

Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Cottie Petrie-Norris, Chair

AB 2172 (Wallis) – As Amended March 21, 2024

SUBJECT: Irrigation districts: Imperial Irrigation District: electricity: assessment and inventory of assets

SUMMARY: Requires the California State Auditor’s Office to conduct a comprehensive assessment and inventory of the Imperial Irrigation District’s assets that are related to its distribution of electricity.

EXISTING LAW:

- 1) Requires the California State Auditor to conduct financial and performance audits as directed by statute. As such, authorizes the California State Auditor to conduct these audits of any state agency, any local governmental agency, including any city, county, and school or special district, or any publicly created entity. (Government Code § 8546.1)
- 2) Affirms that irrigation districts are state agencies formed and existing for governmental purposes. (Water Code § 20570)
- 3) Authorizes an irrigation district to sell, dispose of, and distribute electricity for use outside of the district’s boundaries. (Water Code § 22120)
- 4) Authorizes an irrigation district to purchase or lease electric power from any agency or entity, public or private. Also, authorizes an irrigation district to provide for the acquisition, operation, leasing, and control of plants for the generation, transmission, distribution, sale, and lease of electric power, including sale to municipalities, public utility districts, or persons. (Water Code § 22115)
- 5) States that an irrigation district may distribute power without regard to any assessments levied by it. (Water Code § 22119)
- 6) States that any irrigation district providing electric power to areas outside its boundaries shall be subject to reasonable rules, regulations, and orders of the governing body of the city or county area being served, but, in no event, more restrictive than the rules, regulations, and orders of the Public Utilities Commission upon utilities providing electric power to cities or counties. (Water Code § 22123)

FISCAL EFFECT: Unknown. This bill is keyed fiscal and will be referred to the Committee on Appropriations for its review.

BACKGROUND:

Imperial Irrigation District (IID). With more than 3,000 miles of canals and drains, IID is the largest irrigation district in the nation.¹ IID was established in 1911 pursuant to the Irrigation

¹ IID; “Water” <https://www.iid.com/water>

District Law² and entered the electric power business in 1936 in conjunction with the construction of the All-American Canal.³ IID anticipated that hydroelectric power generated from five falling water drops on the All-American Canal would enable them to set power rates considerably lower than the competition at that time. This is a result of Congress authorizing construction of the All-American Canal to Coachella Valley.⁴ However, in negotiating repayment contracts with the United States, it was necessary that both the water and power rights of IID and the Coachella Valley Water District be determined. According to the terms of a 1934 agreement between Imperial and Coachella, IID was given first rights to water delivered through the All-American Canal and a 99-year lease on any power rights Coachella had on the canal.⁵ As rental for power rights, IID agreed to pay Coachella Valley Water District a percentage of the net proceeds from its power system and Coachella in turn authorized IID to provide power service to the Coachella Valley.

Currently, IID's district boundaries encompass all of Imperial County. IID also provides electrical service to parts of San Diego County, as well as the cities of Indio, Coachella, Desert Mirage and La Quinta in the Coachella Valley, located in Riverside County.⁶ As such, IID is responsible for an annual operating budget of approximately \$520 million, managing and operating over 1.2 gigawatts of energy generation facilities and power purchases, 20 megawatts of energy storage facilities and 1,800 miles of energy transmission lines.⁷

Make Up of IID Leadership. IID's Board of Directors is composed of five officials who are elected by registered voters from geographic divisions within the district's jurisdiction boundary, which is limited to Imperial County.⁸ Since the IID's jurisdictional boundary does not extend into Riverside County, Riverside County registered voters are ineligible to serve on IID's Board of Directors, nor are they able to vote in IID elections. Over the years, circumstances have changed, and the electrical service requirements have evolved for IID's service territory.

Expiration of the 1934 Agreement. Increasing population, system reliability, aging infrastructure, capacity limitations, new development, frequent service outages, and questions regarding timely implementation of capital improvements are among the top concerns and has driven the desire for other stakeholders to obtain representation on IID's Board and provide oversight on electrical service matters.⁹ Currently the Coachella Valley portion of IID energy service area represents over 60% of IID ratepayers.¹⁰ With the expiration of the 1934 agreement coming to an end in 2033, local officials have begun to weigh options and discuss the outlook of electricity service and ability for the Coachella Valley to obtain local representation on electrical service matters.

² Water Code Sections § 20500 et. Seq.

³ IID; "IID History" <https://www.iid.com/about-iid/mission-vision-statements/iid-history#:~:text=After%20discovering%20its%20potential%20for,Riverside%20and%20San%20Diego%20counties>.

