



Local Governance Process

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Orange County LAFCO

Moulton Niguel Water District
Friday, October 2, 2015

What's Ahead

- ▶ LAFCO's legislative mission and legal role
- ▶ LAFCO's Planning and Regulatory Functions
- ▶ LAFCO's Authority – Cities v. Special Districts

What's Ahead

- ▶ Local governance process (i.e., consolidation, merger)
 - How does the process begin?
 - What makes the process work?
 - Successful reorganizations
- ▶ Potential Reorganizations on the OC LAFCO horizon
- ▶ OC LAFCO Organizational Goals

LAFCO Legislative Mission

- ▶ Encourage orderly boundaries
- ▶ Discourage urban sprawl
- ▶ Preserve agriculture and open space
- ▶ Promote efficient public services
- ▶ Consider regional housing needs, adequate water and other issues

LAFCO's Legal Role

- ▶ LAFCO is the Legislature's "watchdog" over local governments – its job is to regulate local government actions
- ▶ While powers are broad, LAFCO jurisdiction is limited to actions and powers granted by statute
- ▶ Must consider land use issues but cannot directly regulate land use

LAFCO's Planning Function

- ▶ Develop and update Spheres of Influence for cities and districts
- ▶ Prepare Municipal Service Reviews for all local jurisdictions
- ▶ Work cooperatively on growth, preservation, and service delivery issues

LAFCO's Regulatory Function

- ▶ Administers boundary changes of existing agencies and creation of new ones
- ▶ Controls extension of public services
- ▶ Is prohibited from directly regulating land use

LAFCO's Authority

- ▶ Includes:

- ▶ Counties, cities, most special districts

- ▶ Does NOT include:

- ▶ JPAs
- ▶ Community facilities or Mello-Roos districts
- ▶ School or college districts
- ▶ County boundaries
- ▶ Bridge and highway districts
- ▶ Transit or rapid transit districts
- ▶ Improvement districts
- ▶ Zones of benefit
- ▶ Air Pollution/Quality Districts

LAFCO's Authority

Cities v. Special Districts

- ◆ Incorporations
- ◆ District Formations
- ◆ Dissolutions
- ◆ Disincorporations
- ◆ Annexations
- ◆ Detachments
- ◆ Outside User Agreements
- ◆ Spheres of Influence/MSRs
- ◆ Activate Latent Powers
- ◆ Consolidations
- ◆ Mergers

LAFCO can initiate.

District Consolidation Process

- ▶ Initiation by resolution of affected agency, registered voters, or LAFCO.
- ▶ Requires review of several factors that include:
 - ✓ Financial ability of the agency to provide the service (Agency *must submit a “plan for service”*)
 - ✓ Timely availability of water supplies adequate for projected needs
 - ✓ Current and proposed levels of service
 - ✓ Liabilities and obligations of district dissolving
 - ✓ Municipal Service Review/agency spheres of influence
- ▶ Voters/landowners have opportunity to protest/vote.

OC LAFCO Consolidations, Dissolutions, Mergers.....

- ▶ OC LAFCO has not initiated a consolidation, merger or dissolution;

