

June 3, 2013

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TO: Local Agency Formation Commission
FROM: Executive Officer
Director, Legislative Research
SUBJECT: June 2013 Legislative Status Report

This is the monthly Legislative Report for June, 2013, designed to keep the Commission informed about legislation in the first year of the 2013-14 Legislative Session. The last day for bills to pass their house of origin Appropriations Committee is May 24, 2013.

Several of the bills that staff identified for tracking have had action this month. As a point of reference, generally staff designates a position on each bill in one of the three main categories: (1) Support; (2) Watch; or (3) Oppose and if appropriate, conditioned on possible resolution with amendments. As updated in May, staff recommended and the Commission approved positions on seven (7) bills as follows:

AB 453 (*Mullin*) *Sustainable Communities Grants*: This bill would provide a Local Agency Formation Commission the ability to apply for Sustainable Community planning grant funds under the Strategic Growth Council oversight program. Position approved: **Support; Letter sent to Author.**

SB 181, SB 182 and SB 183 (*Committee on Governance and Finance*): These are three annual validation bills that document the authority of public agencies and territories, etc. These bills are routine but essential for passage each year. Position approved: **Support.**

SB 772 (*Emmerson*) *Mutual and Private Water Companies*: This bill would require the State Department of Public Health or an applicable local health agency to provide information to the Public Utilities Commission and LAFCO for each public water system and private water system. It would also require a commission to include a review of all such systems in sphere of influence studies and municipal service reviews each five years. The bill has been held by the author and is expected to be a two-year bill. Position approved: **Oppose unless amended; letter to Author.**

AB 1427 (*The Assembly Omnibus Bill*): This bill as introduced makes non-controversial changes to the Cortese-Knox-Hertzberg Act and Government Code. Staff have reviewed the bill and provided input on it. Position approved: **Support; Letter sent to Author.**

AB 743 (*Logue*) *Cortese–Knox–Hertzberg Act Island Annexation Sunset*. As discussed at the May meeting, current law provides for a process for cities to request a commission to annex qualified territory of up to 150 acre limit. Since stakeholders had differing views on the merits of the program, staff originally proposed a position of Watch be authorized in order to allow for continued dialogue and negotiations within CALAFCO and legislators, etc. Since that time, the California State Association of Counties and the League of California Cities have taken support positions on the bill. Amendments made on April 3, 2013 to AB 743 retain the limit of island territory of a maximum of 150 acres. CALAFCO is the sponsor of the bill. Position recommendation: **Support and send Letter to Author.**

Staff will be providing an update on actions for each of the bills in the attached Tracking Report and any activity on bills affecting the commission at the June 3, 2013 meeting. Therefore, it is:

RECOMMENDED: That your Commission

Receive, discuss, and provide direction, as necessary, on the June 3, 2013 Legislative Status Report and authorize staff to inform authors of each bill of the approved position in the form of appropriate letters and testimony.

Respectfully Submitted,

MICHAEL D. OTT
Executive Officer

HARRY EHRLICH
Director, Legislative Research

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Attachments

Legislative Tracking Report
AB 1427 The Assembly Omnibus Bill Support Letter
AB 743 Amended Bill

SAN DIEGO LAFCO
LEGISLATIVE TRACKING REPORT
JUNE 3, 2013

AB 115 (Perea): Safe Drinking Water State Revolving Fund; Grants to Small Water Systems

Introduced: 1/14/2013

Status: 5/14/2013-Passed Assembly; referred to Senate committee on Environmental Quality.

Summary: Would authorize the State Department of Public Health to fund projects, by grant, loan, or a combination of the two, where multiple water systems apply for funding as a single applicant for the purpose of consolidating water systems or extending services to households relying on private wells, as specified. The bill would authorize funding of a project to benefit a disadvantaged community that is not the applying agency. By authorizing the use of a continuously appropriated fund for new purposes, this bill would make an appropriation. This bill contains other existing laws. Appears to address a problem of encouraging small agencies to develop water improvement projects together and consolidate agencies.

AB 168 (Wilk): Local government finance: vehicle license fee revenues: allocations

Introduced: 1/24/2013

Status: 1/25/2013-Failed to be heard by Committee; dead for this year.

Summary: Under existing law, the Controller is required to allocate vehicle license fee revenues in the Motor Vehicle License Fee Account 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, for allocation to cities, counties, and cities and counties. This bill would make technical, nonsubstantive changes to these provisions. This bill appears to be a spot bill to be amended at a later time.

AB 194 (Campos): Open Meetings: protections for public criticism

Introduced: 1/28/2013

Status: 4/24/2013: Failed to be considered; dead for the year.

Summary: Would make it a misdemeanor for a member of a legislative body, while acting as the chairperson of a legislative body of a local agency, to prohibit public criticism protected under the Ralph M. Brown Act. This bill would authorize a district attorney or any interested person to commence an action for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of the protection for public criticism is null and void, as specified.

