

L A F C O M E M O R A N D U M

SANTA BARBARA LOCAL AGENCY FORMATION COMMISSION
105 East Anapamu Street ♦ Santa Barbara CA 93101 ♦ (805) 568-3391 ♦ Fax (805) 568-2249

June 2, 2016 (Agenda)

TO: Each Member of the Commission

FROM: Paul Hood *PLH*
Executive Officer

SUBJECT: **Report on 2016 CALAFCO Legislative Committee Activities**

This is an Informational Report. No Action is Necessary

The CALAFCO Legislative Committee convened by conference call on May 20, 2016. A copy of the Meeting Agenda is attached as **Exhibit A**. A list of CALAFCO Sponsored Legislation is attached as **Exhibit B**. CALAFCO's positions on specific legislation is attached as **Exhibit C**.

Of significance interest and subject to much discussion at the meeting, was Senate Bill 1318 (Wolk). A copy of the bill is attached as **Exhibit D**. SB 1318 deals with Disadvantaged Unincorporated Communities that lack adequate drinking water and wastewater services and infrastructure within or contiguous with an agency's sphere of influence. The proposed changes to the bill by CALAFCO's SB 1318 Working Committee, are attached as **Exhibit E**. Staff will explain the impact on LAFCO's at the Commission meeting.

At the May 3, 2016 meeting, the Commission also voted to support the Local Government Committee Omnibus bill, AB 2910 (Eggman). A copy of the letter of support is attached as **Exhibit F**.

EXHIBITS

| | |
|-----------|--|
| Exhibit A | CALAFCO Legislative Committee Agenda – May 20, 2016 |
| Exhibit B | CALAFCO Sponsors Legislation |
| Exhibit C | CALAFCO's Position on Specific Legislation |
| Exhibit D | Senate Bill 1266 (McGuire) |
| Exhibit E | CALAFCO's Proposed Changes to SB 1266 |
| Exhibit F | SBLAFCO's Letter of Support for the Omnibus Bill – AB 2910 |

Please contact the LAFCO office if you have any questions.

CALAFCO Legislative Committee MEETING AGENDA

**Friday, 20 May 2016 ♦ 9:30 am – 2:00 pm
Conference Call**

| | | <u>Page</u> |
|---|-------------------|-------------|
| 1. Establish Quorum, Review Agenda | <i>P. Miller</i> | |
| 2. Approval of minutes of the April 22, 2016 meeting* | <i>P. Miller</i> | 3 |
| 3. Update of CALAFCO Sponsored Legislative Items* | | 7 |
| a. AB <u>2910</u> (Omnibus) | <i>P. Novak</i> | |
| b. SB <u>1266</u> (McGuire) | <i>K. Simonds</i> | |
| 4. Discussion of Specific CALAFCO Tracked Legislation* | <i>P. Miller</i> | 15 |
| <i>Priority One Bills:</i> | | |
| a. AB <u>2470</u> (Gonzalez) (CALAFCO Watch with concerns) | | |
| b. SB <u>1262</u> (Pavley) (CALAFCO Watch with concerns) | | |
| c. SB <u>1318</u> (Wolk) (CALAFCO Oppose) | | |
| <i>Priority Two Bills:</i> | | |
| d. AB <u>2471</u> (Quirk) – (CALAFCO Oppose Unless Amended) | | |
| 5. Review of other CALAFCO Tracked Legislation* | <i>P. Miller</i> | 57 |
| 6. Other suggestions for consideration and tracking | | |
| 7. Items for Next Meeting | | |
| 8. Adjournment to 24 June, 2016 meeting via conference call | | |

* Please see attached staff report.

Legislative Committee Meeting
20 May 2016

Agenda Item 3
CALAFCO Sponsored Legislation

Prepared By: Pamela Miller, Executive Director and Committee Chair

Date: May 20, 2016

DESCRIPTION

AB 2910 (Omnibus)

Since the April Legislative Committee (Committee) meeting, the Omnibus bill has passed through the Assembly and is now at the Senate Governance and Finance Committee (SGFC) awaiting a hearing date. There are pending amendments based on what the Committee discussed last month, which include:

1. The removal of amendments to Section 56150 (notice delivery);
2. In Section 56301, changing "ensuring" to "encouraging"; and
3. In Section 56331 (pertaining to appointment of public member), changing: The public member and the alternate public member shall be residents of the affected county of the appointing commission."

The bill will be amended prior to the SGFC hearing.

SB 1266 (McGuire)

Since the Committee's last meeting, the bill passed through the Senate and is now awaiting referral to the Assembly Local Government Committee (ALGC). As a condition of the CA Association of JPAs (CAJPA) support of the bill, the Senator agreed to: (1) ensure language was specific enough so as to exclude their members (risk-pooling and insurance-pooling type JPAs); and (2) provide a letter to the journal stating the intent of the bill is to exclude these kinds of JPAs included.