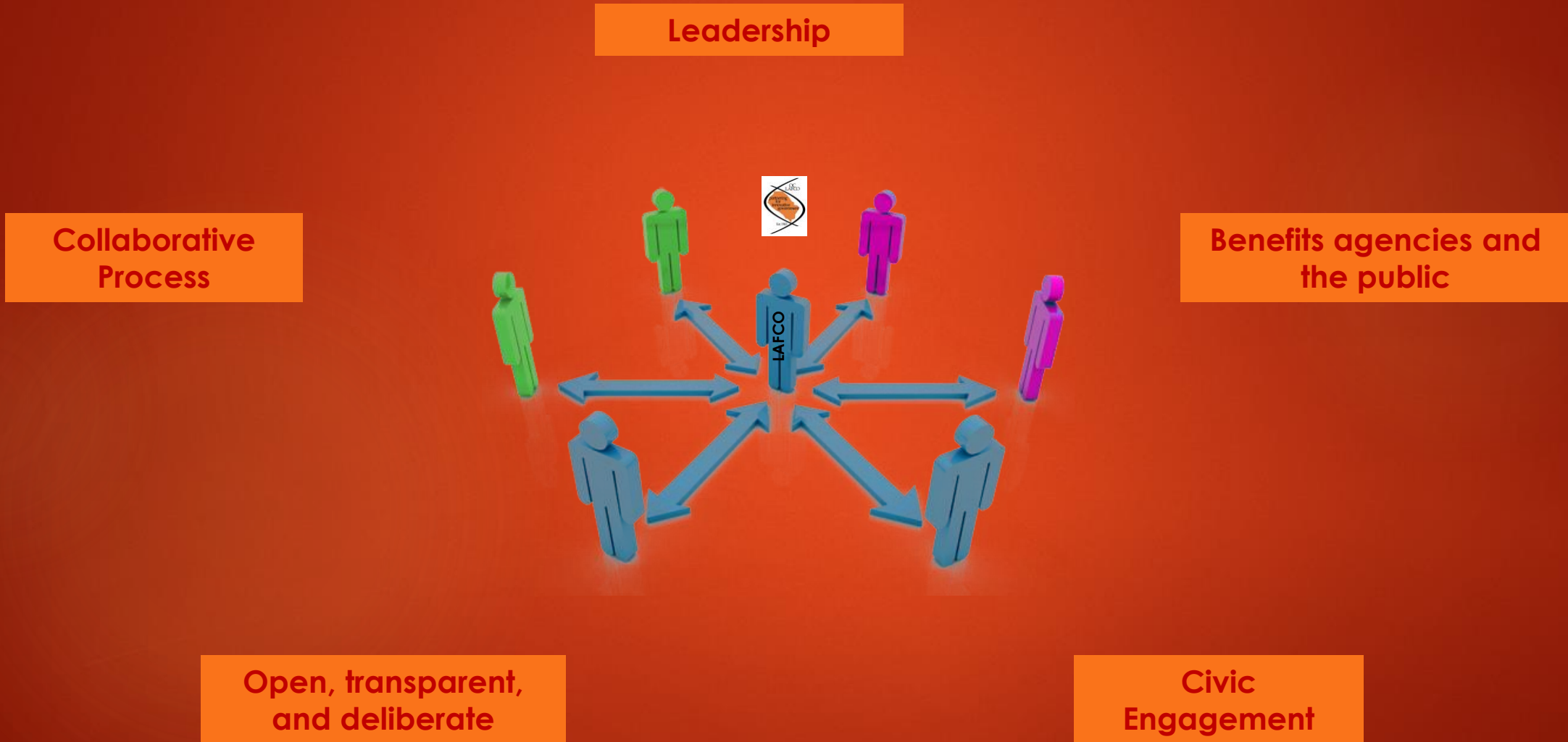
HOWEVER....

- ▶ OC LAFCO has been at the front of discussions that have led to 12 reorganizations of special districts.

Successful Consolidations & Mergers

- ▶ Reorganization of four special districts (South Coast Water District Reorganization).
- ▶ Consolidation of Los Alisos Water District with Irvine Ranch Water District.
- ▶ Consolidation of Santiago Water District with Irvine Ranch Water District.

What makes the process work?



Potential Reorganizations

- ▶ OCSD Service Area 7 – transfer of local sewer service to East Orange County Water District or Irvine Ranch Water Districts
- ▶ City of San Juan Capistrano – potential transfer of retail water, local sewer and storm water protection services
- ▶ SB 88 Trailer Bill – forced consolidations
- ▶ 2018-22 MSR_s (LAFCO mandate and response to Grand Jury report findings)

OC LAFCO Organizational Goals

- ▶ To address municipal service needs, opportunities, and potential reorganizing through conducting studies that **regionally and comprehensively** plan for the future and regional municipal service and infrastructure needs of Orange County's residents.
- ▶ To facilitate **cooperation, coordination, and collaboration** between Orange County local agencies, landowners, stakeholders, residents, and LAFCO applicants that **encourage efficient and sustainable local governance**.

OC LAFCO Organizational Goals

- ▶ Use LAFCO's expertise, knowledge, and resources to educate the public about the form, function, and structure of local government and the importance of sustainable governance that support the present and future social and economic sustainability of Orange County.
- ▶ To maintain internal efficiencies that support OC LAFCO's organizational effectiveness that meet statutory requirements and include proactive outreach to our funding agencies and the public.

