



California Association of Local Agency Formation Commissions

Legislative Committee SUMMARY MINUTES

Date 18 November 2011, 10:00 am to 2:30 pm

Location BB&K, San Diego

Attendees *Members:* Clark Alsop (Counsel), Kris Berry, Marjorie Blum*, Bob Braitman*, Scott Browne*, Bill Chiat (Chair), David Church*, Carole Cooper, Harry Ehrlich (Vice Chair), Carolyn Emery*, **Kay Hosmer**, **Juliana Inman***, Steve Lucas*, Paul Novak, **Ted Novelli***, Neelima Palacherla, Kathleen Rollings-McDonald, Keene Simonds, **Stephen Souza***, George Spiliotis, Lou Ann Texeira, **Andy Vanderlaan**, Susan Vicklund Wilson

Others: Rich Bottarini*, José Henríquez*, Mike Ott, Bill Smith

*participated by phone

Recorder Bill Chiat

1. **Agenda Review.** A quorum was determined to be present at 10:04 and the agenda was reviewed. One addition was 4k – Sphere Updates from Scott Browne (see item 16 below).

2. **Protest Provisions.**

Bill Smith and Mike Ott reviewed the draft proposed legislation with comments. Committee reviewed each section and provided suggestions and proposed revisions. There was significant discussion regarding §57077.1 and the impact from the passage of AB 912.

ACTION: 1) Bill Smith will revise the proposed language based on Committee comments. Draft will be circulated to Committee members the week of 12 December for a week of review and comments from Committee members. Members are asked to use the “reply all” feature to share comments. Following the review period Bill Smith will make any final changes to the draft. Bill Chiat will then begin the process of sharing the draft with stakeholders, including the Assembly Local Government Committee. The goal is to include the language as part of the 2012 Omnibus.

2) Bill Chiat will meet with Assembly Member Gordon about clarifying language to AB 912 that would specify that the language in §57077 applies to hospital districts as indicated in the Senate analysis of AB 912. This may be part of the Omnibus bill or a broader amendment to AB 912 language (see later action item). Committee proposed adding §57103 to the notwithstanding language in §57077(b):

(b) Notwithstanding subdivision (a), ~~of Section 57102,~~ or Section 57103, if a change of organization ...

3. **Expansion of §56133 Authority.** Keene reported on outreach efforts with member LAFCoS. Two small comments were received along with a letter of support. One LAFCo (Santa Barbara) was reported to have taken an oppose position, and several LAFCoS expressed concerns at the annual meeting but no correspondence has been received. Committee felt it was important to move forward, but at the same time felt it was important to secure input and concerns from members.

MOTION: Engage stakeholders now and see what comments or concerns are raised. Consider feedback at 20 January meeting and determine whether to proceed in 2012 or wait until 2013 (m/Simonds, s/Rollings-McDonald). A friendly amendment was made and accepted to e-mail the packet to member LAFCoS and let them know we are going out for comment and again request any comments from LAFCoS (Vicklund Wilson). The motion as amended was adopted unanimously.

ACTION: Bill Chiat will circulate to member LAFCoS in November and to stakeholders in December requesting comments in January.

4. **Revisions to Waiver of Notice and Protest Proceedings.** Committee reviewed work of subcommittee. Several suggestions were made to clarify the proposed language. The Committee believes the proposed language is a clarification of current law, reflects the practice of many LAFCoS, and eliminates unnecessary confusion and the requirement for meaningless protest hearings.

MOTION: Submit the revised language for the Assembly Local Government Committee Omnibus bill. (m/Browne, s/Hosmer, unanimous)

ACTION: Neelima to revise proposed language based on Committee input and submit to Harry for Omnibus Bill.

5. **Assembly Local Government Committee Omnibus Bill.** There are currently five items proposed for the Bill:
 - a. Clarify “registered voters” rather than “residents” in §56375(a)(8)(ii) as a result of enactment of AB 244.
 - b. Clarify agencies subject to LAFCo SOI in §56425(a)
 - c. Correct an incorrect reference in §56658(b)
 - d. Repeal an outdated moratorium on submittal of reorganizations from Goleta Sanitary District and Goleta West Sanitary District. Moratorium expired in 2003 (§56854©).
 - e. Correct a wording omission in R&T §99(b)(3)
 - f. Protest Provisions (see item 2 above)
 - g. Revisions to Wavier of Notice and Protest Proceedings (see item 4 above)
 - h. Transfer of principal county for determination of sphere of influence (see item 10 below)

ACTION: Harry to submit omnibus items to Assembly Local Government Committee with the exception of Protest Provisions pending committee review.

