

EXECUTIVE OFFICER'S REPORT

To The
Imperial Local Agency Formation Commission

TO:

COMMISSIONERS:

*Michael W. Kelley, Supervisor, Vice-Chair
Ray Castillo, Supervisor
David H. West, Public
Maria Nava-Froelich, City
(Vacant) City*

ALTERNATE COMMISSIONERS:

*Jesus E. Escobar, Alternate Supervisor
(Vacant) Alternate Public
(Vacant) Alternate City*

REPORT DATE: February 4, 2021

FROM: Jurg Heuberger, Executive Officer
Paula Graf, Analyst 

PROJECT: Legislative Changes to G.C. 56133 as requested by San Diego LAFCO

HEARING DATE: February 25, 2021 **TIME:** 08:30 a.m.

AGENDA ITEM NO: 11

HEARING LOCATION: El Centro City Council Chambers, 1275 Main St., El Centro, CA 92243

RECOMMENDATION(S) BY THE EXECUTIVE OFFICER (In Summary & Order)

OPTION #1: Discuss and provide direction to staff.

REPORT

I: History:

At the December 2, 2020 meeting of the southern region LAFCOs, San Diego LAFCO staff discussed the recent challenges the Commission has experienced with some of its local agencies involving the provision of new or extended services outside of their respective jurisdictional boundaries. Because these challenges have caused conflicts amongst agencies and fiscal and legal impacts to San Diego LAFCO, on December 7, 2020, the Commission approved taking the lead on a legislative effort to clarify the provision (G.C. Section 56133) within the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that includes the process requiring cities and special districts to receive LAFCO approval to provide new or extended services outside of their jurisdictional boundaries or LAFCO determination of involving exemptions from the statutory process.

The intent of this report is to provide background on the current law and San Diego LAFCO's effort to clarify G.C. Section 56133.

San Diego's LAFCO Proposal to Amend G.C. Section 56133

Recently in San Diego County, some local agencies have proceeded to self-exempt out-of-agency service arrangements without obtaining their Commission's review. Consequently, these arrangements without LAFCO's review has led to subsequent conflicts, including with other cities and special districts, and fiscal and legal impacts for San Diego LAFCO.

San Diego LAFCO's legislative effort seeks to clarify LAFCOs' exclusive authority to determine exception status for out-of-agency arrangements in accordance with G.C. Section 56133. The effort will include securing a bill author, performing stakeholder outreach and working accordingly with legislative staff in Sacramento. San Diego LAFCO is requesting support and potential interest in co-sponsoring of this legislative effort from several other LAFCOs, including Imperial LAFCO.

II: Analysis:

At this time, staff is seeking preliminary feedback from the Commission. An additional report and recommendations will be provided to the Commission at a future meeting once San Diego LAFCO has obtained an author and the proposed bill language is formalized.

III: Report:

In accordance with Section 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report.

EXECUTIVE OFFICERS RECOMMENDATION

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action:

- I: Discuss and provide direction to staff.

LAFCO Policy

Note: All "cc" submittals are the Executive Officer's Report only. Attachments are generally too voluminous and are only supplied on CD. Information about the project may also be found on the LAFCO web page at www.iclafco.com.

Attachments:

EXHIBIT A: Government Code Section 56133

CC:

San Diego LAFCo

EXHIBIT A

G.C. 56133 Extension of Services

Exhibit A

Government Code Section 56133

56133.

(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, if both of the following requirements are met:

(1) The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of requests made pursuant to this section to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the extended services. If the new or extended services are disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to any of the following:

(1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

(2) This section does not apply to the transfer of nonpotable or nontreated water.

(3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

(4) An extended service that a city or district was providing on or before January 1, 2001.

(5) A local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundary.

(6) A fire protection contract, as defined in subdivision (a) of Section 56134.