Contact Information

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**State Water Board
Division of Drinking Water**

**Moulton Niguel Water District
Board Workshop 10/2/2015**

Jeff O'Keefe, Regional Engineer
Division of Drinking Water
State Water Resources Control Board

Presentation Objectives

- ▶ **DDW Responsibilities**
 - Drinking Water Program
 - SWS Compliance Issues
 - Strategic Plan to Resolve SWS Problems
 - Funding Opportunities
 - Consolidation Authority



Field Operations

- ▶ 5 Regions
- ▶ 24 Districts
- ▶ Responsible for carrying out DWP's program objectives
- ▶ District staff interacts with water systems and other local partner agencies



State of California State Water Resources Control Board DRINKING WATER PROGRAM DISTRICT OFFICES

Headquarters Office - (916) 449-5600
1616 Capitol Avenue
PO Box 997377, MS 7400
Sacramento CA 95899-7377



Edmund G. Brown, Jr.
Governor



Drinking Water Program

Type of System	Approximate #
COMMUNITY	3,000
Large (>3,300 people)	700
Small (>15 connections, <3,300 people)	2,300
NON-COMMUNITY	4,500
Non-transient	1,500
Transient	3,000
TOTAL	7,500

Type of System	Population	% of CA population
Large Water System >1000 connections	37 million	98%
Small Water System <1000 connections	400,000	1%

SWS CHALLENGES

- ▶ Technical Issues
- ▶ Managerial issues
- ▶ Financial Issues



SWS CHALLENGES

► Technical Challenges

- Lack of basic information on quantity of water needed and usage;
- Old, leaking distribution systems; inadequate maintenance budgets
- Lack of engineering support to assess alternatives and design solutions;
- Proposed solution has environmental impacts or need permits from other agencies.

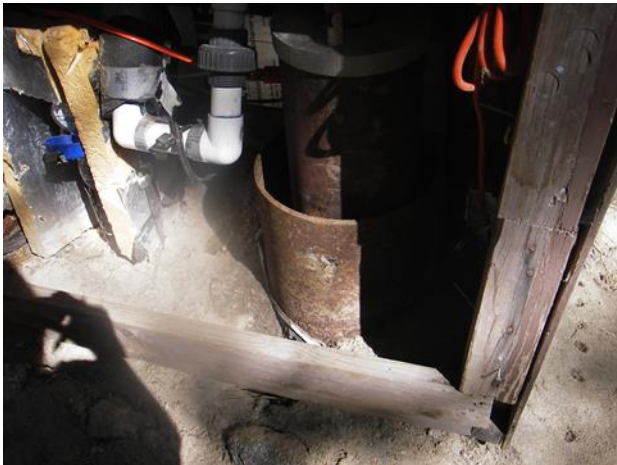


SWS CHALLENGES

▶ Managerial Challenges

◦ *Managerial*

- Lack of clear ownership of water system;
- Lack of clear water rights;
- No water system operator or
- Improperly trained operator



SWS CHALLENGES



▶ Financial Challenges

- Historic low water rates resulting in limited budget, deferred maintenance, lack of reserves, and inability to afford operations and maintenance costs;
- Water rates that are, or will be, too high to be affordable to residents, especially if treatment is needed for contaminant removal.
- Privately-owned water systems, including mobile home parks, are not eligible for grants under the SRF, only loans.



SWS CHALLENGES

SWRCB DFA is not able to provide funding for operations and maintenance costs

- Water rates are a key element to maintaining compliance
- Rates must be sufficient to cover:
 - Operations and maintenance costs, increasing with increased treatment needs;
 - Future infrastructure replacement
 - Small water systems have less customers to spread costs– too limited rate base
 - Operator expertise needed for new treatment facilities



Safe Drinking Water Plan

▶ Purpose

- Assess overall quality of the state's drinking water.
 - Identification of specific water quality problems.
 - Analysis of the known and potential health risks that may be associated with drinking water contamination.
 - Recommendations to improve drinking water quality.
 - 6 Public Workshops held to invite the public to comment on the assessment, analysis and recommendations in the document.
- ❖ The Safe Drinking Water Plan focuses on the regulatory scope of DDW and does not address private domestic wells or water systems that do not meet the definition of a PWS.

