

**8b** | Commission  
Discussion

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**MEETING DATE:** September 11, 2024

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** Executive Officer  
Assistant Executive Officer

**SUBJECT:** Legislative Report (September 2024)

**BACKGROUND**

The end of the 2024 legislative session is quickly approaching, and the Assembly and Senate have moved all bills to be considered to the Governor's desk. Governor Newsom must sign or veto bills that survived the legislative process by September 30.

This report provides an update on bills previously reviewed by the Commission. Additionally, a discussion on recent activity of CALAFCO involving the Board's realignment of the legislative model is included in this legislative report.

**UPDATE ON PREVIOUSLY REVIEWED LEGISLATION**

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The 2024 legislative session ended with minimal activity for legislation of LAFCO interest. The Commission adopted positions on five bills, and the table on the following page provides additional information on the status of each bill.

For one of these bills, SB 1209, which includes the indemnification of LAFCO by applicants for approved applications, staff will provide additional details at the meeting on recent events involving the bill, including opposition from San Luis Obispo LAFCO. SB 1209 was prompted by the California Court of Appeals ruling involving a San Luis Obispo proposal on which the court opined that it was not the authority of LAFCOs to require indemnification by the applicant as a condition of processing an application.

2023-24 Legislative Session – Bill Status			
Bill	Description	Adopted Position	Status
AB 805	Proposes the designation of an “Administrator” by the State Water Resources Control Board involving inadequate and failing sewer systems serving disadvantaged communities.	<b>Watch</b>	Passed by both Houses of the Legislature on August 27, 2024. Enrolled to the Governor
AB 3277	Proposes to amend the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) for proposals seeking the formation of a special district to exclude the exchange of property tax revenue when an affected agency is not seeking a share of the property tax revenue.	<b>Support</b>	Signed by the Governor on July 2, 2024
AB 2661	Proposes to provide the Westlands Water District located in Fresno County with the authority to generate, provide and sell electricity.	<b>Watch</b>	Passed by both Houses of the Legislature on August 31, 2024. Enrolled to the Governor.
SB 1209	Proposes to amend current State law for explicit authorization by LAFCOs to require indemnification by applicants for litigation involving approvals by the Commission.	<b>Support</b>	Passed by both Houses of the Legislature on August 26, 2024. Enrolled to the Governor.
H.R. 7525	Proposes to codify a formal definition of special district in federal law and direct federal agencies to recognize special districts as local governments to ensure districts are able to receive federal assistance, including funding and grants.	<b>Support</b>	H.R. 7525 was approved by the US House of Representatives on May 6, 2024. The Senate companion bill, S. 4673 was referred to the Senate Committee on Homeland Security and Government Affairs and is expected to be reviewed during the coming weeks.

**REALIGNMENT OF CALAFCO LEGISLATIVE MODEL**

On July 19, 2024, the CALAFCO Board approved the realignment of CALAFCO’s legislative model based on recommendations of the Ad Hoc Modernization Committee. The realignment includes the following key actions:

- Elimination of the legislative committee comprised of Commissioners and staff from each CALAFCO region (central, coastal, northern, and southern).
- Shift of significant legislative responsibilities from CALAFCO's Executive Director to each regional officer and respective LAFCO staff.
- Replaced legislative committee with a policy committee comprised of one CALAFCO Board member from each region and CALAFCO Executive Director.

Since that time, concerns regarding the Board's action have been raised from each of the regions, and on August 28, 2024, the southern region group met to discuss the collective concerns of the six LAFCOs (Imperial, Los Angeles, Orange, Riverside, San Bernardino, and San Diego ). In addition to the elimination of the legislative committee, the group highlighted the shifting of significant responsibilities to local LAFCOs without an opportunity to provide feedback as a key concern. Additional concerns are referenced in Attachment 2, and a request for the CALAFCO Board to hold a special meeting to consider rescinding the new legislative model to engage membership appropriately and reinstatement of the former process for participation in the 2025 legislative session effort, which has already begun.

Staff will continue to monitor this activity and keep the Commission informed accordingly.

#### **RECOMMENDED ACTION**

This is a receive and file report. However, the Commission may provide direction to staff as warranted.

