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SLO LAFCO - Serving the Area of San Luis Obispo County

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TO: MEMBERS, FORMATION COMMISSION

FROM: DAVID CHURCH, EXECUTIVE OFFICER

DATE: MAY 17, 2018

SUBJECT: LEGISLATIVE UPDATE – WATER BILLS

Recommendation. It is respectfully recommended that the Commission consider this Legislative Update and receive and file this report.

Water Bills. The requested that LAFCO track bills related to water resources and the provision of water service. The following bills could affect organizations and public agencies that delivery water to communities.

AB 2050 (Caballero) Small System Water Authority Act.

AB 2050 (Caballero) – CALAFCO Watch Co-sponsored by Eastern Municipal Water District (EMWD) and the CA Municipal Utilities Association (CMUA), the bill recently passed out of Assm. Environmental Safety & Toxic Materials and Assembly Local Government Committee (ALGC), and is now in Appropriations (no hearing date set yet). CALAFCO continues to work with the sponsors on this massive proposal titled the Small System Water Authority Act of 2018.

The amendments on April 17, 2018 reflect a substantial amount of CALAFCO feedback and suggestions. The bill authorizes the State Water Resources Control Board (SWRCB) to mandate dissolution of existing water service providers (public, private and mutual), and form a new public authority with all of the dissolved entities. The entities may be serving areas that are not contiguous.

The CALAFCO subcommittee reviewed the current version and provided feedback to the author's office and sponsors. A summary of that feedback is included as attachment 5b. In summary, the process steps and timing still seem off; there does not appear to be a reference to LAFCO having the authority (as mandated by the SWRCB) to dissolve a public agency (there is a process identified to dissolve a public water system, but not a public agency); a number of questions remain about the ability for LAFCO to approve formation with modifications; a lack of references to CKH and the fact none of this is codified in CKH (at the very least the special plan for service should be there somewhere); and the funding of LAFCO (a blanket statement pertaining to funding rather than a not-to-exceed dollar amount is preferred).

In addition to these concerns, the ALGC recommended several amendments during the April 25 hearing which were accepted by the author, to include changing the authority to levy civil penalties from LAFCO to the SWRCB. Further,

the ALGC had the same concern about LAFCO funding language as we do. And, one committee member discussed the need for the bill to not only be written cleaner but that the provisions within the Powers section of the statute need addressing (his concern was it was very confusing with respect to referendums).

CALAFCO is in the process of setting another meeting with the author's staff and sponsors to address our concerns. The subcommittee is seeking feedback of the full Committee so that we provide one set of conversation points.

SB 1215 (Hertzberg) Drinking Water/sewer systems-consolidation.

CALAFCO Watch with Concerns Sponsored by the Leadership Council for Justice and Accountability, this bill seeks to mirror SB 88 by granting the SWRCB authority to mandate consolidation or extension of service for wastewater services (with some minor differences).

The bill was substantially amended on April 12, 2018, with changes that address a large number of our concerns. A number of committee amendments were made and accepted at the April 25 hearing in Senate Governance and Finance Committee (SGFC). Those included: (1) Add a definition of "extension of service" as used in existing LAFCO law; (2) Clarify whether local agencies may be forced to be subsumed by another agency; and (3) Clarify application of LAFCO law to provision of sewer service under the bill. The last item was strongly suggested by CALAFCO and was inadvertently left out of the most recent amendments.

In addition to those changes, there will be clean-up regarding "consolidation" language, given the primary focus is on septic systems, which will require extension of service. There is one substantive concern remaining which is the lack of forced annexation to a city, should a city be mandated to provide the service. The bill was changed to call for a mandatory annexation into a district but left out a city annexation requirement.

AB 2501 (Chu D) Drinking water: consolidation and extension of service.

Amended April 17, 2018, this bill does several things: Redefines the term "disadvantaged community" to include a disadvantaged community that is served by a state small water system or domestic well; Authorizes the State Water Resources Control Board (SWRCB) to order consolidation with a receiving water system where a disadvantaged community is reliant on a domestic well that consistently fails to provide an adequate supply of safe drinking water; Authorizes the SWRCB to develop and adopt a policy that provides a process by which members of a disadvantaged community may petition the state board to consider ordering consolidation; and Amends the process outlined in SB 88 by, among other things, expanding the finding of the capacity of the proposed interconnection needs to also include infill sites, as defined, within the community served by the subsumed water system and residents of a disadvantaged community in existence as of the date of consolidation and that are located along the service line connecting the subsumed water system and the receiving water system.