6. **Island Annexations without Protest Sunset.** Committee discussed 1 January 2014 sunset . Before proceeding on any legislation Lou Ann agreed to poll LAFCoS on the number of outstanding island annexations that might occur if the sunset is extended, and the number that might occur if the size is increased from 150 to 300 acres.
7. **Extension of Services to Unserved Areas Sunset.** Committee chose to take no further action on this sunset (January, 2013)
8. **Update of Revenue & Tax Code §99.** While the Committee agreed this section needs much attention, there was question whether this is primarily a LAFCo issue, or more of a city issue. There are concerns regarding languishing applications because the city and county have not agreed to a tax exchange. There was discussion about adding a termination date to negotiations, which LAFCo could extend. At this time the Committee felt it was not worth expending CALAFCO capital. Bill will discuss with the League to determine their level of interest.

ACTION: Lou Ann agreed to poll LAFCoS on their experience with the Rev & Tax Code and possible interest in modifying the code.

9. **Expansion of AB 912 Authority.** Committee agreed that the 912 authority in §57077 should be expanded to include situations when there is a dissolution of one or more agencies as allowed in §57077 and annexation to another district. This is identical to authority as currently provided in §57114.

MOTION: Amend §57077(b) as indicated below to include reorganizations of a dissolution and annexation. (m/Palacherla, s/Novak, unanimous)

ACTION: Bill to discuss legislation with Assembly Member Gordon.

NOTE: Language below includes both the expansion of 912 authority in item 9 and the clarification regarding hospital districts from item 2 above.

(b) Notwithstanding subdivision (a), ~~of Section 57102, or Section 57103,~~ if a change of organization consists of the dissolution of a district, or the dissolution of one or more districts and the annexation of all or substantially all of their territory, that is consistent with a prior action of the commission ...”

10. **Modification of SOI Update and Timing.** Bill continues to work with HCD to seek legislation to tie these with the 8-year housing cycle.
11. **Transfer of Principal County for SOI.** Committee agreed that the SOI of a multi county agency should be determined by the LAFCo in which the territory lies. The Committee would like to see SOI added to the provisions in §56124.

MOTION: Amend §56124 as indicated below to include SOI. (m/Rollings-McDonald, s/Vanderlaan, unanimous)

56124. If a change of organization or a reorganization, or a sphere of influence change, applies to two or more affected counties ...”

ACTION: Harry and Bill to discuss with stakeholders and add to Omnibus Bill.

12. **Name Change for LAFCos.** Committee agreed to study this proposal further.

MOTION: Create a working group to study issue and determine potential names as proposed in staff report. (m/Simonds, s/Vanderlaan, unanimous)

ACTION: Committee Members: Keene Simonds (convener), Bob Braitman, Mike Ott, Paul Novak, Kay Hosmer.

13. **Clarification of Districts Subject to LAFCo.** Committee chose not to take any action on this proposal.

14. **LAFCo as Eligible Agency for SGC Grants.** Committee agreed to seek legislation to add LAFCo as an eligible agency.

MOTION: Add LAFCo as an eligible agency to seek Strategic Growth Council grants for preparing municipal service reviews and sphere of influence plans used in regional transportation plans and sustainable community strategies. (m/Lucas, s/Cooper, unanimous)

ACTION: Bill will discuss with Assembly Local Government Committee about possibility as a committee bill. Steve Lucas to draft language.

15. **Require Agencies to Respond to MSRs.** Committee agreed this would be a valuable step to increase the value and application of MSRs.

MOTION: Require affected agencies to respond to LAFCo determinations and recommendations contained in a municipal service review in a similar manner as grand jury reports. (m/Teixeira, s/Vicklund Wilson, unanimous)

ACTION: Bill will seek a sponsor for this bill.

16. **Sphere Updates.** Committee discussed problems with §56425(b) regarding a “application” for a sphere update. Scott will draft language for Committee consideration in January.