Safe Drinking Water Plan



Safe Drinking Water Plan –Recommendations

(source http://www.waterboards.ca.gov/drinking_water/safedrinkingwaterplan)

- ▶ 4–2: The State Water Board will continue to promote consolidation of small water systems wherever feasible and appropriate. Consolidation is not limited to full or physical consolidation of drinking water treatment and delivery systems, and may include technical, managerial, financial or physical arrangements between water systems.
- ▶ 8–5: The State Water Board recommends enactment of legislation in support of consolidation where feasible and appropriate. Specifically, whenever: 1) a public water system lacking adequate TMF capacity applies for state funding to address compliance with drinking water standards or infrastructure or source reliability issues; 2) the applicant public water system is nearby a public water system with adequate TMF capacity that is willing to consolidate; and 3) consolidation is determined to be an appropriate and feasible solution, the applicant public water system should be required to consolidate with the compliant public water system in order to receive financial assistance.

New Authority –SB88 Consolidation

- ▶ Section 116682(a) – Where a public water system, or state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, the SWRCB may order consolidation with a receiving water system as provided in this section and Section 116684. The consolidation may be physical or operational.
- ▶ Funding for the receiving water system must be available.
 - **NOTE:** Applies only to water systems in disadvantaged communities (SB 88 definition)

Consolidation

- ▶ Preferred solution—increased customer rate base, continuous TMF
- ▶ SB88—Provides liability protection for the receiving system, whether a voluntary or mandatory consolidation. Noted obstacle in the past.
- ▶ Technical and financial assistance to be provided to facilitate consolidation.

Mandatory Consolidation – State Board Implementation

- ▶ Website created to post FAQ and list of water systems notified to take voluntary action
- ▶ http://www.waterboards.ca.gov/drinking_water/programs/compliance
- ▶ Pratt Mutual Water Company, Soult's Mutual Water Company notified to consolidate with City of Tulare



SB 88 – (Budget Committee, 2015)

Assembly: 52 Ayes – 28 Noes.

Senate: 24 Ayes – 12 Noes.

Chaptered 6/24/15

SUBJECT: Authorize the State Water Resources Control Board to order consolidation with a receiving water system under specified conditions.

SUMMARY: The key provision of SB 88 was forced consolidation when a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water.

This bill would authorize the State Water Resources Control Board (State Board) to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation.

This is the Drought Trailer Bill for 2015-16. It contains necessary changes related to the Budget Act of 2015. This bill makes various statutory changes related to water and drought relief to implement the 2015-16 budget and appropriates \$10 million for water efficiency.

OC Delegation Votes	
Senate	Assembly
Bates: NO Nguyen: NO	Allen: NO Brough: NO Chang: NO Daly: YES Harper: NO Kim: NO Wagner: NO

NEWS COMMENTARY: SD Union-Tribune, Senator Bates

“Another troubling provision of SB 88 is that it mandates that water districts merge with other water districts and gives the State Water Resources Control Board enormous power to force those consolidations. Forcing districts with relatively healthy finances to take on others with poor finances could lead to higher water rates for everyone involved. Consolidations of water districts may be warranted in some cases, but it should not be dictated by Sacramento bureaucrats who do not have firsthand knowledge of local circumstances.”

AB 2109 (Pringle, 1996)

Placed on suspense file at the Senate Appropriations Committee

SUBJECT: To create a new regional district to assume the powers of multiple water and sanitation districts in Orange County.

SUMMARY: This bill would have created a single countywide district, “The Orange County Water and Sanitation District,” with a ten-member elected board that would take on the responsibilities of 25 Orange County sanitation and water districts with a 10 member advisory board.

BACKGROUND: In August 1995, 18 water and wastewater agencies in south Orange County undertook a comprehensive study to determine how to provide customers with more efficient service. Among the considerations discussed was a plan to consolidate and reorganize the existing structure of water agencies.

ARGUMENTS IN SUPPORT: Supporters argue that the LAFCO system is broken and thus is not conducive to consolidation. Creation of a unified water district will result in administrative savings as well as a significant drop in the number of board members. Further, it came to light during the Orange County bankruptcy that certain special districts were making speculative investments and raised rates from their customers to recoup their losses.

