



San Diego County
Local Agency Formation Commission
 Regional Service Planning | Subdivision of the State of California

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AGENDA REPORT
 Consent | Information

February 5, 2024

TO: Commissioners
FROM: Carolanne Ieromnimon, Analyst II
SUBJECT: **Legislative Report**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a report on legislative items of interest to the Commission and its regulatory and planning responsibilities. This includes reviewing items associated with the end of the first year of the 2023-2024 session – including Assembly Bills 1753 and 399 – as well as previewing potential topics heading into the second year. The report is being presented for information and concurrently provides an opportunity for Commissioners to provide general feedback.

BACKGROUND

Legislative Resources

San Diego LAFCO draws on its active participation with its lone member association – CALAFCO – in considering legislative matters impacting the Commission’s ability to effectively administer its regulatory and planning responsibilities. CALAFCO’s Legislative Committee comprises nearly two dozen appointed members across the state and is tasked with engaging the entire membership with respect to drafting and/or reviewing proposed legislation. San Diego LAFCO relies on the information and analysis generated from the CALAFCO Legislative Committee in making its own position recommendations and taking other associated actions as appropriate.

<p>Administration Keene Simonds, Executive Officer 2550 Fifth Avenue, Suite 725 San Diego, California 92103 T 619.321.3380 www.sdlafco.org lafco@sdcounty.ca.gov</p>	<p>Chair Jim Desmond County of San Diego</p> <p>Joel Anderson County of San Diego</p> <p>Nora Vargas, Alt. County of San Diego</p>	<p>Kristi Becker City of Solana Beach</p> <p>Dane White City of Escondido</p> <p>John McCann, Alt. City of Chula Vista</p>	<p>Vice Chair Stephen Whitburn City of San Diego</p> <p>Marni von Wilpert, Alt. City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>David Drake, Alt. Rincon del Diablo</p>	<p>Vacant General Public</p> <p>Harry Mathis, Alt. General Public</p>
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DISCUSSION

This item is for San Diego LAFCO to review and discuss items of interest generated in the first year of the 2022-2023 legislative session as well as to preview potential topics going into the second year. The report is being presented to the Commission for discussion as well as to provide general direction to staff in prioritizing legislative topics of interest going forward.

Review | First Year of 2023-2023

The first year of the current legislative session proved largely quiet with respect to LAFCO statute and marked by CALAFCO co-sponsoring only one item – Assembly Bill (AB) 1753. This legislation ultimately passed the Legislature and signed by the Governor and makes relatively minor technical changes to LAFCO statute as part of the annual omnibus bill co-sponsored by Assembly Committee on Local Government. Most materially, this includes updating noticing requirements for LAFCO in transmitting adopted resolutions to allow for e-mail deliveries. No other material changes to LAFCO statute were passed.

Notwithstanding the above comments, a substantive change indirectly impacting San Diego LAFCO involved the passage AB 399 by Tasha Boerner (Encinitas) and changes to the County Water Authority Act. AB 399 now requires confirmation votes from the majority of registered voters throughout the entirety of the San Diego County Water Authority’s jurisdictional boundary for any detachment proposal involving any of its member agencies. The legislation was sponsored by the City of San Diego and introduced late in the first year via a gut-and-amend procedure and done so in response to Fallbrook and Rainbow’s coordinated proposals to detach their jurisdictional boundaries from the County Water Authority. The legislation initially included an urgency clause to allow its provisions to take immediate effect and apply to Fallbrook and Rainbow. The urgency clause – however – was removed due to opposition and means AB 399 applies only prospectively going forward should any other member agency file for detachment.

Preview | Second Year of 2023-2024

CALAFCO’s Board met on November 3, 2023 to consider legislative priorities for the second year and was preceded by soliciting proposal requests by individual LAFCOs. The CALAFCO Board proceeded to prioritize three legislative projects in 2024 as summarized below.

- CALAFCO has agreed to co-sponsor a new omnibus bill with the Assembly Committee on Local Government involving technical edits and/or improvements to LAFCO statute. CALAFCO is currently soliciting requests from all 57 member LAFCOs.¹
- CALAFCO has agreed to continue work in advancing an earlier proposal by San Diego LAFCO to make explicit LAFCOs’ exclusive authority in statute to determine exemption eligibility involving out-of-agency service approvals under Government

¹ All 58 counties’ LAFCOs are members of CALAFCO with the lone exception of Kern.

Code 56133. This proposal was initially submitted by San Diego LAFCO in 2018 and ties to legislation added in 2001 by former Commissioner and Assemblymember Mike Gotch to direct local agencies to receive approval from LAFCOs before providing services by contract outside their boundaries. Limited exemptions are provided in statute, such as contracts between public agencies when the subject services are equal substitutes for services already provided. In most instances, local agencies defer to LAFCOs in determining exception eligibility on a case-by-case basis and in doing so comply with statute intent. However, and as experienced in San Diego County, some local agencies will proceed to self-exempt out-of-agency service arrangements that otherwise merit LAFCO review and lead to subsequent conflicts – including with other cities and special districts.

- CALAFCO has agreed to continue work in advancing an earlier proposal by San Luis Obispo LAFCO to make explicit LAFCO’s statutory authority to require indemnity from applicants involving changes of organization and reorganization proposals and other related actions. These efforts are due in part from the recent California Court of Appeals in the case of *San Luis Obispo LAFCO v. City of Pismo Beach*. Notably, the court surmised it was not the authority of San Luis Obispo LAFCO to require indemnification by the applicant as a condition for processing an application with LAFCO.

ANALYSIS

The first year of the 2023-2024 legislative session proved generally quiet for LAFCOs with the local exception of the development and ultimately passage of AB 399. Concerns with the legislation – however – were substantively mooted prior to its passage with the removal of the urgency clause making it no longer apply to Fallbrook and Rainbow’s detachment proposals and associated approvals by the Commission in late 2023. Pivoting forward, staff anticipates the second year will also be relatively quiet with the notable and hopeful exception that CALAFCO can make progress in advancing the Commission’s standing request to amend Government Code 56133 as described.

RECOMMENDATION

This item is presented to San Diego LAFCO for information with the opportunity for general feedback.

ALTERNATIVES FOR ACTION

None.

PROCEDURES

This item has been placed on the San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

Respectfully,



Carolanne Ieromnimon

Analyst II

Attachments: none