17. **California Forward Initiative.** No action was taken. Committee members will continue to study and determine if any CALAFCO action is appropriate.

18. **CALAFCO Legislative Policies.** Committee made several minor language changes that Bill will incorporate into a recommendation to the Board of Directors.

The meeting was adjourned at 2:30 p.m. Next meeting is Friday, 20 January 2012 at the BB&K offices in Sacramento.



California Association of Local Agency Formation Commissions

Legislative Committee SUMMARY MINUTES

Date 20 January 2012

Location BB&K, Sacramento

Attendees *Members:* Clark Alsop (Counsel), Kris Berry, Marjorie Blom, Bob Braitman, Scott Browne*, Bill Chiat (Chair), Carole Cooper, Harry Ehrlich (Vice Chair), Carolyn Emery*, **Juliana Inman**, **John Leopold**, Steve Lucas*, **Ted Novelli***, Neelima Palacherla, Mona Palacios*, Kathleen Rollings-McDonald, Keene Simonds, **Stephen Souza***, George Spiliotis*, Lou Ann Texeira, **Susan Vicklund Wilson***

Others: Roseanne Chamberlain, Christine Crawford, Kim Uhlich

*participated by phone

Recorder Bill Chiat

1. **Agenda Review.** A quorum was determined to be present at 10:03 and the agenda was reviewed. One additional item was added: 6.5 – AB 54 Requirements for Maps to LAFCo.
2. Minutes – 18 November 2011. **MOTION:** Approve minutes as amended (item 5h should refer to item 11 not 10). (m/Braitman, s/Rollings-McDonald, unanimous)
3. **CALAFCO Legislative Priorities.** Discussion only. No action taken.
4. **Status on LAFCo-Related Legislation.** Received report. No action taken.
5. **2012 Assembly Omnibus Bill.** Received report. No action taken.
6. **Legislative Committee Bills, Projects and Reports.**

- a. **56133 Extension of Services.** Committee reviewed the letters received from LAFCos and the comments from the Assembly Local Government Committee.

MOTION: Return the proposal to the Board with the comments received from LAFCos. Affirm continued support from the Board. Discuss with Board whether to introduce this year or support if someone else introduces. (m/Leopold, s/Novelli, unanimous)

MOTION: Adopt the recommendations from the Assembly Local Government Committee staff with two modifications: 1) to (c)(2)(A) add “... *in a municipal service review prepared by the commission within the past five years pursuant* ...”; and 2) retain the word “later” as it is the current wording. (m/Leopold, s/Novelli, unanimous)

- b. **Modifications to SB 244.** Committee reviewed the proposal from the League of Cities to repeal §56375(a)(8), the DUC annexation language. Committee members expressed concern that the rationale for annexations as presented by the League is inaccurate. There may be other critical reasons for an annexation other than service extensions. Committee members do not agree that out-of-agency service extensions are a substitution for annexation.

MOTION: Take a watch position on the League proposal, reassess as the process continues, and continue to participate in the negotiations. (m/Leopold, s/Novelli, unanimous)

- c. **Transfer of Principal County for SOI.** Some special districts indicated concern they were not consulted in the decision to transfer SOI authority, and requested an amendment to require their approval before a transfer is authorized. Committee members were open to add language requiring consultation with subject agency.

MOTION: Work with interested agencies on language to require LAFCo consultation with subject agencies and consideration of their position prior to the principal commission approving a transfer of SOI authority. Strive for a consensus to place in Assembly Omnibus. (m/Rollings-McDonald, s/Braitman, unanimous)

Harry Ehrlich volunteered to contact CSDA to discuss possible language changes to achieve a solution.

- d. **LAFCo as an Eligible Agency for SGC Grants.** Staff is working to add LAFCos as an eligible agency in an Assembly Local Government Committee Bill. There may be some resistance.

MOTION: Support legislation if part of a Committee bill but do not pursue separate legislation. (m/Lucas, s/Novelli, unanimous)

- e. **Expansion of AB 912 Dissolution Authority.** Committee discussed applicability to health care districts and additional authority for dissolutions which include a reorganization.

