

April 10, 2003 (Agenda)

Local Agency Formation Commission
105 East Anapamu Street
Santa Barbara CA 93101

Report on Legislation

Dear Members of the Commission,

RECOMMENDATION

The staff recommends that the Commission receive and file this report and adopt the following positions on pending legislation:

DISCUSSION

January marked the beginning of the new 2003-04 Two-Year Legislative Session. It is apparent that “crisis” continues to be a theme in Sacramento. The new session brings with it the State’s ongoing budget crisis and an uncertain time for local governments.

CALAFCO and LOCAL the (“Leave Our Community Assets Local”) coalition continue to monitor the State budget deficit. This should be another busy year for local government groups lobbying to protect local dollars from State threats.

2003-04 Legislation Affecting LAFCOs

CALAFCO is proactive with legislators, legislative staff and other local government stakeholders to facilitate cooperative discussions on shared local government policy issues. Dan Schwarz, Napa LAFCO Executive Officer, chairs the CALAFCO Legislative Committee.

CALAFCO-sponsored bills and others affecting LAFCOs introduced prior to the February 21st deadline are described in this report.

The full text for any bill is available on the Legislative Counsel's website at leginfo.ca.gov or upon request to the staff.

CALAFCO Sponsored Legislation

CALAFCO has sponsored three bills. Two are authored by Assembly Member Tom Harman, a former Orange LAFCO Commissioner and author of last year's CALAFCO bill, AB 2227 (Chapter 548, Statutes of 2002).

AB 192 (Harman) – Non Contiguous City Annexations

This bill makes a technical change regarding LAFCO's authority to approve the annexation of noncontiguous territory to a city.

Under existing law, LAFCO may approve the annexation of noncontiguous territory to a city only if: (a) the territory is owned by the city, (b) is being used for municipal purposes, and (c) the area to be annexed does not exceed 300 acres in area.

There is some confusion in the law about whether the 300-acre limitation applies to a single annexation or to the total cumulative amount of noncontiguous land in a city. The bill clarifies that the limitation applies to each individual annexation and not to the total cumulative amount of noncontiguous territory.

AB 192 may likely be a place for more substantive legislative proposals.

- Status: Introduced on Jan. 27. Referred to Assembly Local Government Committee on Feb. 3.
- Recommendation: *Support*

AB 208 (Harman) – Successor Agency for Dissolved Special Districts

Special district dissolutions have historically been sensitive, contentious issues for LAFCOs and special districts at local and state levels. CALAFCO is proactively working with various groups in Sacramento, including the Special Districts Association, to create a cooperative discussion about legislative policies and intent that define the nature and scope of dissolutions.

Wording in this bill was introduced last year in an early draft of AB 2227, a bill sponsored by CALAFCO. In response to a request by the Association of California Water Agencies the language was removed until CALAFCO and ACWA could discuss the role of dissolutions in LAFCO's responsibility to review structural relationships of local governments in California.

This bill sets forth clarifying language to affirm LAFCO's authority to dissolve a district and designate a successor agency to carry out the functions and operations of that agency.

- Status: Introduced on Jan. 28. Referred to Assembly Local Government Committee on Feb. 3.
- Recommendation: *Support*

AB 518 (Salinas)

As introduced this bill contains "placeholder" language for more substantive legislative proposals that CALAFCO may seek in 2003-04

- Status: Introduced on Feb. 18.
- Recommendation: *Watch*

Other Legislation

AB 838 (Spitzer) - New City Ordinances vs. Existing CC&Rs

Orange County Assemblyman Todd Spitzer introduced this bill to address a local issue in the City of Rancho Santa Margarita due to conflicts that have arisen between the city's zoning ordinance, regulations and general plan policies and the covenants, conditions, and restrictions (CC&Rs) of a master homeowners association. City representatives indicate that conflicts arise when one set of regulations is more restrictive than the other.

Some degree of conflict may exist between city zoning and CC&Rs because they come from two different constitutional powers. CC&Rs are private contractual agreements among land owners while zoning is a local government tool to exercise police powers. One does not necessarily "supersede" the other since they may both apply.

The City zoning ordinance requires a 20-foot setback for a front yard and the CC&Rs require 30 feet. The city can issue a building permit for a new house with a 25-foot front yard consistent with the local zoning ordinance, but because the CC&Rs require 30 feet, the property owner could get sued by the HOA if they build a house with only a 25-foot yard.

AB 838 provides that a new city's general plan policies and local zoning ordinances and regulations always *supersede* CC&Rs for commercial or industrial property if there is a conflict. As written this bill applies to all cities that incorporated on or after January 1, 1999 (including the City of Goleta.).

