

MEMORANDUM

DATE: October 28, 2015
TO: LAFCO Commissioners
FROM: Sara Lytle-Pinhey, Executive Officer
SUBJECT: Legislative Update

RECOMMENDATION

This Legislative Update is being provided for the Commission's information only. It is recommended that the Commission receive and file this report.

DISCUSSION

The following highlights recent legislation of interest to Stanislaus LAFCO:

Water System Consolidations

SB-88 (Committee on Budget & Fiscal Review)

QUICK SUMMARY:

The State Water Resources Control Board (SWRCB) is empowered to order consolidations of certain water systems or extensions of water service. The goal is to consolidate failing systems serving disadvantaged communities with neighboring, more reliable water systems. The act of consolidating water districts or providing services outside an existing agency's boundaries bypasses the existing LAFCO process.

This law authorizes the State Water Resources Control Board (SWRCB) to order consolidation of water systems where a public water system or state small water system within a disadvantaged community consistently fails to provide an adequate supply of safe drinking water. It also allows the SWRCB to order service extensions to areas that do not have access to safe drinking water, so long as the extension is an interim measure in preparation for consolidation of the two water systems.

Prior to ordering a consolidation, the SWRCB must make certain determinations, conduct a public hearing in the affected territory, and "consult with and fully consider" input from the relevant LAFCO as well as the city or county with land use authority in the area. Entities are allowed six months to find workable solutions before the SWRCB mandates the action.

The new law also suggests that the SWRCB will offer funding "as necessary and appropriate" for the costs of completing the consolidation or extension of service. SWRCB will be responsible for payment of LAFCO application fees for the consolidation. Although LAFCO

would be required to process the documents to finalize the consolidation, it would have no discretion as part of the process.

CALAFCO has been meeting with the SWRCB to draft potential clean-up legislation, as there are parts of the SB-88 consolidation process that remain unclear.

IMPLICATIONS FOR STANISLAUS LAFCO:

SWRCB has indicated that this new law is intended to remedy situations where no other feasible alternative exists. Stanislaus LAFCO regularly processes out-of-boundary requests to address health and safety needs pursuant to existing law and will continue to do so. These requests have all involved willing service providers with agreements or contracts between the service provider and recipient. It appears that SB-88 would allow the SWRCB to require provision of services where an agency is unwilling to serve an area in need. Staff will continue to monitor the implementation of this bill and any clean-up legislation that arises.

Fire Service Contracts

SB-239 (Hertzberg)

QUICK SUMMARY:

Certain fire agency contracts or agreements for service outside an agency's jurisdictional boundaries will require LAFCO review as of January 1, 2016. As part of the application to LAFCO, the agency must also prepare an independent fiscal analysis.

Existing law (Government Code Section 56133) permits a city or district to provide extended services outside its jurisdictional boundaries only if it first requests and receives written approval from the LAFCO in the affected county. Contracts or agreements for extension of service from one public agency to another (where the service is already being provided by each) were previously exempt from LAFCO review. SB-239 changes that exemption, requiring LAFCO approval for fire protection contracts that involve provision of fire services outside a public agency's jurisdictional boundaries. This is required for applications that either (1) transfer greater than 25% of the service area or (2) change the employment of status of more than 25% of employees of any affected agencies. Prior to submitting the application for service extension, all affected agency employee unions must approve the request and conduct a public hearing or have been provided a 30-day notice of the public hearing to the affected agency and affected employee unions.

IMPLICATIONS FOR STANISLAUS LAFCO:

There are multiple fire agencies within Stanislaus County that currently function under contracts with other agencies. These would remain, however, any new or extended contract meeting the requirements under SB-239 would require LAFCO review and preparation of a fiscal analysis. The new LAFCO approval process will increase the timeframe and costs for those agencies considering contracts.

Sustainable Groundwater Management Act (SGMA) & Follow-Up Bills

SB-1168 (Pavley), AB-1739 (Dickinson), & SB-1319 (Pavley) - Chaptered in 2014
AB-617 (Perea), AB-1390 (Alejo), SB-13 (Pavley), SB-226 (Pavley) - Chaptered in 2015

QUICK SUMMARY:

This combination of bills directed the creation of Groundwater Sustainability Agencies (GSAs), identifying their powers related to groundwater management and requirements for the adoption of Groundwater Sustainability Plans.

The initial legislation required LAFCOs to approve the formation of GSAs and to do so within a compressed timeframe. The Act no longer requires LAFCOs to approve GSAs, but there is still an open question as to whether there may be LAFCO involvement in the future.

CALAFCO tracks numerous bills throughout the legislative year that may potentially impact LAFCOs and continues to track groundwater legislation of interest, including additional follow-up bills that were chaptered in 2015:

- AB-617 Allows private mutual water companies to join GSAs and allows the GSAs to enter into partnerships
- AB-1390 Streamlines the adjudication process
- SB-13 Authorizes the SWRCB to designate a high-or-medium priority basin as a probationary basin
- SB-226 Additional provisions to streamline the adjudication process

IMPLICATIONS FOR STANISLAUS LAFCO:

Although the Act no longer requires LAFCO to approve GSAs, there may be an increased demand for annexations or formations of new special districts in areas currently located outside of an irrigation or water district in Stanislaus County.

LAFCO Omnibus Bill

AB-1532 (Committee on Local Government)

Each year, CALAFCO sponsors an omnibus bill, intended to make non-controversial improvements to the Cortese-Knox-Hertzberg (CKH), such as minor clarifications and corrections to outdated code references. This year's omnibus bill, AB-1532, was signed by the Governor on July 15th. The bill includes clarifications regarding "updating" a sphere of influence, a correction to an outdated reference to the State Department of Health Care Services, and clarification to language regarding terminating proceedings.