MOTION: Continue to next session. (m/Leopold, s/Braitman, one opposed-Teixeira)

- f. **Waiver of Notice and Protest Proceedings.** Committee discussed proposed changes to the proposal. The proposed language is currently out to all LAFCos for comment. Committee extended its appreciation to Neelima, Carole, Kathy, George, Scott and Carolyn for their work on this proposal.

MOTION: Adopt language changes proposed by work group. (m/Palacherla, s/Leopold, unanimous)

MOTION: Following review at March meeting of any comments from LAFCos proceed with seeking inclusion in the Omnibus Bill or as a Committee Bill. Otherwise hold for introduction next session. (m/Palacherla, s/Leopold, unanimous)

Harry will check with Bill Smith to ensure there are no conflicts with the protest provisions language.

- g. **Revenue and Tax Code §99 Revision.** Committee discussed lack of significant interest from LAFCo survey. It also considered the need to address some of these issues as part of the upcoming 2015 sunset of one of the provisions.

MOTION: Table for two years and revisit in 2014 as part of discussion of the sunset of the mandatory consultation-mediation-arbitration process for property tax exchanges. (m/Teixeira, s/Braitman, unanimous)

- h. **Island Annexation Provisions.** Committee discussed removing the sunset on island annexations entirely. Committee discussed there are still pending Attorney General opinions related to substantially surrounded and island annexations.

MOTION: propose legislation next session to remove the sunset, or as a backup, to extend the sunset seven years. (m/Teixeira, s/Ehrlich, unanimous)

- i. **Modification to SOI Update and Timing.** No action to be taken.
- j. **Require Agencies to Respond to MSRs.** A number of LAFCos have already implemented strategies to require responses from agencies on MSR recommendations (Santa Clara and Contra Costa LAFCos were highlighted). Committee recommended this as a good practice topic for an upcoming conference or workshop. No other action was proposed.
- k. **Renaming Commissions.** This item will be presented to the Board of Directors as a policy and association strategy issue prior to any further action. No action was taken.

6.5 **AB 54 Mutual Water Company Implementation.** Committee discussed the new requirements for mutuals to provide maps to LAFCo and to respond to LAFCo requests for information. There was also discussion on best practices to identify mutual in each county.

ACTION: Kathy Rollings-McDonald and Bob Braitman to prepare an article for *The Sphere* on requirements and practices to identify mutuals. No other action was taken.

- 7. **LAO Review of Special Districts and LAFCo.** Committee members reviewed the report. Given that no legislation or further action is anticipated on the report at this time, no further action was recommended or taken.
- 8. **OTHER ITEMS: Sphere Updates.** Committee discussed problems with §56425(b) regarding an “application” for a sphere update. Scott Browne will draft language for Committee consideration in March.

The meeting was adjourned at 1:30 p.m. Next meeting is Friday, March 16th, 2012 in Oakland at the Alameda County offices: 1401 Lakeside Drive, Conference Room 1107.

LAFCO

Santa Barbara Local Agency Formation Commission

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February 17, 2012

William S. Chiat
Executive Director
CALAFCO
1215 K Street, Suite 1650
Sacramento CA 95814-3945

Proposed Amendments to Section 56133

The Environmental Defense Center has provided us with its February 8 letter to the CALAFCO Board of Directors regarding proposed revisions to Government Code Section 56133 pertaining to “out of agency” services. By copy of this letter I am submitting that letter to the members of the Santa Barbara LAFCO.

CALAFCO is aware the Santa Barbara LAFCO does not support amending Government Code Section 56133 as presently proposed. The November 18 Legislative Committee minutes note:

Expansion of §56133 Authority. Keene reported on outreach efforts with member LAFCOs. Two small comments were received along with a letter of support. One LAFCO (Santa Barbara) was reported to have taken an oppose position, and several LAFCOs expressed concerns at the annual meeting but no correspondence has been received. Committee felt it was important to move forward, but at the same time felt it was important to secure input and concerns from members.

Enclosed for your file is an excerpt from the minutes of the November 3, 2011 Santa Barbara LAFCO meeting when this legislative matter was considered.

Please let me know if you have any questions or would like to discuss.