- Status: Introduced on Feb. 20. Referred to Assembly Local Government Committee on Mar. 3.
- Recommendation: *Watch*

AB 520 (Salinas) – Phased Annexations or Delayed Effective Dates

This bill seeks to facilitate a unique form of ballot box planning in the City of Watsonville. Last November, after decades of conflict over growth, development and annexations, voters in the City enacted a long-range land use plan detailing when, where and how development (and annexations) will occur over the next 25 years. The plan sets forth a phased approach with specific trigger mechanisms for later annexations of various planning areas to the City.

Typically cities submit annexations for individual developments, which for Watsonville would require that LAFCO approvals be phased over a span 25-years. Given the political climate in Santa Clara County, public and private supporters of Watsonville's phased development plan determined there is too much at stake to entrust future LAFCOs to approve annexations in keeping with the approved ballot measure.

The City is exploring the ability of LAFCO to approve all annexations today and stagger the effective dates of the various phases in the future. This bill provides that ability by waiving a statutory limitation for how far in the future the Santa Cruz LAFCO can set an effective date.

CALAFCO is working with the author to explore options, both local and statutory, for the phasing of annexations to Watsonville.

- Status: Introduced on Feb. 18. Referred to Assembly Local Government Committee on Feb. 27.

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➤ **Recommendation:** *Watch*

AB 1385 (Haynes) – Capacity Rights for California Water Authorities

LAFCO has broad authority to set terms and conditions for proposals, including terms and conditions to establish or transfer priorities of use, right of use and/or capacity rights in any public water system.

This bill would establish specific provisions to govern the transfer of capacity rights to and from a County Water Authority (CWA). It provides that lands detached from a CWA shall continue to own capacity rights in the CWA system as necessary or convenient for the continued delivery of water to the detached lands.

It was introduced to address the potential detachments of retail water agencies in northern San Diego County from the San Diego CWA and protects those agencies' capacity rights to imported water in the Metropolitan Water District of Southern California system and in the CWA's facilities.

- Status: Introduced on Feb. 21.
- Recommendation: Watch

SB 282 (Oller) – Circumvents Standard Incorporation Procedures

The El Dorado LAFCO has worked with El Dorado Hills community leaders for many years on incorporating the area. The idea is contentious and politicized, so much so that some local residents have asked the state to legislatively approve the incorporation subject to an election but with no discretion by LAFCO or El Dorado County.

This bill would make determinations on criteria and requirements within the incorporation process, including payment of LAFCO processing fees, satisfaction of CEQA, review of the Comprehensive Fiscal Analysis, revenue neutrality findings, approval of the incorporation and the conduct of protest proceedings.

The bill is an example of special legislation to circumvent standard procedures.

- Status: Introduced on Feb. 18. Referred to Senate Local Government Committee on Feb. 25.
- Recommendation: Oppose

SB 341 (Senate Local Government Committee) – Cemetery District Law Rewrite

This bill is another step in a series of collaborative efforts by the Senate Local Government Committee to work with various organizations to comprehensively rewrite antiquated special district enabling acts. The Committee authored a rewrite of the Recreation and Park District Law in 2001 and spearheaded a rewrite of the Mosquito Abatement and Vector Control District Law in 2002

This year the Committee is working with CALAFCO and other groups to comprehensively update and rewrite the Public Cemetery District Law.

- Status: Introduced on Feb. 19.
- Recommendation: *Support*

SB 487 (Torlakson) – Findings for Special District Denials of Detachments

Under existing law, if LAFCO receives an application to annex territory to a special district from a party other than the district, the annexing district may request that LAFCO terminate the proposal without just cause or reason and LAFCO must comply.

Last year the California Building Industry Association (BIA) sponsored a bill to require special districts to make specific findings before terminating annexations. The BIA found the District's authority to "veto" annexations to be onerous where districts terminate annexations and deny extending services for reasons entirely unrelated to the development or the service-related operations of the district.

Last year's bill, which would have required district requests to terminate annexations to be "based upon written findings supported by substantial evidence in the record that the request is justified by a financial or service related concern," was sent to the Governor for signature but was "chapters out" by the enactment of another bill.

This year's bill is an identical reincarnation of last year's bill. The staff agrees that there should be a nexus between the "veto" of an annexation and the district's actual operations.

- Status: Introduced on Feb. 20.
- Recommendation: *Support*

Summary of Recommended Legislative Positions

<u>Recommended Position</u>	<u>Bill Number</u>	<u>Author</u>	<u>Topic</u>
Support	AB 192	Harman	Noncontiguous city annexations
Support	AB 208	Harman	Successor for dissolved districts
Watch	AB 518	Salinas	Placeholder
Watch	AB 520	Salinas	Delayed annexation effective dates
Watch	AB 838	Spitzer	City ordinances vs. CC&Rs
Watch	AB 1385	Haynes	County Water Authority
Oppose	SB 282	Oller	City incorporations
Support	SB 341	SLGC	Public Cemetery District Law
Support	SB 487	Torlakson	Special district annexations

Please contact the LAFCO office if you have any questions.

Sincerely,

BOB BRAITMAN
Executive Officer