

November 18, 2003

**MEMORANDUM**

**TO:** CALAFCO

**FROM:** Clark H. Alsop  
Paula C. P. de Sousa  
Michael D. Henshaw

**RE:** Summary of Government Code Section 56133: New or Extended Services  
Outside Jurisdictional Boundaries

This memorandum is intended to provide an summary of Government Code section 56133 relating to the ability of various local agencies to make agreements with each other concerning providing services outside their respective jurisdictional boundaries.

**1. TO WHOM AND WHICH TYPE OF AGREEMENTS DOES SECTION 53133 APPLY?**

The basis for Government Code Section 53133 lies in the concept that discouragement of urban sprawl and provision of efficient government services, are compromised if public agencies are able to extend their infrastructure and influence extraterritorially without LAFCO review. Consequently, Section 53133 provides for LAFCO review of agreements between local agencies providing services outside agency jurisdictions. (Section 53133(a).) The scope of reviewable agreements is phrased in the negative, with all agreements subject to LAFCO review except when one of the following exemptions applies:

1. Contracts or agreements solely involving two or more public agencies where
  - A. 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
  - B. Where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.
2. Contracts for the transfer of nonpotable or nontreated water.
3. Contracts or agreements solely involving 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. If the agreement will support or induce development, the local agency must, 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 boundaries.

(Section 53133 (e).)

## **2. WHAT MAY BE AUTHORIZED BY LAFCO**

For those out-of-area service agreements that do not fall within one of the above exemptions, LAFCO must approve, disapprove, or approve with conditions the agreement for new or extended services under the following conditions:

1. The new or extended services to be provided under the agreement by the applicant city or district, is outside of its jurisdictional boundaries and within its sphere of influence, in anticipation of a later change of organization. (Section 53133(b).)
2. The new or extended services to be provided under the agreement by the applicant city or district, is outside of its jurisdictional boundaries and outside its sphere of influence, in response to an existing or impending threat to the public health or safety of the residents of the affected territory and both of the following requirements are met:
  - a) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents and,
  - b) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(Section 53133(c).)

### 3. TIME LIMITS FOR LAFCO'S RESPONSE

The Executive Director must determine whether the request is complete and acceptable for filing or whether the request is incomplete within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary. If the application is not complete, the applicant must immediately be informed of what is incomplete with the application and how to make it complete.

Once the application is deemed complete, LAFCO must 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 those requests to the executive officer. In either case, the commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.