Sincerely,



BOB BRAITMAN
Executive Officer

Bill Chiat
February 17, 2012
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cc: Each Member of the Commission
Keene Simonds, Executive Officer, Napa LAFCO
Christina McGinnis, Environmental Defense Center

Excerpt from approved minutes of Santa Barbara LAFCO meeting of November 3, 2011:

CALAFCO-proposed amendments to Government Code Section 56133

The Executive Officer introduced this matter and provided a history of Government Code Section 56133 pertaining to local agencies providing services outside their boundaries.

Keene Simonds, Executive Officer of Napa LAFCO and chair of the CALAFCO legislative subcommittee that reviewed Section 56133 provided an explanation of the changes being proposed by CALAFCO.

Testimony was received from William Rosen representing Goleta Water District, Craig Geyer and Steve Amerikaner representing Goleta West Sanitary District, Craig Murray representing Carpinteria Sanitary District and Jeff Kerns representing Montecito Sanitary District.

The following correspondence was received into the record: City of Lompoc (October 19, 2011), Carpinteria Sanitary District (October 25, 2011), Goleta West Sanitary District (October 26, 2011), Embarcadero Municipal Improvement District (October 26, 2011), Santa Ynez Community Services District (October 26, 2011), Goleta Sanitary District (October 28, 2011). Received at the meeting were written remarks submitted by Bill Rosen, President of the Board of Directors of the Goleta Water District.

After due consideration, upon motion by Moorhouse, second by Farr, the Commission accepted the report and determined not to support the proposed legislative changes.

Ayes: Alvarez, Farr, Moorhouse, Wolf
Noes: Orach, Schlottmann, Short
Abstain: None



February 8, 2012

CALAFCO Board, c/o
Mr. William Chiat, Executive Director, CALAFCO
California Association of Local Agency Formation Commissions
1215 K Street, Suite 1650
Sacramento, CA 95814

Re: Agenda Item 6(c), Proposed Revisions to LAFCo Law – Out of Agency Services
(Government Code §56133)

Dear Mr. Chiat:

This letter summarizes the Environmental Defense Center's (EDC) comments regarding the CALAFCO Legislative Committee and Board of Directors' potential support of legislation to expand LAFCo authority to extend services outside boundaries and spheres for reasons other than health and safety. EDC protects and enhances the environment through education, advocacy and legal action. Our service areas include Santa Barbara, Ventura, and San Luis Obispo. EDC is concerned about the proposal for numerous reasons, including its land use implications and the lack of stakeholder outreach in developing the proposal, as described in detail below.

1. Potential Land Use Issues.

CALAFCO is considering legislation to amend Government Code §56133 and its provisions governing LAFCo approval for cities and districts to provide new and extended services outside boundaries. As noted in the February 8th Staff report to the Board, three key changes underlie this proposal as follows:

1. Expand LAFCo's existing authority to approve new and extended services beyond an agency's sphere of influence if consistent with adopted LAFCo policy, to "support existing or planned uses involving public or private properties." No requirement for a threat to health or safety is required.

Approval must be given at a noticed public hearing and must include the following determinations:

- a. The extension of service(s) or service deficiency was identified and evaluated in a Municipal Service Review prepared by the Commission;

- b. The effect of the extension of service(s) “would not result in adverse impacts on open space or agricultural lands or result in adverse growth inducing impacts”; and
 - c. A later change of organization is not feasible or desirable based on the adopted policies of the Commission.
2. Give sole discretion and application of the section to the LAFCo in the county in which the extension of service is proposed.
 3. Focus on the approval of extension of service(s) instead of contracts/agreements involving the public agency which would be providing the service(s) and the recipient of the service.

The extension of services has always been an important measure and physical manifestation of how, when and where cities can grow. Given LAFCo’s mandate to provide for orderly growth and development, preserve agricultural lands, discourage urban sprawl, and assure efficient local government services, it is unclear how the expansion of individual authority to extend urban services outside of health and safety reasons would be in alignment with these priorities. The inclusion of item (b) above is helpful, but additional findings should be added. This proposal has serious implications for the potential conversion of agricultural land throughout the state. Once urban services are extended, growth generally follows.