⁴ LAFCO; "Alternative Governance Structures and Alternative Electricity Service Provision: Imperial Irrigation District" <https://lafco.org/studies/alternative-governance-structures-and-alternative-electricity-service-provision-imperial-irrigation-district/>

⁵ Ibid

⁶ Ibid

⁷ Pg. 1; LAFCO, Alternative Governance and Electricity Services Study-Imperial Irrigation District" March 2023

⁸ Ibid

⁹ Ibid

¹⁰ CVEC Comment letter Regarding; "Governance Alternatives for Consideration and Study." February 10, 2023

Energy Consumers Advisory Committee (ECAC). In 1994, the ECAC was established to provide feedback and recommendations to the IID Board regarding all aspects of the energy department and its operations.¹¹ Since the time of its inception, the ECAC has acted in an advisory capacity to the board recommending actions of a variety of topics, including budget needs, capital expenditures and pilot program needs.¹² The ECAC is comprised of 20 representatives. In the Imperial Valley, each IID director is responsible for the selection of two appointees, totaling 10 representatives. The Coachella Valley is also represented by 10 members; however, they are nominated by the cities and the county of Riverside. Indio, Coachella and La Quinta are allowed two nominations each, while Palm Desert and Rancho Mirage share a delegate.¹³ The unincorporated areas are served by three representatives nominated by the county. After nomination, each representative is then ratified by the IID board.¹⁴

Local Agency Formation Commission (LAFCO). Local Agency Formation Commissions, known as LAFCOs, were created in each county by the California State Legislature in 1963.¹⁵ LAFCOs are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structures, and preparing a sphere of influence for each city and special district within each county.¹⁶ The courts refer to LAFCOs as the Legislature's "watchdog" over local boundary changes.¹⁷ LAFCO law establishes procedures for local government changes of organization, including special district consolidations. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals for these procedures.¹⁸

Alternative Governance & Electricity Services Study – Imperial Irrigation District. The Riverside Local Agency Formation Commission (Riverside LAFCO) together with the Imperial Local Agency Formation Commission (Imperial LAFCO) were commissioned by the California State Water Resources Control Board (SWRCB) to prepare an “Alternative Governance Structures and Alternative Electricity Service Provision” study (LAFCO Study) for provision of electricity services by the Imperial Irrigation District (IID) within its current service delivery area, including Riverside County.¹⁹ The study included options for future electrical service provision by alternative public agencies if IID desires to terminate the service to Coachella Valley, Riverside and/or Imperial Counties. The LAFCO Study provided a number of alternative electrical service solutions. The study suggested actions that can support the ongoing collaboration toward developing a community-based regional solution including:

¹¹ IID, “Energy Consumers Advisory Committee”; <https://www.iid.com/government/energy-consumers-advisory-committee>

¹² Ibid

¹³ LA Quinta, “Consumers Advisory Committee (ECAC)” <https://www.laquintaca.gov/business/boards-and-commissions/imperial-irrigation-district-energy-consumers-advisory-committee>

¹⁴ Ibid

¹⁵ Del Norte LAFCo, “Common Questions”; <https://www.delnortelafco.org/common-questions>

¹⁶ San Luis Obispo, “Local agency Formation Commission”; <https://slo.lafco.ca.gov/>

¹⁷ Pg.2; California State Library; “Rethinking Development Oversight: Exploring Possibilities for Increasing Local Input.” April 2007

¹⁸ Mono County; “Local Agency Formation Commission”; <https://monocounty.ca.gov/lafco/page/authority>

¹⁹ LAFCO, “Alternative Governance Structures and Alternative Electricity Service Provision: Imperial Irrigation District.”

- *Determine if a regional consensus based solution will be pursued:* Each party will need to determine and align local priorities to determine if a regional or local solution will be feasible.
- *Determine if IID will continue to provide electrical provisions for Coachella Valley:* It's unclear if members would like to pursue an alternative option with IID continuing to provide some degree of electrical services.
- *Asset Valuation and Condition Assessment:* The parties should obtain an opinion on asset disposition and/or associated cost to potentially acquire existing assets from IID.
- *Identify Market Risks and Trends:* Identifying unforeseen risk potentials with forming and operating a new utility, conducting a risk assessment is recommended.

