

MEMORANDUM

DATE: April 24, 2019

TO: LAFCO Commissioners

FROM: Sara Lytle-Pinhey, Executive Officer *SLP*

SUBJECT: Legislative Update and Position Letters

RECOMMENDATION

Staff recommends that the Commission receive this legislative update and authorize the Executive Officer to submit letters of support and opposition on behalf of Stanislaus LAFCO for various bills.

DISCUSSION

CALAFCO is currently tracking 20 bills of interest and has been providing regular updates to member LAFCOs. Letters of support have been requested by CALAFCO for two of these bills: Assembly Bills 1253 (Grant Program), and 1822 (Omnibus Bill). Proposed letters of support are attached for each. A letter of opposition has been requested for AB 600 (Annexations and Services). The following is a summary of these and other bills of interest to Stanislaus LAFCO in the current legislative session:

Annexations and Services to Unincorporated Areas

AB-600 (Chu) – *Re-referred to Committee on Local Governance*

QUICK SUMMARY:

Requires all cities, counties, and certain special district to develop an “accessibility plan” if they have disadvantaged communities identified in the land use element of their respective general plans. The plan is intended to describe how water, sewer and fire services will be extended to these areas and, if not completed within 5 years, requires LAFCOs to initiate a change of reorganization or service extension for the agency.

While the overall goal of providing reliable and safe drinking water and wastewater facilities to residents is regularly supported by LAFCOs policies and actions, this bill would remove LAFCO discretion, discourage existing city-county efforts to incrementally improve areas, while ignoring typical planning processes and existing tools for providing services. Not only would LAFCOs be required to initiate large-scale annexations of areas while lacking discretion, further restrictions would be placed on LAFCO’s ability to update, amend, or modify a Sphere of Influence of an agency when adjacent to a disadvantaged community.

IMPLICATIONS FOR STANISLAUS LAFCO:

If this bill passes, it would circumvent the typical planning and LAFCO processes for incremental improvements and logical annexations of areas. The bill divests LAFCO of its authority and ability to review proposals while imposing an unfunded mandate. **Staff concurs with CALAFCO’s analysis of the bill and recommends a letter of opposition for AB-600.**

Grant Program for LAFCOs

AB-1253 (Rivas) – *Referred to Assembly Appropriations*

QUICK SUMMARY:

Would establish a grant program for local agency formation commissions that could potentially help fund change of organizations, reorganizations, and special studies.

Sponsored by CALAFCO, this bill establishes a five-year pilot grant program to provide grants to LAFCOs to address known service and governance concerns in disadvantaged communities. This program provides grants to LAFCOs for conducting special in-depth studies and analyses of local government agencies and services for the purposes of creating improved efficiencies in the delivery of local government services and completing the dissolution of inactive special districts. The grant program would be administered by the Strategic Growth Council and sunset on December 31, 2025.

IMPLICATIONS FOR STANISLAUS LAFCO:

If this bill passes, it would provide a unique opportunity for Stanislaus LAFCO and other LAFCOs to apply for grant funding for more in-depth studies, particularly for special districts where no other funding source for such study currently exists. **Staff recommends a letter of support for AB-1253.**

Omnibus Bill

AB-1822 (Committee on Local Government) – *Re-referred to Committee on Local Governance*

QUICK SUMMARY:

Each year, CALAFCO sponsors an omnibus bill that is intended to make minor clarifications and corrections to language in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act).

This year’s omnibus bill, AB-1822 contains several non-controversial changes, including the following:

- Clarification to the definition of “service review” (cross-referencing the existing requirement section).
- Clarification to the section allowing for the waiver of protest proceedings following Commission approval of a proposal.

IMPLICATIONS FOR STANISLAUS LAFCO:

Clarifications and improvements to the CKH Act are necessary to insure the law is as unambiguous as possible to the Commission and Staff. **Staff recommends a letter of support for AB-1822.**

Small System Water Authority Act of 2019

SB-414 (Caballero) – *Senate Appropriations*

QUICK SUMMARY:

Would authorize creation of small system water authorities that will have powers to absorb, improve, and operate noncompliant public water systems. LAFCO would be required to process the formation of the entity and monitor their compliance with a corrective plan.

According to CALAFCO, the focus of the bill is on non-contiguous water systems. The bill is similar to AB-2050 (Caballero) from 2018. The State Water Resources Control Board already has the authority to mandate consolidation of certain water systems. This bill would add the authority to mandate dissolution of water systems and formation of new public agencies known as small system water authorities. LAFCO would have little, if any, discretion in the process. The bill also requires the new authority to file annual performance reports with the Commission.

