

STAFF REPORT
Meeting Date: May 19, 2004

Agenda Item 9

TO: LAFCO Commissioners
FROM: Everett Millais, Executive Officer
SUBJECT: Position on AB 2306 (Richman)

RECOMMENDATION:

Either:

A. If the Commission decides to maintain its existing policy relating to Annexation of Unincorporated Island Areas By Cities, adopt a position in opposition to AB 2306 (Richman), including authorizing the Chair to send letters of opposition to Assembly Member Richman, all local state Senators, all members of the Senate Local Government Committee, CALAFCO, the League of California Cities and the California State Association of Counties (CSAC), and request that the Ventura County Board of Supervisors also formally oppose the bill and request that CSAC take a position in opposition to the bill.

Or

B. If the Commission decides to substantially modify or repeal its policy relating to Annexation of Unincorporated Island Areas By Cities, support CALAFCO's position on AB 2306.

DISCUSSION:

A copy of AB 2306 (Richman) is attached along with a copy of the bill analysis prepared by the Assembly Local Government Committee staff. The bill was substantially amended on April 22, after the last Ventura LAFCO meeting, and passed the Assembly on May 10

COMMISSIONERS AND STAFF

COUNTY: Kathy Long Linda Parks <i>Alternate:</i> Steve Bennett	CITY: Evaristo Barajas, Chair Don Waunch <i>Alternate:</i> John Zaragoza	SPECIAL DISTRICT: Jack Curtis, Vice Chair Dick Richardson <i>Alternate:</i> Ted Grandsen	PUBLIC: Louis Cunningham <i>Alternate:</i> Kenneth M. Hess
EXECUTIVE OFFICER: Everett Millais	LAFCO ANALYST: Hollie Brunsky	OFFICE MANAGER/CLERK: Debbie Schubert	LEGAL COUNSEL: Noel Klebaum

by a 72 –0 vote (before the May 19 LAFCO meeting). It will be scheduled for consideration in the Senate in the near future.

Assembly Member Richman introduced AB 2306 at the request of the City of Simi Valley and GreenPark Companies, the developer of the Runkle Canyon project in the City of Simi Valley, who oppose the Ventura LAFCO's policy relating to the Annexation of Unincorporated Islands By Cities. The Ventura LAFCO is the only LAFCO in the state with such a policy and AB 2306 would prohibit the Ventura LAFCO, and any LAFCO, from requiring an annexing local agency to initiate proceedings for a change of organization or reorganization of territory that was not contained in the local agency's annexation proposal.

The Ventura LAFCO has an unofficial policy of endorsing CALAFCO's positions on pending legislation unless there is some special aspect of a bill that is of strong local concern. Due to the genesis of AB 2306 and its direct impact on a Ventura LAFCO policy, it is appropriate for the Ventura LAFCO to take a formal position on the bill.

The recommendations about a position on AB 2306 are directly related to actions the Commission may take as a part of its review of the policy relating to Annexation of Unincorporated Island Areas By Cities. If the Commission decides to maintain its existing island annexation policy, or any similar policy that provides for the Commission to possibly condition a change of organization or reorganization upon the initiation of qualifying island areas pursuant to Government Code Section 56375.3, recommendation option A would be appropriate. Since the bill has passed the Assembly, any position in opposition will need to be directed to members of the Senate. Because counties must typically bear the increased costs resulting from the inefficiencies of providing services to unincorporated island areas, it is appropriate to request both the County of Ventura and CSAC to join with the Ventura LAFCO in opposition to AB 2306.

If the Commission decides to substantially amend or repeal its policy relating to Annexation of Unincorporated Island Areas By Cities, recommendation option B would be appropriate and consistent with the Ventura LAFCO's general policy on pending legislation. In this case the bill would relate to LAFCOs in general, but would no longer directly affect any local policy. CALFCO has taken a position in opposition to AB 2306 as it affects all LAFCOs. However, if the Ventura LAFCO substantially changes or repeals its island annexation policy and since no other LAFCO has a similar policy, the bill will not have any immediate, practical meaning or impact.

Attachments:

- A. AB 2306 (Richman) as passed by the Assembly
- B. AB 2306 Bill Analysis

Attachment A

AMENDED IN ASSEMBLY APRIL 22, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003-04 REGULAR SESSION

ASSEMBLY BILL

No. 2306

Introduced by Assembly Member Richman

February 19, 2004

An act to amend Section 56376.5 of the Government Code, relating to local agency reorganization.

LEGISLATIVE COUNSEL'S DIGEST

AB 2306, as amended, Richman. Local agency formation.

Existing law authorizes the local agency formation commission to make any change of organization or reorganization of cities or special districts subject to one or more of various terms and conditions but prohibits the imposition of certain conditions.

This bill would prohibit the commission from imposing a condition that requires an annexing local agency to ~~annex any other unincorporated~~ *initiate proceedings for a change of organization or reorganization of territory* that was not contained in the annexation proposal submitted to the commission by the local agency.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 56376.5 of the Government Code is
2 amended to read:

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1 56376.5. (a) The commission shall not impose any condition
2 on an annexing local agency with respect to the standards or
3 frequency of maintenance of any existing street or road within the
4 annexed territory.