The SWRCB notes that currently approximately 282 drinking water systems are not in compliance with drinking water standards. The author of this bill, which is sponsored by the Leadership Council for Justice and Accountability, extensively cites the 2018 report issued by UC Davis, titled *The Struggle for Water Justice in California's San Joaquin Valley: A Focus on Disadvantaged Unincorporated Communities*.

SB 623-Budget Trailer Bill-Safe and Affordable Water Fee

This bill was recently added to the budget as a “trailer bill”. This means it avoids the usual vetting by moving through the legislative process with the state budget.

Legislative Counsel’s Digest. This bill would establish the Safe and Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the state water resources board. The bill would require the board to administer the fund to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure. The bill would authorize the state board to provide for the deposit into the fund of contributions, voluntary contributions, gifts, grants bequests, and settlements from parties responsible for contamination of drinking water supplies. The bill would require the state board to expend moneys in the fund for grants, loans, contracts, or services to assist eligible applicants with projects relating to the provision of safe and affordable drinking water consistent with a fund implementation plan adopted annually by the state board, as prescribed. The bill would require the state board annually to prepare and make available a report of expenditures of the fund and to adopt annually, after a public hearing, an assessment of funding need that estimates the anticipated funding needed for the next fiscal year to achieve the purposes of the fund.

The bill would require, by January 1, 2019, the state board, in consultation with local health officers and other relevant stakeholders, to make available a map of aquifers that are used or likely to be used as a source of drinking water that are at high risk of containing contaminants. For purposes of the map, the bill would require local health officers and other relevant local agencies to provide all results of, and data associated with, water quality testing performed by certified laboratories to the board, as specified. By imposing additional duties on local health officers and local agencies, the bill would impose a state-mandated local program. By creating a new continuously appropriated fund, this bill would make an appropriation.

This bill would impose, until July 1, 2020, a safe and affordable drinking water fee in specified amounts on each customer of a public water system, to be administered by the state board, in consultation with the California Department of Tax and Fee Administration, in accordance with the Fee Collection Procedures Law. The bill would exempt from the fee a customer that self-certifies under penalty of perjury the customer’s satisfaction of specified criteria relating to income. By expanding the crime of perjury, the bill would impose a state-mandated local program. The bill would require, beginning July 1, 2020, the state board to annually determine the amounts of the safe and affordable drinking water fee not to exceed the amounts imposed until July 1, 2020, and not to exceed the anticipated funding need in the most recent assessment of funding need adopted by the state board pursuant to the Safe and Affordable Drinking Water Fund provisions, as prescribed

The bill would require the state board, by July 1, 2020, to adopt regulations, in consultation with the Public Utilities Commission, relating to an exemption from the fee for low-income households, as specified. The bill would require a public water system to collect the fee and to remit these moneys to the state board to be deposited into the Safe and Affordable Drinking Water Fund. The bill would authorize a public water system to apply to the state board to use an alternative method to calculate the fee. By expanding the application of the Fee Collection Procedures Law that imposes criminal penalties for various acts, this bill would impose a state-mandated local program.

Other Bills**SB 929 (McGuire) - Special districts websites**

Sponsored by CSDA, this bill is in response to the 2017 Little Hoover Commission report on special districts and transparency. The bill requires all independent special districts to have and maintain a website by January 1, 2020. Certain exceptions apply that are hardship-based (i.e.: inadequate access to broadband communications network facilities that enable high-speed Internet access, significantly limited financial resources, or insufficient staff resources).

The bill outlines the minimum data required to be included on the website including district contact information, financial reports, catalogue of enterprise systems, annual compensation of its elected officials, officers, and employees, meeting agendas, and all requirements set forth in Health & Safety Code 32139. The bill passed through two Senate committees and the Senate floor with unanimous support and will next be scheduled for hearing in the ALGC.