IMPLICATIONS FOR STANISLAUS LAFCO:

Staff is concerned by the processes included in this proposed legislation and the lack of discretion by LAFCO. Staff is aware that CALAFCO has been working with the author on amendments and clarifications to the process.

Attachments: Draft Letters for AB 600, AB 1253, and AB 1822.

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The Honorable Kansen Chu
California State Assembly
State Capital Room 3126
Sacramento, CA 95814

Subject: **Oppose AB 600 (as amended April 11, 2019)**

Dear Assembly Member Chu:

The Stanislaus Local Agency Formation Commission (LAFCo) joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose your bill **AB 600**. LAFCos are aware of and concerned about the disparity of local public services, especially for residents and properties located within disadvantaged unincorporated communities (DUCs). All Californians deserve adequate and safe drinking water and wastewater facilities. We support your efforts to address these problems, which persist in many counties, however **AB 600** in its current version does not represent a collective stakeholder dialogue with reasonable and systemic solutions to the problem.

Annexation concerns: Changes proposed to Government Code Section 56375 pose several problems. First, the proposed changes in §56375(a)(8)(A) and (B) seem to confuse the annexation of territory into an incorporated city and the annexation of territory into a special district. When the Legislature created LAFCos in 1963, one of LAFCos' primary missions was and still is to ensure orderly growth and development. This is done in a variety of ways including the authority to adopt spheres of influence for local agencies and approve annexations. To ensure orderly growth, when the LAFCo approves a service extension outside the jurisdictional boundary but within the sphere of influence, they do so in anticipation of a later change of organization (annexation), pursuant to §56133(b). Changes to §56375(a)(8)(A) add the exclusion of annexation into a qualified special district.

Further, changes to §56375(a)(8)(B) create an inconsistent exception for protest proceedings which takes away rights that have been long-established in governmental reorganizations in California. The residents of the DUC are afforded the right to file protests for boundary changes but other residents living within a larger annexation boundary that are not part of the DUC would lose their right to protest.

Removes LAFCo discretion: When considering a change of organization pursuant to §56133, LAFCo has the discretion to consider the unique local circumstances and conditions that exist. This is an important and basic construct within the legislatively stated purpose of LAFCos. This bill removes that discretion and authority through proposed changes to §56375(a)(9), §56425(k)(1) and (2), and §56425 (l).

Lack of clarity: The bill proposes changes to §56301 by adding “considerations of equity” as an additional basis upon which LAFcos fulfill their purposes. Yet the bill does not define “considerations of equity”, which leads to a wide open interpretation. Each LAFCo will create their own local policies related to “considerations of equity”.

Accessibility plans: The bill requires LAFCo, within five years of the approval of an accessibility plan (pursuant to §56440), to hold a noticed public hearing for the purposes of reviewing the status of every DUC that is subject to an accessibility plan. This has the potential of being a vast number of public hearings and comprehensive reviews without the necessary resources to execute such a requirement.

Additionally, the bill requires LAFCo to initiate a change of organization, reorganization or service extension should the commission determine the needs of the DUC remain unaddressed. LAFCo-initiated actions are costly to the LAFCo (as there is no funding source to support the action) and like all other changes of organization or reorganization, are subject to protest proceedings. Further, a service extension without annexation would not be a likely LAFCo-initiated action.

The required contents of the accessibility plan are confusing. First, §56440(a)(5)(A) states: “*Any actions and alternatives necessary to be taken by the commission, if any, to enable the entity determined pursuant to paragraph (2) to provide services to the affected territory.*” How is a county, city or special district best positioned and informed to prescribe to the LAFCo commission what actions the LAFCo should be taking?

Second, §56440(a)(6)(B) requires the commission to approve or approve with conditions the accessibility plan. Once again there is a divestiture in LAFCo authority. Further, we fail to see LAFcos’ authority to enforce any conditions that may be applied to the accessibility plan.

Third, §56440(a)(2) requires the commission to determine which entity is best positioned to provide adequate water or wastewater services to the affected territory. Without a thorough study of surrounding service providers, this may be difficult to determine.

One size does not fit all: We are concerned that the bill has unintended consequences in the ability to provide necessary services to an existing DUC. For example, if it is reasonable to extend services to a particular DUC but not to others, this bill prevents the extension of services to the area that can reasonably be serviced. The same is true for those areas currently contained within a city’s sphere, where it may make better sense to have another service provider providing the service. These changes are complicated by the fact the bill interchangeably uses the term “disadvantaged community” and “disadvantaged unincorporated community”.