A good example of this is currently occurring in the unincorporated area of Lompoc, adjacent to the City of Lompoc boundary, for Bailey Avenue. This area, consisting of 270 acres of prime agricultural land in active production, contains a sewer line extension that was completed (and grandfathered in) prior to the health and safety requirements for services extensions in Government Code §56133. This sewer extension is now being used to argue for the City’s expansion into this area, which would convert this highly productive farmland. While there may be a means to include provisions in the proposal to address these types of concerns for extensions of services outside of approved SOIs, the current findings are inadequate and could be too broadly interpreted. *Only with broad stakeholder input and refinement of the proposal can these types of concerns be addressed, if at all.*

Providing LAFCo with expanded authority to allow service extensions in very specific circumstances would measurably strengthen a LAFCo’s ability to authorize growth outside of existing and approved SOIs. This is a major concern, particularly given the inconsistent manner in which various LAFCos operate and interpret policies applicable to them. Since the changes will provide LAFCo more flexibility and authority in allowing service extensions lying beyond existing spheres of influence, potential land use implications must be considered and addressed. Of particular concern are the following examples of expanded authority that LAFCos would obtain with the proposal as noted in the February 10th staff report:

- LAFCo would have the authority, subject to making certain findings, to approve new or extended outside services beyond spheres of influence *for private uses supporting permitted intensity increases, such as residential construction or commercial additions (emphasis added)*.
- LAFCo would avoid delays and other transaction costs tied to disagreements with agencies regarding the constitution of “new” and “extended” services as well as determining when exemptions apply. Notably, this includes determining when a contract service proposed between two public agencies qualifies for exemption if it is “consistent with the level of service contemplated by the existing provider.”
- LAFCo would have the authority, subject to making certain findings, to approve new or extended outside services beyond boundaries and spheres of influence to provide water, wastewater and fire protection services to disadvantaged unincorporated communities where it has been determined the community will not annex into the affected city or district.

The proposed revisions purport to establish LAFCo as the sole authority in determining the application of the statute and deemphasize the approval of contracts or agreements in favor of service extensions. By providing significantly broader authority for LAFCos to approve service extensions beyond SOIs in support of urban development, the proposed revisions could render SOIs moot as probable service area boundaries.

2. Lack of Stakeholder Outreach or Input. The potential legislative amendments that CALAFCO is considering have not been discussed or vetted with outside stakeholders, including the agricultural and environmental community. As the staff report for the February 10th Board meeting acknowledges, CALAFCO staff was asked to circulate the draft to outside stakeholders for comment to gauge the level of support or opposition to the proposal. While the proposed language has been circulated to all LAFCos only four letters have been received in response, (two in support, one in opposition, and one requesting additional information). Thus more time appears to be necessary for all LAFCos to review and respond to the proposal. It is of particular note that CALAFCO staff has been holding extensive meetings with the League of Cities, Building Industry Association and the California Rural Legal Assistance Foundation, but has evidently omitted many other important stakeholders from these meetings. There are many groups that should be included in these outreach efforts, such as the California Farm Bureau, League of Women Voters, Environmental Defense Center, Citizens Planning Association, SOAR, the Agricultural Futures Alliances throughout the State, and other environmental groups.

General support for the proposal was apparently stated at the 20 January 2012 Legislative Committee meeting. However, as the February 10th staff report to the Board states, “because there are some concerns from members and other stakeholders may have an interest, the Committee voted to return the proposal to the Board to affirm continued CALAFCO support.” Given this juncture and the glaring omission of input from numerous interested stakeholders, as well as from all LAFCos in the state, consideration

of this proposal by the CALAFCO Board on this critically important issue is simply premature. A bill should not be introduced (or supported) until extensive stakeholder outreach has been *conducted and considered* by the Committee.

Conclusion

In recognition of the problems described above, Santa Barbara LAFCo and Ventura LAFCo have both voted to oppose the proposed revisions. We support their opposition, and urge the Board to similarly oppose this proposal. At a minimum, the Board should defer supporting any revisions until all stakeholders have had an opportunity to review and provide input to CALAFCO. We look forward to coordinating with CALAFCO regarding the details and impacts of any proposed revisions to Government Code §56133. The protection of orderly growth boundaries and agricultural land, and the avoidance of urban sprawl, are the reasons LAFCo was created, and this proposal must be carefully reviewed in light of this mission. Please feel free to contact me at 963-1622 x113 with any questions.

Best Regards,

via e-mail

Christina McGinnis
OPEN Program Director, Environmental Defense Center