The author's office approached the Senate Pro Tem's office regarding a letter to the journal, per protocol, and the Pro Tem's office preferred the issue be worked out outside of a journal letter.

As a result, CAJPA is now stating if they cannot have the letter to the journal posted then they want the language amended to add: "The requirement to file a copy of the agreement and any amendments to the agreement with the local agency formation commission in each affected county specified in sections 6503.6 and 6503.8 shall not apply to an agency or entity constituted pursuant to a joint powers agreement exercising the authority and powers provided pursuant to Government Code section 990.8 and/or Labor Code section 3700 (c)."

This is a concern for CALAFCO as we previously discussed the risk of creating inclusionary or exclusionary lists and decided against those options. This opens the door for other kinds of JPAs to make the same request leaving us little defense as to why we would not add them. At the same time, CALAFCO must work with the Senator's staff and consider the integrity of the agreement they made with CAJPA. As of today, CAJPA supports the bill and it is unknown how their position will change should the amendment not be accepted. Also, as of today, there is no opposition to the bill.

As of the writing of this report, CALAFCO is discussing with the Senator's office on the next course of action.

RECOMMENDED ACTION

Provide feedback on the proposed amendment in SB 1266.

ATTACHMENT

3a – AB 2910 proposed amendments for Sections noted herein

3b – SB 1266 as amended April 12, 2016

LEGISLATIVE COMMITTEE MEETING STAFF REPORT

Agenda Item 4 Current CALAFCO Specific Tracked Legislation

Prepared By: Pamela Miller, Executive Director and Committee Chair

Date: May 20, 2016

RECOMMENDATION

1. Take action as requested.

DISCUSSION

AB 2470 (Gonzalez) (CALAFCO Watch with concerns)

Amended slightly since the Committee's last meeting, the bill still requires a district to provide water service at the request of an Indian tribe under certain conditions. The list of bill supporters grows and there remains no opposition. It is likely the bill will continue through the legislative process intact in its current form. It is set for hearing in Assembly Appropriations (a committee the author Chairs) on May 18, and given the committee analysis, will likely pass on their consent calendar. The current version of the bill is included as attachment 4a.

Recommendation: No action necessary.

SB 1262 (Pavley) (CALAFCO Watch with concerns)

Since the last Committee meeting, the bill was amended to remove the most egregious part of the bill which was the requirement of the completion of a water supply assessment after the LAFCo has denied the project (rather than the assessment being done prior to the LAFCo receiving the application). With this set of amendments, this section of the bill reverts back to the original statute. The other two issues raised by CALAFCO are still under consideration. They include the current threshold of 500 units (and the potential reduction of that number to actually capture a larger percentage of development projects) as well as how to address phased development.

The bill is currently on the floor of the Senate awaiting passage and will then go to the Assembly. The current version of the bill is included as attachment 4b.

Recommendation: No action necessary. Staff recommends retaining our Watch position and continue participating in stakeholder meetings to provide input on the outstanding issues.

SB 1318 (Wolk) (CALAFCO Oppose)

At its last meeting, the Committee discussed this bill at length, including the issues of compliance with SB 244 (Wolk, 2011) and potential ideas on how to reach the author and sponsors' desired outcomes for this bill. (Identified by them as: (1) Getting all DUCs mapped; (2) Identifying those with drinking water and wastewater deficiencies; and (3) Getting services to those DUCs.) A summary of that discussion is included as attachment 4c (and was previously provided to the Committee). Additionally, a subgroup was formed to work on amending the bill in a way that would potentially work for LAFCos, which consists

of David Church, Jose Henriquez , Steve Lucas, Bill Nicholson, Paul Novak, Keene Simonds and myself. Representing all four regions as well as a diverse urban-suburban-rural perspective, the team got right to work. Additional feedback was provided by the Committee subsequent to the meeting via email and considered by the subgroup as we began our work.

After almost two weeks of exchanging ideas and language, the group came to consensus on the conceptual document previously provided to the Committee for feedback. The group received feedback from Carole Cooper, Carolyn Emery and George Spiliotis. Include as attachment 4d is that feedback (verbatim).

The concepts and a first-draft of language were presented to the author and sponsor May 3 (CALAFCO presence included myself, Steve, Jose and Keene). Two days later another meeting was held with the author, sponsor and the State Water Resources Control Board (SWRCB) to discuss CALAFCO's ideas and the SWRCB's involvement in the process (Steve joined by phone). As they are the ones with the money to address the drinking water issues, their involvement in resolving these issues is critical. The outcome of these two meetings (from CALAFCO's perspective) is that the author's staff is on board with our proposed amendments, the SWRCB finds the proposal interesting and are willing to engage in conversation about the possibilities, and the sponsor is lukewarm to the ideas presented.