Creates a significant unfunded mandate to LAFCo and local agencies: The studies, analysis, preparation of recommendations regarding underserved disadvantaged communities and public hearings on all accessibility plans and potential subsequent actions initiated by LAFCo that would be required, all impose unfunded mandates on counties, cities, qualified special districts and LAFcos. By law LAFCo is forced to pass their costs on to cities, counties – and in 30 counties – special districts which fund the commissions.

We support workable and sustainable policy solutions to the disparities in service delivery to disadvantaged communities. However, a major obstacle remains the infrastructure and operational funding for these services. We believe that addressing the needs of disadvantaged communities

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through the planning process and finding tools to support the infrastructure deficiencies and implementation actions remain a very important part of the solution.

For all of the reasons noted above, the Stanislaus LAFCo is opposed to **AB 600**. Please contact me should you have any questions.

Sincerely,

Sara Lytle-Pinhey
Executive Officer
Stanislaus LAFCO

Cc: Members, Assembly Local Government Committee
Jimmy MacDonald, Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Pamela Miller, Executive Director, CALAFCO

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The Honorable Robert Rivas
California State Assembly
State Capital Room 5158
Sacramento, CA 95814

Subject: **SUPPORT of AB 1253**

Dear Assemblymember Rivas:

The Stanislaus Local Agency Formation Commission (LAFCo) is pleased to join the California Association of Local Agency Formation Commissions (CALAFCO) in support for **Assembly Bill 1253**. Sponsored by CALAFCO, the bill establishes a five-year pilot grant program to provide grants to LAFCos to address known service and governance concerns in disadvantaged communities.

The Legislature established LAFCos in 1963 to encourage the orderly formation of local government agencies. Since that time, the regulatory role and responsibilities of LAFCos has substantially increased without additional funding. Operating in all 58 California counties, LAFCos are responsible for meeting important statutory directives to maintain orderly boundaries and seek greater efficiencies in delivering local services, and yet these directives often times cannot be met under current funding mechanisms. As a result, much needed LAFCo activities are sometimes delayed or rejected.

In August 2017, the Little Hoover Commission published a report on special districts and their oversight by LAFCos, which contained several recommendations directly related to LAFCo. One recommendation was for the Legislature to provide one-time grant funding to pay for specified LAFCo activities, particularly to incentivize LAFCos or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes.

Stanislaus LAFCO views AB 1253 as an important opportunity to complete in-depth governance studies that would otherwise not occur due to lack of funding. By establishing this one-time grant funding, AB 1253 provides an additional tool for LAFCos to conduct detailed studies and implement greater efficiencies in delivering local services based on local circumstances and conditions. For these reasons, Stanislaus LAFCO is pleased to support AB 1253

Thank you for authoring this important piece of legislation. Please feel free to contact me should you have any questions about Stanislaus LAFCo's position.

Sincerely,

Sara Lytle-Pinhey
Executive Officer
Stanislaus LAFCO

Cc: Senator Robert Hertzberg, co-author
Senator Anna Caballero, co-author
Pamela Miller, Executive Director, CALAFCO

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Honorable Cecilia Aguiar-Curry, Chair
Assembly Local Government Committee
California State Assembly
State Capitol, Room 5144
Sacramento, CA 95814

RE: SUPPORT of AB 1822: Local Government Committee Omnibus Bill (as amended April 8, 2019)

Dear Chair Aguiar-Curry:

The Stanislaus Local Agency Formation Commission (LAFCo) is pleased to support the Assembly Local Government Committee Bill **AB 1822** (amended April 8, 2019) which makes technical, non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act).

This annual bill includes technical changes to the Act which governs the work of LAFCos. These changes are necessary as Commissions implement the Act and small inconsistencies are found or clarifications are needed to make the law as unambiguous as possible. **AB 1822** currently makes minor technical corrections to language used in the Act. Stanislaus LAFCo is grateful to your Committee, staff and CALAFCO, all of whom worked diligently on this language to ensure there are no substantive changes while creating a significant increase in the clarity of the Act for all stakeholders.

This legislation helps insure the Cortese-Knox-Hertzberg Act remains a vital and practical law that is consistently applied around the state. We appreciate your Committee's authorship and support of this bill, and your support of the mission of LAFCos.

Sincerely,

Sara Lytle-Pinhey
Executive Officer
Stanislaus LAFCO

cc: Members, Assembly Local Government Committee
Jimmy MacDonald, Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Pamela Miller, Executive Director, CALAFCO