AB 262 (Waldron): Local government: organization

Introduced: 2/7/2013

Status: 2/8/2013- Failed to be heard by Committee; bill dead for this year.

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 makes certain findings and declarations relating to local government organization, including, among other things, that it is the policy of the state to encourage orderly growth and development, and recognition that the logical formation and determination of the boundaries of local agencies, as specified. This bill would make technical, nonsubstantive changes to these provisions.

AB 453 (Mullin): Sustainable Communities Grants

Introduced: 2/19/2- Referred to committee on Local Governance

Status: Passed Committee on Local Government; held 4/17/2013 on Appropriations Committee Suspense File.

Summary: The Strategic Growth Council is required to manager and award grants and loans to a council of governments and other planning organizations for the purpose of developing regional plans to support the development of sustainable communities. This bill would make a local agency formation commission eligible for the award of financial assistance for those planning purposes.

San Diego LAFCO Position: Support and Letter Sent

AB 678: (Gordon): Health Care Districts: community health needs assessment

Introduced: 2/21/2013

Amended: 4/15/2013

Status: 4/24/2013-Passed Committee on Local Government; pending Assembly Appropriations Committee on 5/15/2013

Summary: Would require that each health care district that leases its facilities for operations conduct an assessment, every 5 years, of the community's health needs and provide opportunities for public input. Also would require that a copy of the annual report on progress toward meeting the service needs in the district be provided to a local agency formation commission.

AB 743 (Logue): Cortese-Knox-Hertzberg Act Island Annexation Sunset

Introduced: 2/21/2013

Amended: 4/3/2013

Status: Passed full Assembly; referred to Senate Committee on Local Gov't & Finance

Summary: The Cortese-Knox-Hertzberg Act in Section 56434 authorizes a local agency formation commission, until January 1, 2014, to approve, after notice and hearing, a request of a city to annex territory constituting an island as defined in the Act of up to 150 acres and to waive protest proceedings if certain requirements are met. This bill would repeal the January 1, 2013 sunset date. The bill contains other related provisions to implement this change. Amendments made on 4/3/2013 retain the limit of territory at a maximum of 150 acres.

San Diego LAFCO Recommended Position: support and Send Letter to Author

SB 56 (Roth): Local government finance, cities

Introduced: 1/7/2013;

Amended: 4/23/2013

Status: 5/1/2013 Hearing in Senate Governance and Finance Committee delayed by Author

Summary: Would restore funding to cities that either were incorporated or annexed territory after 2004 utilizing a sliding scale of funding over the next four years.

SB 181, SB 182 and SB 183: (Committee on Governance and Finance) Validations

Introduced: 2/6/2013

Status: Passed Senate; now in Assembly at committee on Local Government

Summary: These three Validating Act bills would validate the boundaries, organization, acts and proceedings of the state, counties, cities and specified districts for 2013. These are routine but required acts to continue authority and operations of various agencies of government.

San Diego LAFCO Position: Support

SB 772 (Emmerson): Mutual and Private Water Companies

Introduced: 2/22/2013

Status: Hearing in Senate Governance and Finance Committee on 4/10/2013 Cancelled at request of Author. Bill now a two-year bill to consider input from stakeholders.

Summary: Would require the State Department of Public Health or the local health agency to annually provide the address and telephone number for each public and state small water system to the Public Utilities Commission and as prescribed to a local agency formation commission; adds requirements for a commission to study all mutual and private water providers when undertaking a municipal service review of retail water services and to document service areas and spheres of influence of all providers, etc. The bill provides no additional authority to implement or funding for these required activities.

San Diego LAFCO Position: Oppose unless Amended – Letter Sent

AB 1427 (Committee on Local Government): Omnibus Bill on Cortese-Knox-Hertzberg Act

Introduced: 4/1/2013

Status: 5/8/2013 Passed Committee on Local Government; Pending Assembly Consent Calendar

Summary: This is the annual Assembly Omnibus Bill that updates the Cortese-Knox-Hertzberg Act to make non-controversial changes to clarify the Act and revise definitions, etc. Proposed changes include clarifying definition of independent special district and designation of special district elected officials for nomination of special district representatives on a commission or advisory committee. The proposed bill has been reviewed by local government stakeholders prior to being introduced.

San Diego LAFCO Proposed Position: Support and Send Letter to Committee



Chairman

Andrew Vanderlaan
Public Member

April 26, 2013

Vice Chairwoman

John Ingalls
Santa Fe
Irrigation District

The Honorable Katcho Achadjian
California State Assembly
State Capitol, Room 4098
PO Box 942849
Sacramento, CA 94249-0035

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Members

Bill Horn
County Board of
Supervisors

RE: AB 1427 – Assembly Omnibus Bill - SUPPORT

Dianne Jacob
County Board of
Supervisors

Dear Assembly Member Achadjian :

Bud Pocklington
South Bay
Irrigation District

On behalf of the San Diego Local Agency Formation Commission, I write to express our support for your Committee bill, AB 1427, which will make noncontroversial corrections and procedural changes to the Cortese-Knox-Hertzberg Act (C-K-H Act). The changes included in the bill, as amended, bring improved clarity and organization to the C-K-H Act.