Respectfully Submitted,



CAROLYN EMERY



LUIS TAPIA

Attachments:

1. San Luis Obispo LAFCO Letter of Opposition - Senate Bill 1209
2. Realignment of CALAFCO Legislative Model (Summary prepared by staff of Southern Region LAFCOs)



LAFCO - San Luis Obispo - Local Agency Formation Commission  
SLO LAFCO - Serving the Area of San Luis Obispo County

August 27, 2024

The Honorable Gavin Newsom  
Governor, State of California  
1021 O Street, Suite 9000  
Sacramento, CA 95814

**RE: OPPOSITION TO SB 1209**

Dear Governor Newsom:

The San Luis Obispo Local Agency Formation Commission (SLO LAFCO) possesses a unique understanding of this issue and is **opposed** to SB 1209 as currently amended but supports the original text of SB 1209. SLO LAFCO was a party in the lawsuit *San Luis Obispo Local Agency Formation Commission v. City of Pismo Beach* (2021) 61 Cal. App. 5<sup>th</sup> 595, filed after a denial of an application by LAFCO, in which the Court held that LAFCO did not have the legal authority to require an applicant to defend and indemnify LAFCO. This lawsuit necessitated SB 1209.

The amendments to SB 1209 contradict its original intent. Originally, the bill aimed to ensure that all LAFCOs receive indemnification regardless of whether they approve or deny a proposal. However, the amended bill now provides indemnification only if a LAFCO approves a proposal.

This change undermines LAFCOs' authority and their role as decision-making bodies. As amended, SB 1209 places LAFCOs in a vulnerable legal position if their decision is to deny a proposal based on its merits. In contrast, nearly every other local agency in California has the authority to require indemnification regardless of its decision. The amended bill effectively prevents LAFCOs from requiring indemnification unless they approve a proposal.

The key amendment we oppose is the removal of original text stating that LAFCOs are indemnified from claims "from or relating to the action or determination by the commission," which was replaced with text stating that LAFCOs are indemnified from claims "to attack, set aside, void, or annul an approval by the commission."

For these reasons, we are opposed to SB 1209 and urge you to veto the bill.

On behalf of the San Luis Obispo Local Agency Formation Commission,

Rob Fitzroy  
Executive Officer

cc: State Senator Cortese  
State Senator Laird  
Assembly Member Dawn Addis  
California Association of Local Agency Formation Commissions (CALAFCO)  
SLO LAFCO Commission

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**STAFF**

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IMELDA MARQUEZ-VAWTER  
Analyst

MORGAN BING  
Clerk Analyst

BRIAN A. PIERIK  
Legal Counsel

**REALIGNMENT OF CALAFCO LEGISLATIVE MODEL**  
*(Summary prepared by staff of Southern Region LAFCOs)*

*August 28, 2024*

This document is intended to summarize the concerns involving the realignment of the CALAFCO legislative model approved by the CALAFCO Board of Directors on July 19, 2024, resulting in the elimination of the long-standing legislative committee. Additionally, the summary may be used as a guide for preparing a response from the southern region group to the CALAFCO Board involving this matter. The summary follows the changes in the legislative model noted in the July 19 staff report prepared by the CALAFCO Executive Director (ED) and denotes respective concerns. Additionally, other general concerns are also referenced within this summary.

**LEGISLATIVE MODEL CHANGES**

- ❖ **Shifts legislative efforts away from current committee model to professional advocacy driven by a Legislative Platform similar to what CSAC and many local governments do.**

***Concerns:***

- The previously established legislative committee was comprised of tenured and experienced professionals (staff and commissioners) whose knowledge of the CKH Act and other pertinent state government codes and direct experiences contributed to the effective review of legislative proposals borne out of the committee and proposed legislation introduced in Sacramento. The geographically diverse committee provided opportunities to hear varying views from across the CALAFCO regions and vet efforts robustly and jointly. Following discussions, the committee's process also allowed for participation from outside of the committee through distribution of the agenda and providing comments at the monthly meetings before actions are moved for consideration by the Board. The new process removes these opportunities of engagement and betterment of LAFCO as a whole and replaced with an individualized and more layered process that includes separation of regional, policy committee, and Board discussions, meetings and positions.

It is difficult to assess this change beyond what is noted above without specific factors of comparison involving the legislative model and a professional advocacy model. Specifically, the staff report does not indicate the differences between the models or the similarities of LAFCO and CSAC or the "many local governments" reference.