ARGUMENTS IN OPPOSITION: Opponents argue that the LAFCO process should be used to handle complex issues like consolidation, outlined in the Cortese-Knox Act. The Association of California Water Agencies opposed this bill because; "it would compel by state legislation a merger which should be determined at the local level using existing processes." Also, the California Municipal Utilities Association argues, "Increasing size can lead to diseconomies and less accountability." The Coastal Municipal Water District said the bill denied customers the opportunity to choose their water provider.

NEWS COMMENTARY: LA Times, then-Mission Viejo Mayor Sherri M. Butterfield

“No study, survey or other scientific gathering of statistical information has shown that the grand amalgamation of districts that Pringle proposes will necessarily reduce operating costs or increase efficiency. At the very least, Pringle should amend his bill to allow for public input and to give local water customers the opportunity to vote down any consolidation proposal they simply can't swallow.”

AB 556 (Pringle, 1997)

Failed passage in Senate Local Government Committee

SUBJECT: Requires LAFCO to undertake consolidation studies of specified water and sewage districts in Orange County with other districts or cities.

SUMMARY: This bill would have required LAFCO to initiate consolidation proceedings for specified retail water districts, or hold an election subject to a threshold of public approval. LAFCO also would have been required to initiate consolidation proceedings for specified districts with a city if that council or district board approved the decision. A single wholesale water agency would have been created by LAFCO as well, or an election held depending on public approval.

These initiated consolidations included the merger of MNWD with El Toro Water District.

EXISTING LAW: The Cortese-Knox Local Government Reorganization Act of 1985 seeks to encourage orderly growth and discourage urban sprawl through the logical formation and modification of local agency boundaries and through consolidations of agencies.

COMMENTS: AB 556 is a reintroduction of AB 2019 (Pringle) of the previous session with some modifications.

At the time, there were approximately 30 independent special districts, each having their own board of directors, staff and operating budget, in Orange County. The author argued that no purpose is served by 30 overlapping, duplicate water/sanitation districts. Fewer agencies with a more streamlined delivery system will provide better service at lower cost.

Special districts in opposition, which would be affected by this legislation, argue that the bill:

- 1) Does not reorganize in the most effective manner.
- 2) Requires consolidation and mergers for their own sake, regardless of cost savings and improved service delivery.
- 3) Mandates consolidations and mergers whether they are appropriate and necessary, thus forcing the wasteful expenditure of taxpayer dollars.
- 4) Takes away local control.

NEWS COMMENTARY: LA Times, Then-Assemblyman Curt Pringle

Characterization of Assembly Bill 556 as an "attempt to dictate Orange County policy from Sacramento" is completely inaccurate. The proposed consolidations in AB 556 are based upon the recommendations of the 1994 Orange County Grand Jury report and the 1996 Service Delivery Systems and Governance Improvement Study.

AB 556 does not mandate any consolidation or merger. The bill simply requires LAFCO to initiate proceedings to move forward with consolidations that already have the support of preliminary studies.

SUPPORT/OPPOSITION:

Support:

None on file.

Opposition:

Capistrano Beach Water District
East Orange County Water District
Mesa Consolidated Water District
Santa Margarita Water District
Alameda County Water District
Amador Water Agency
Association of CA Water Agencies
Big Bear Municipal Water District
CA Association of Sanitation Agencies
CA Special Districts Association
CA Teamsters Public Affairs Council
Carpinteria Valley Water District
Citrus Heights Water District
County Sanitation Districts of Los Angeles County
Desert Water Agency
Eastern Municipal Water District
Fair Oaks Water District
Foothill Municipal Water District
Fresno Metropolitan Flood Control District
Lagerlof, Senecal, Bradley & Swift, LLP
Oakdale Irrigation District
Padre Dam Municipal Water District
Purissima Hills Water District
Reclamation District No. 2068
Richard E. Barrett, Director, East Orange County Water District
Sacramento Metropolitan Water Authority
San Bernardino Valley Water Conservation District
San Gabriel County Water District
San Gabriel Valley Municipal Water District
Scotts Valley Water District
South Montebello Irrigation District
Three Valleys Municipal Water District
Twenty-nine Palms Water District
United Water Conservation District
Vallecitos Water District
Valley Center Municipal Water District
Vista Irrigation District
Walnut Valley Water District
Westborough Water District
Western Municipal Water District
Individual letters (24)

AB 1335 (Gotch, 1993)

Assembly: 56 Ayes – 18 Noes.

