

A boost for Aptos cityhood

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SANTA CRUZ — In a decision heralded by Aptos incorporation supporters as a "tremendous shot in the arm," the state Supreme Court has ruled that only residents of a proposed new city need vote on its birth.

The court unanimously upheld a 1986 state law — striking down a lower court decision — that excludes the rest of a county's population from a vote on the creation of a new city.

The case involves an attempt to create a city of Citrus Heights, a residential area of 69,000 just east of Sacra-

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mento, and affects many other proposals around the state — 18 as of a year ago, including the effort to carve a city of Aptos from the county's unincorporated area.

Proponents of city status for Aptos had been awaiting the court decision for many months. Since the county would stand to lose tax revenue if Aptos were to strike out on its own, incorporation backers feared putting the matter before voters in the entire county would be a losing proposition, said Kelly Walker, attorney for the cityhood group.

"If the court decision had not come down this way, we really had no chance of getting this past the entire county," said Walker. "Now the people in the affected area can decide what form of government they want."

County Supervisor Gary Patton, a member of the Local Agency Formation Commission that oversees incorporation efforts, disagreed with the high court edict. The issue of who gets to vote on cityhood, said Patton, is one of "fairness."

Incorporation for Aptos may be an "opportunity to really enhance the (fiscal) power of the already powerful at the expense of the less powerful," Patton said.

A lawyer for the Sacramento County Board of Supervisors agreed, saying the ruling gave short shrift to the rights of others in a county that would lose tax revenues and services when a new city was formed.

"When you talk about a revenue transfer and you only ask the recipients, and you don't ask the people from whom it is taken, it's pretty easy to project how those decisions are going to be made," said attorney Brenton Bleier.

A new, self-governing city must continue to share some of its tax revenue with the county — supporting, for example, the county's courts, jail and welfare programs — but can keep money for other services, such as police, firefighting and streets, within its own borders.

Walker said the county would still retain more than 90 percent of the tax revenue it currently receives from the Aptos area. The proposed city of Aptos would encompass roughly the area from Park Avenue to the north, Vienna Woods subdivision to the east and

Seascape to the south, stopping short of La Selva Beach; it would include an estimated 18,000 residents, said Walker.

Though a boost for incorporation efforts, the Citrus Heights decision hardly clears all the hurdles for Aptos cityhood. The Local Agency Formation Commission, made up of representatives from the county and existing cities, is requiring the Aptos group to pony up \$100,000 for an environmental study; cityhood backers have not yet raised that sum.

Walker said his group may push for a "straw vote" of Aptos residents to see if there is sufficient interest in incorporation before mounting a drive to raise the \$100,000, said Walker.

"If we do a straw vote and the residents shoot it down, why put forth 100,000 bucks?" he said.

Gina Koshland, the Scotts Valley City Council's representative on LAFCO, called a vote among Aptos residents "appropriate" — provided a large enough area of Aptos was included.

A vote, in the form of a modest parcel tax for Aptos residents, could serve two purposes, Koshland said: It would poll the voters on incorporation and raise money for the environmental report if the tax was approved.

Then, she said, "if Aptos residents decided that they did want to incorporate, they would have to negotiate with the county for revenue impacts," Koshland said.

Another potential roadblock is a new state law set to go into effect in January requiring proof that newly formed cities do not cost surrounding counties any money. How strictly that law will be applied remains to be seen, said Bleier.

Citrus Heights residents applied for incorporation in 1986 but ran into a roadblock last year when the 3rd District Court of Appeal ruled that the law limiting the vote to the proposed new city violated the rights of nearly 500,000 residents of the rest of Sacramento County's unincorporated area, who would not be allowed to vote.

The Supreme Court overturned not only the appellate ruling but also the high court's own 1982 decision.

The Associated Press contributed to this report