**❖ More reliance on CALAFCO regional officers.****Concerns:**

- This change involves a significant shift of responsibilities involving seeking legislative proposals, feedback, and expertise from the CALAFCO ED to the regional officers. The staff report indicates that the change would decrease the ED's workload by approximately 200 hours but there was no consideration or vetting with the regional officers about the impact of the shift to them or their local LAFCO. Current and prior regional officers note that the existing workload is substantial, leaving little to no opportunity to take on such significant additional workload.
- This change requires the regional officer to convene meetings of the six southern LAFCOs to discuss legislative proposals or proposed legislation in line with the new policy's timeframe and often midnight hour legislation introduced in the Capitol (NOTE: Southern Region has the fewest members; scheduling consultation with the membership in the other three regions would be even more difficult). The varying dates of monthly Commission meetings and statutory timelines for proposals make it challenging to get together (scheduled or impromptu), review and respond in a timely way, which is a necessary involving legislative activities. Contrary to the assumptions of CALAFCO staff, this change does not facilitate the ability of the southern region to meet quickly, provide feedback, and take legislative positions immediately due to varying and at times demanding schedules. The previous legislative committee structure allowed for more deliberate participation through the appointment of regional representatives that were vetted in advance and internally to ensure the balancing of participation in CALAFCO. Further, the adoption of a yearly schedule of Legislative Committee meetings enabled all parties to plan their attendance.
- The shift requires regional officers to take on a more prominent role and provide or arrange for assistance and expertise involving proposals upon request from CALAFCO ED and notes that there will be a year-round CALAFCO presence in Sacramento. However, the new policy does not address the resources needed from each region, in particular the impacts to the regional officers. Of additional concern is that the shift in responsibilities from the ED to the regional officers represents a significant change and was approved by the Board without first seeking input from the four staff that represent their respective region. Because there was no feedback from the regional officers, the ED and Board overlooked the potential of a regional officer not being able to continue in this role due to added responsibilities. Again, current and prior regional officers note that the existing workload is substantial, leaving little to no opportunity to take on such significant additional workload.

- The new model calls for CALAFCO regional officers to vet proposals after conducting outreach within their region and recommend proposals to go forward to a Policy Committee. However, the new process does not identify how this is technically decided and potentially creates volatility within the region. For example, if there is not complete agreement from the four regional officers on proposals to move forward, how is it decided on what moves forward to the committee.
- The new model limits participant discussions to the respective regions, shutting out the opportunity to hear varying perspectives previously provided through the geographic and experience diversity of the disbanded committee.

❖ **Policy Committee considers which of the vetted proposals to recommend to the Board.**

**Concerns:**

- New model adds unnecessary layer to the process and defeats the purpose of regional discussions without identifying and aligning the criteria being used by the Policy Committee.
- New model lacks transparency and does not specify the process for how the regional group recommendations are reviewed by the Policy Committee and criteria for moving proposals forward to the Board.
- New model does not provide specifics for ED's role at the regional and Policy Committee stages. In particular, it is important to understand if ED remains neutral and how ED is brought up to speed in order to represent in Sacramento. It is worth noting that ED has taken positions and rendered analysis of legislative efforts that has impacted the fate of proposals.

❖ **Board makes the final determination of which recommended proposals to pursue.**

**Concerns:**

- New model lacks transparency and connection involving the Board, Policy Committee and regional discussions and positions. No criteria is indicated that supports alignment and process for Board to assess the discussions that occurred at committee and regional group stages.
- Again, the new model does not provide specifics for ED's role at the regional and Policy Committee stages. In particular, it is important to understand if ED remains neutral and how ED is brought up to speed in order to represent in Sacramento. It

is worth noting that ED has taken positions and rendered analysis of legislative efforts that has impacted the fate of proposals.