Mark Lewis
Mayor
City of El Cajon

Lori Zapf
Councilmember
City of San Diego

We appreciate the assistance that has been received from stakeholders and committee staff in developing the revisions of definitions and other provisions included in AB 1427. Several of the existing code sections were impacted by other recent legislation and in need of improved language restructuring. The bill will provide wording changes that make improvements to the Act.

Jim Janney
Mayor
City of Imperial Beach

Alternate Members

Because AB 1427 improves the organization of the C-K-H Act and will provide for increased clarity of commission responsibilities, we support this legislation. Thank you for co-authoring this important legislation.

Greg Cox
County Board of
Supervisors

Sherri Lightner
Councilmember
City of San Diego

Yours sincerely,

Harry Ehrlich, SDA
Director, Legislative Research

Sam Abed
Mayor
City of Imperial Beach

Jo MacKenzie
Vista Irrigation District

CC: Misa Yokoi-Shelton, ALGC Staff
Pamela Miller, Executive Director, CALAFCO

Harry Mathis
Public Member

Executive Officer

Michael D. Ott

Counsel

Thomas Bosworth

BILL NUMBER: AB 743 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 3, 2013

INTRODUCED BY Assembly Member Logue

FEBRUARY 21, 2013

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An act to amend Sections 56375.3 and 56375.4 of, and to repeal Section 57080 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 743, as amended, Logue. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, sets forth the powers and duties of a local agency formation commission. The act authorizes a local agency formation commission to approve, after notice and hearing, a petition for a change of organization or reorganization of a city, if the petition was initiated on or after January 1, 2010, and before January 1, 2014, and waive protest proceedings entirely if certain requirements are met. This provision applies only to territory that does not exceed 150 acres.

This bill would delete the January 1, 2014, date and make conforming changes. ~~The bill would authorize the commission to approve a change of organization or reorganization pursuant to these provisions of a territory that does not exceed 300 acres.~~

Existing law provides that the authority to initiate, conduct, and complete specified changes in organization or reorganizations does not apply to any territory that, after January 1, 2000, became surrounded or substantially surrounded by the city to which the annexation is proposed, except for islands that were created after January 1, 2000, as a result of boundary adjustments between 2 counties.

This bill would instead provide that the authority to initiate, conduct, and complete specified changes in organization or reorganizations does not apply to any territory that, after January 1, 2014, became surrounded or substantially surrounded by the city to which the annexation is proposed, except for islands that were created after January 1, 2014, as a result of boundary adjustments between 2 counties.

The act additionally authorizes a local agency formation commission to approve, after notice and hearing, a petition for a change of organization or reorganization of a city that was initiated on or after January 1, 2014, if certain requirements are met, and requires the commission to follow specified procedures in making this approval.

This bill would repeal these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56375.3 of the Government Code is amended to

read:

56375.3. (a) In addition to those powers enumerated in Section 56375, a commission shall approve, after notice and hearing, the change of organization or reorganization of a city, and waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely, if all of the following are true:

(1) The change of organization or reorganization is initiated on or after January 1, 2000.

(2) The change of organization or reorganization is proposed by resolution adopted by the affected city.

(3) The commission finds that the territory contained in the change of organization or reorganization proposal meets all of the requirements set forth in subdivision (b).

(b) Subdivision (a) applies to territory that meets all of the following requirements:

(1) It does not exceed ~~300~~ 150 acres in area, and that area constitutes the entire island.

(2) The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.

(3) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(C) This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

(D) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Section 99 of the Revenue and Taxation Code regarding an annexation subject to this subdivision without affecting any existing master tax sharing agreement between the city and county.

(4) It is substantially developed or developing. The finding required by this paragraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(A) The availability of public utility services.

(B) The presence of public improvements.

(C) The presence of physical improvements upon the parcel or parcels within the area.

(5) It is not prime agricultural land, as defined by Section 56064.

(6) It will benefit from the change of organization or reorganization or is receiving benefits from the annexing city.

(c) Notwithstanding any other provision of this subdivision, this subdivision shall not apply to all or any part of that portion of the development project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code that as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

SEC. 2. Section 56375.4 of the Government Code is amended to read:

56375.4. The authority to initiate, conduct, and complete any proceeding pursuant to subdivision (a) of Section 56375.3 does not apply to any territory that, after January 1, ~~2000~~

2014, became surrounded or substantially surrounded by the city to which annexation is proposed, except for islands that were created after January 1, ~~2000~~ 2014, as a result of boundary adjustments between two counties.

SEC. 3. Section 57080 of the Government Code is repealed.