5 (b) The commission shall not impose a condition that requires
6 a local agency to improve an existing public facility which is not
7 owned by the agency.

8 ~~(c) The commission shall not impose a condition that requires~~
9 ~~an annexing local agency to annex any other unincorporated~~
10 ~~territory that was not contained in the annexation proposal~~
11 ~~submitted to the commission by the local agency.~~

12 (c) *The commission shall not impose a condition on an*
13 *annexing local agency that requires the initiation of proceedings*
14 *for a change of organization or reorganization of territory that was*
15 *not contained in the annexation proposal submitted to the*
16 *commission by the local agency.*

17 (d) This section shall not be construed as authorizing a
18 commission to impose any conditions that it is not otherwise
19 authorized to impose.

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Attachment B

AB 2306 – Bill Analysis

ASSEMBLY THIRD READING
AB 2306 (Richman)
As Amended April 22, 2004
Majority vote

LOCAL GOVERNMENT 9-0

Ayes:	Salinas, Lieber, Daucher,		
	Garcia,		
	La Suer, Leno, Mullin,		
	Steinberg, Diaz		

SUMMARY: Prohibits a local agency formation commission (LAFCO) from requiring an annexing local agency to initiate proceedings for a change of organization or reorganization of territory that was not contained in the local agency's annexation proposal.

EXISTING LAW authorizes a LAFCO to:

- 1) Place specified terms and conditions on a proposal for annexation while prohibiting the imposition of other specified conditions.
- 2) Approve, without an election, the annexation or reorganization of an unincorporated island or unincorporated islands within city limits under specified conditions.

FISCAL EFFECT: None

COMMENTS: This bill is the product of a dispute between the Ventura County LAFCO and the City of Simi Valley. The Ventura County LAFCO has implemented a policy that authorizes them to condition the approval of a city's change of organization or reorganization on the initiation of proceedings for island annexations not directly related to the initial proposal. This policy was adopted to reflect the Legislature's intent that LAFCOs promote island annexations. According to the author, the City of Simi Valley is attempting to annex a portion of land for development. However, the Ventura County LAFCO's policy is preventing Simi Valley from moving forward with this proposal because the city would also be forced to annex unrelated unincorporated islands within city limits. The disputed policy is unique to the Ventura County LAFCO. This bill would make

their policy unlawful by prohibiting a LAFCO from imposing a condition that requires an annexing local agency to initiate proceedings for a change of organization or reorganization of territory that was not contained in the local agency's annexation proposal.

The Ventura County LAFCO bases their policy upon a County Counsel interpretation of a specific section of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, that authorizes LAFCO to condition the approval of an annexation proposal on "the initiation, conduct, or completion of proceedings on a proposal made under and pursuant to, this division. [LAFCO statutes]." However, a recent legal analysis of the legislative history of this specific section concludes that LAFCO is not authorized to condition reorganization proposals on annexation of other properties, including island annexations not reasonably related to the proposal. This statute was created to put the District Reorganization Act of 1965 (DRA) on equal footing with the Knox-Nisbet Act of 1963, and was added as part of a DRA clean-up measure [AB 2215 (Knox), Chapter 861, Statutes of 1975]. According to the legal analysis, at most, the Legislature envisioned DRA as having equal authority to condition boundary changes on additional necessary proposals such as formation of improvement districts, redistribution of assets, or the levying of special taxes or assessments. The Ventura County LAFCO will be reviewing and reconsidering the disputed policy at its May 19, 2004 meeting.

Supporters of this bill assert that the Ventura County LAFCO policy is stifling the ability to improve the city responsibly since there is no nexus between the unincorporated islands that LAFCO wants the city to absorb and the developable land contained in the annexation proposal. Many unincorporated islands are either economically or politically difficult to annex. Oftentimes, the residents within an island are resistant to annexation and prefer to stay in an unincorporated part of the county, or an island may be a brownfield that would require the city to invest large sums of taxpayer dollars for remediation prior to development. However, LAFCO law, in the spirit of orderly growth and development, allows a city to annex unincorporated islands in specified circumstances without going through the protest process. The author contends that the Ventura County LAFCO's interpretation of the law is overly liberal, and that this bill clarifies that LAFCOs cannot condition the approval of an annexation on the initiation of

other proceedings for the annexation of land not included in the original proposal.

Opponents are concerned about limiting the ability of a LAFCO to condition the approval of an annexation proposal on the inclusion of additional land. Common changes that LAFCOs make to annexation proposals include the addition of necessary rights-of-way, sidewalks, and easements, as well as the inclusion of territory that may have been purposefully omitted because the property owners are against the annexation. However, these changes are related to the original proposal, and would not require the initiation of other proceedings to annex unrelated territory. The opposition also notes that a qualifying annexation proposal from Simi Valley has not been presented to the Ventura County LAFCO, so there has been no opportunity to consider grievances that may warrant a waiver of their policy. Opponents believe that the problem can be solved on the local level through discussions among the interested parties about legislative intent, the application of existing statutory schemes, and the suitability of locally adopted policy.

Analysis Prepared by : Mark McKenzie / L. GOV. / (916) 319-3958

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