### **GENERAL CONCERNS**

- The new legislative model eliminates opportunities for new LAFCO staff to learn about LAFCO law (CKH Act) and the legislative process and engage in advocacy with tenured staff.
- There occurred a disturbing lack of transparency on a significant change directly impacting LAFCOs. The ED and Board did not solicit feedback from the regional officers on the new legislative model before approval.
- While the CALAFCO staff report list the benefits of the new model, additional information on the reallocation of the 200 hours for ED position to another membership enhancement is noticeably missing.
- While an Advocate is funded by CALAFCO budget (in large part from membership dues), the new process includes that the regions must “provide,” or arrange for, assistance and expertise of the Advocate ***upon request of ED***. It is not clear in the new process if CALAFCO or the region is responsible for funding of the Advocate in these instances.
- New structure narrows the qualifications and skills needed for the ED (current and new) to engage in legislative affairs yet indicates ED being active year-round in Sacramento as a benefit. It is critical that ED have specialized skills in order to navigate the systems in the Capitol. While we do not question the desirability of securing additional resources, in the form of a contract lobbyist, we feel strongly that the CALAFCO ED should remain the principal voice of LAFCOs in Sacramento. It seems as if the new model’s reliance on a contract lobbyist is at the expense of reducing the ED’s role as the authoritative voice of LAFCOs in Sacramento and adjust the qualifications of the ED to fit the existing and future candidates of the position rather than the needs of the Association and its membership.
- New structure keeps legislative model under authority of ED, while decreasing oversight and responsibilities and narrowing of pertinent knowledge, skills, and abilities to represent LAFCOs on a statewide platform.
- Board action increased the contract with Hurst Brooks Espinosa to \$40,000 annually; however, it is unclear on what services are enhanced or have been added. It is assumed this was done on basis of what they “may” provide under the new structure without a detailed assessment of what that looks like in the realm of services and activities. Elaboration of the scope of services for this contract for the membership was



recommended by a stakeholder from which the CALAFCO Executive Director solicited feedback.

- New model provides that bills with a direct impact on CALAFCO, or its members statewide, set a policy precedent or have an impact relevant to the mission of CALAFCO or its member LAFCOs will receive a response, such as position letters and testimony in Sacramento, will be addressed ***as time permits***. There is a disconnect of if this is applied at the regional or policy committee stages or at the Board. One note would be of the potential of futile effort at the regional level if the Board can then decide that this is not a priority. If there is a process for regional and policy discussions, Board should allow this to occur rather than incorporating into the policy, how the bills should be reviewed or prioritized.
- New model requires unanimous agreement of the four policy committee members on recommendation to move legislative proposals to the Board for consideration. Requiring this of a small threshold could significantly impair proposals moving forward.
- The characterization of the former legislative model as lacking inclusivity and including acts of bullying and intimidation without complete context in email response from CALAFCO may potentially create tension within the membership and deter others from participating in any model.
- CALAFCO ED's email response to San Diego LAFCO and EO listserv indicating the legislative model changes resonate with the "changes" requested by the southern region was misleading and may revive previous regional tensions. Instead, a formal response from CALAFCO to the region should be provided.
- The immediate implementation of the new legislative model was done without including a transitional period or process from the previous structure, including appropriate timing for regions to discuss and develop a process to align with new model and to vet proposals for the 2024-25 Legislative Session.
- Only 9 of the 16 board members were present during approval of the new legislative model.

#### **NEXT STEPS** *(for discussion)*

Below are potential options for consideration involving next steps for southern region group following discussion of the item. The options listed are intended as a starting point and are not intended to be exhaustive or final.

- ❖ *Send letter of concern to the CALAFCO Board requesting delay of implementation of the new legislative model and to complete the following:*

- Schedule reconsideration of new legislative model to receive feedback from membership, with encouragement for all board members to be present at the meeting. ED should conduct outreach to ensure all members are notified of the meeting and encourage attendance.
  - Use feedback to reconsider the legislative model, including assessing the values and areas of needed improvement of previous legislative model and use of models with similar mission, authority, and composition.
  - Conduct follow-up membership meeting (virtual) to share summary of feedback from the regions and subsequent actions taken by the Board.
  - Conduct a competitive bidding process for the “Advocate” services to be provided to membership. This would facilitate a transparent process, including membership’s understanding of the scope of services and costs, in particular if a LAFCO is requested by the CALAFCO ED to engage the “Advocate” in accordance with the newly adopted policy. It is worth emphasizing that CALAFCO’s budget includes membership fees from LAFCOs, which are funded by local governments, and in that regard, the contract for this service should be done openly.
- ❖ *Discuss sending alternative response to the CALAFCO Board recommending options for reallocation of ED’s hours to enhance membership benefits should the new legislative model remain in place without delay.*