of 2011.

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

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

SB 878 (DeSaulnier D) Regional planning: Bay Area.

Current Text: Amended: 6/9/2011

Status: 6/9/2011-From committee with author's amendments. Read second time and amended.

Location: 6/9/2011-S. T. & H.

Summary: Would require the joint policy committee to submit a report to the Legislature by January 31, 2013, on, among other things, methods and strategies for developing and implementing a multiagency set of policies and guidelines relative to the Bay Area region's sustainable communities strategy, including recommendations on organizational reforms for the regional agencies. The bill would require preparation of a work plan for a regional economic development strategy to be submitted to the Legislature on that date. The bill would also require the member agencies to report on public outreach efforts that they individually or jointly perform. The bill would require public meetings in each of the region's 9 counties and creation of advisory committees, as specified. By imposing new duties on local agencies, the bill would impose a state-mandated local program. This bill contains other related provisions and other current laws.

Position

None at this time

CALAFCO Comments: Provides legislative direction to the Bay Area counties on development of their sustainable communities strategy and requires the "joint committee" to report back to the Legislature by 1 January 2013.