Coachella Valley Energy Commission (CVEC). In 2021, IID board of directors approved the formation of the Coachella Valley Energy Commission.²⁰ The CVEC is responsible for providing diverse local representation of Coachella Valley stakeholders for the energy needs of the greater Coachella Valley portion of the Imperial Irrigation District's energy service area.²¹ The Commission consists of 14 Commissioners, all with equal voting privileges that represent the IID Board, the cities of Coachella, Indio, & La Quinta along with the Cove Communities Services Commission, Coachella Valley Tribal Nations, and both Riverside and Imperial counties.²² Its focus includes the development of a long-term strategic plan for continued energy service to the Coachella Valley following the 2033 expiration of the 99-year lease between the Coachella Valley Water District and IID.

COMMENTS:

- 1) *Author's Statement.* According to the author, "The California State Water Resources Control Board asked the Riverside and Imperial Local Agency Formation Commissions to prepare an "Alternative Governance Structures and Alternative Electricity Service Provision" Study (LAFCO Study) for provision of electricity services by the Imperial Irrigation District (IID.) As outlined in the study, its purpose is to provide an analysis of options for future governance of the IID to include proportional representation of Riverside County electricity customers being served by IID, and options for future electrical service provision by alternative public agencies if IID desires to terminate the service to Riverside and/or Imperial Counties. The LAFCO Study points out that there is limited information available from IID for existing or planned assets for the Coachella Valley territory and recommended conducting a comprehensive assessment and inventory of IID's assets. The study also notes that this information is vital to performing the type of financial evaluation needed for the stakeholders to make a determination about the region's electrical future."

²⁰ IID, "IID Board Takes Action to Protect Water Rights and Address Coachella Valley Concerns." <https://www.iid.com/Home/Components/News/News/907/>

²¹ IID, "Coachella Valley Energy Commission"; <https://www.iid.com/government/coachella-valley-energy-commission>

²² IID, "Coachella Valley Energy Commission." <https://www.iid.com/government/coachella-valley-energy-commission>

- 2) *Recommendations - LAFCO Study.* As eluded earlier, the LAFCO study identified actions to be considered prior to conducting any further evaluations to support community-based regional solution. This includes: Asset Valuation and Condition Assessment. The Study notes that, “limited information is available from IID on existing/planned assets for the Coachella Valley territory and the parties will likely need to obtain this information from other sources, e.g. conducting a comprehensive assessment and inventory of assets.” The author therefore contends that this bill supports this recommendation that directs the Office of the State Auditor to conduct such an assessment to help stakeholders understand significant unforeseen financial impact to members pursuing an alternative service option.
- 3) *Opposition.* IID argues that physical assets encompass a component part of a much larger system and has little significance as compared to other aspects of providing electric service. IID also responds that it does not maintain the system by jurisdictional boundary and, instead, operates and maintains its electrical system, including the transmission and distribution components, as an integrated and interconnected network. Furthermore, IID maintains that over the last two years, it has taken several steps to facilitate development in Coachella Valley – including:
- In July, 2023 the IID Board of Directors initiated a comprehensive aging infrastructure and system condition analysis.
 - IID is currently pursuing a district-wide infrastructure planning initiative covering the next 15 years.
 - IID is currently in the process of segregating its system assets data by jurisdictional boundary.

As such, the bill as written seems to align with the various efforts that IID may be currently undertaking.

4) *Prior Legislation*

AB 1021(Mayes, 2021) would have required the local agency formation commissions for the County of Imperial and the County of Riverside to conduct and publish on their internet websites a joint study of options for providing continued publicly owned and managed electrical service in perpetuity to the Imperial Irrigation District’s electrical service area. Adds nonvoting members to the Imperial Irrigation District (IID) Board of Directors. Status: Vetoed by Governor.

Requires a joint study to be conducted by the Imperial and Riverside local agency formation commissions (LAFCOs) and adds nonvoting members to the Imperial Irrigation District (IID) Board of Directors.

AB 854 (Mayes, 2019) would have increased the IID Board membership from five to 11 board members and required the six additional Board members to be eligible voters and residents of Riverside County. This bill provides that if a public utility district is formed to provide electricity within the Riverside County service area, the number of IID Board

members can be reduced from 11 to five members. Status: This bill died in the Assembly Appropriations Committee.

AB 2629 (Mayes 2020) would have required the State Energy resources Conservation and Development Commission to study options to extend representation on the board of directors of IID to residents within the energy service area of IID but outside its jurisdictional boundaries. The report would have been due to the Legislature by June 30, 2022. This bill was not heard in the Assembly Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

Imperial Irrigation District

Analysis Prepared by: Lina V. Malova / U. & E. / (916) 319-2083