Senate: 28 Ayes – 2 Noes.

Chaptered 10/11/93

SUBJECT: Clarify and strengthen the LAFCO process; allow LAFCO-initiated consolidations

SUMMARY: This bill revises the definition of “sphere of influence” to conform to current LAFCO practice to identify spheres for different time periods. It also prohibits LAFCO public members from being an officer or employee of a public agency. A third component is that the bill revised procedures relating to special district representation. Finally, it enabled LAFCO’s to initiate the consolidation of special districts under certain circumstances.

AS PASSED BY THE ASSEMBLY:

- (1) Allows a city or district to provide new or extended services outside its boundaries upon LAFCO approval.
- (2) Prohibits a public member from being an officer or employee of a county, city or district within the county. Revises provisions allowing LAFCO to approve or disapprove special district representation.
- (3) Allowed LAFCO’s to initiate proposals for consolidation of districts, dissolution, merger, or establishment of a subsidiary district.
- (4) Allowed LAFCO to waive conducting authority proceedings if certain conditions are met: uninhabited subject area, consent of landowners, and consent of affected agencies.

SENATE AMENDMENTS:

- (1) Deleted the new policies set by the Assembly and revised procedures for LAFCO approval of new or extended services.
- (2) Revised procedures under which LAFCO may initiate consolidation of special districts: Reorganization must be consistent with certain studies, revised the findings requirements, and there must be a confirmation from voters when 10% of landowners or voters petition the conducting authority.

SUPPORT/OPPOSITION:

Support:

CALAFCO (sponsor)

Santa Cruz County

California Special Districts Assoc.

Opposition:

Sacramento Metropolitan Water Authority

MNWD GUIDING PRINCIPLES FOR LOCAL GOVERNANCE PROCESS

DRAFT - October 2015

ORGANIZATIONAL CONSIDERATIONS

1. MNWD is a customer-focused agency providing excellence in service and building relationships with our communities through trust, transparency and advocacy.
2. We run an organization that requires and recognizes integrity, care and performance among all of its members and maintains strict accountability while fostering a high morale by creating a personal stake in the success of the organization for each employee.
3. MNWD is a progressive organization seeking innovation and improvement at every level of operation to optimize reliability, service and performance while balancing financial impact to customers to ensure non-cost effective local projects and measures are avoided.
4. We exemplify the utility of the future by practicing integrated planning and operation where new ideas are encouraged and collaboration is valued.
5. MNWD is financially conservative and diligent while vigilant of opportunities to enhance its financial position.

REGIONAL CONSIDERATIONS

1. Implications of any immediate actions will be balanced with long term considerations in order to be mindful of the larger picture in any decision making process.
2. Representative governance that reflects the geographic and socio economic conditions of the constituents and oversight of critical services to our customers are paramount and will be preserved to ensure safe and reliable service.
3. Regional collaborations and outside partnerships must be balanced with a return on those investments for our customers either near or long term.
4. Opportunities to expand, join and share resources beyond our service area will be evaluated to ensure regional and local benefits while balancing financial, resource and political impacts to the District.
5. Any considerations for modification of the District's scope of service and sphere of influence will be based on what is in the best interest of our customers and employees, both immediate and long term.
6. Future collaborations will ensure an appropriate calculation of costs/revenues and cost recovery methods to protect the financial interests of all parties.

- Customers

We value the relationship forged with our customers, and we seek to maintain our District identity.

- Employees

Employees are our greatest asset, and we will strive to maintain their employment status.

- Board

As elected representatives of the customers we serve, we should consider their obligation of service.

- Finance

Financial strength, stability and wherewithal of an agency to meet present and future needs are critical in determining jurisdiction of any entity.

- Leadership

Any succeeding entity must have a proven track record of broader coordination outside its own boundaries, demonstrating its effectiveness in regional leadership.

- Statewide impact

With increasing state mandated regulations and legislation, any succeeding entity must be well-positioned to engage decision makers and represent local needs effectively to achieve meaningful and sustainable statewide initiatives.