On May 11 a wide stakeholder meeting was held. CALAFCO was asked to present the conceptual document to the stakeholders which we did (myself, Steve and Jose were there). During the two hour meeting there was a great deal of push and pull between the sponsor and stakeholders. Afterwards we learned that a majority of the stakeholders felt this was a better process than what currently exists within the bill. They especially like that we removed the punitive actions, which the sponsor did not appreciate and wants back into the bill. However, we were very clear there were many holes to fill and many questions still to answer. (If solving the drinking water and wastewater issues were easy, they would have been solved long before now.)

Following that meeting and taking the feedback we heard, the subgroup went back to the language and made further changes. After another week of work, the team has agreed on the draft amendments included as attachment 4e. Again, we realize this is a working draft, and changes will likely be made as a result of your feedback during the meeting, then again when it is distributed to the full CALAFCO membership for feedback.

In summary, here is what the subgroup did:

- Moved everything out of the MSR/SOI section and into the LAFCo powers section
- Moved the DUC mapping requirement from the MSR/SOI section into a stand-alone requirement
- Created a new section within the LAFCo powers section
- Focused mainly on that which is currently within LAFCo control and just outside LAFCo control – the latter being addressed by amendments within the revisions providing LAFCo the authority it needs
- Included the SWRCB and SRWQB as funding mechanisms (not sure the latter will play)
- Included the changes to Section 56653 which were dropped from the Omnibus last year in our requested amendments (as directed by the CALAFCO Board)

Taken off the table during the stakeholder meeting was the idea of a specific CEQA exemption for LAFCo should they initiate the action (it was stated we could use the infill exemption). The sponsor and Senate Environmental Quality committee consultant very much want included a disincentive to force dealing with new development being served before a DUC. Further, the sponsor wants built-in accountability for local agencies and did not want to agree to the complete waiving of the protest proceedings. The latter issue may be the issue that causes the negotiations to stall and die. It is unclear if the author will continue carrying the bill should that point not be agreeable.

Introduced by Senator Wolk

February 19, 2016

An act to amend Sections 56133, 56133.5, 56375, 56425, and 56430 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1318, as introduced, Wolk. Local government: drinking water infrastructure or services: wastewater infrastructure or services.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation and change of organization of cities and special districts.

Existing law authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries only if the city or district requests and receives permission to do so from the local agency formation commission in the affected county. Under existing law, the commission may authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.

This bill would prohibit the commission from authorizing a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services until it has extended those services to all disadvantaged communities within or adjacent to its sphere of influence, as specified, or has entered into an agreement to extend those services to those disadvantaged communities, unless specified conditions are met. The bill would prohibit the commission from approving a sphere of influence update where there exists a disadvantaged unincorporated community within or adjacent to the city or special district's sphere of influence that lacks safe drinking water infrastructure or services or

adequate wastewater infrastructure or services unless specified conditions are met.

Existing law establishes a pilot program for the Napa and San Bernardino local agency formation commissions that permits those commissions to authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.

This bill would prohibit those commissions from authorizing a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services until it has extended services to all disadvantaged communities within or adjacent to its sphere of influence, as specified, or has entered into an agreement to extend those services to those disadvantaged communities.

Existing law, except as otherwise provided, prohibits a local agency formation commission from approving an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community, as specified, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.

This bill would extend that prohibition to the annexation to a qualified special district. The bill would additionally prohibit a commission from approving an annexation to a city or qualified special district of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community within or adjacent to the sphere of influence of a city or qualified special district that lacks safe drinking water infrastructure or services or adequate wastewater infrastructure or services, unless the city or special district has entered into an enforceable agreement to extend those services into the disadvantaged community or communities, as specified. The bill would define “qualified special district” to mean a special district with more than 500 service connections.

Existing law requires a local agency formation commission to develop and determine the sphere of influence of each city and each special district within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere. Existing law authorizes the commission, in determining a sphere of influence, to assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies, as provided.

This bill would instead require the commission to assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies. The bill would prohibit a commission from approving a sphere of influence update that removes a disadvantaged community from a city's sphere of influence unless a majority of the voters in the disadvantaged community approve of the proposed sphere of influence.

Existing law requires a commission, in preparing and updating spheres of influence, to conduct a service review of the municipal services provided in the county or other area designated by the commission. Existing law authorizes the commission, in conducting the review, to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery, as specified, and to include a review of whether the agencies under review are in compliance with the California Safe Drinking Water Act.

This bill would instead require the commission to make the assessment of alternative and to include the safe drinking water review described above.

By imposing new duties on local government officials, this bill would impose a state-mandate local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 56133 of the Government Code is
- 2 amended to read:
- 3 56133. (a) A city or district may provide new or extended
- 4 services by contract or agreement outside its jurisdictional
- 5 boundary only if it first requests and receives written approval
- 6 from the commission.
- 7 (b) The commission may authorize a city or district to provide
- 8 new or extended services outside its jurisdictional boundary but

1 within its sphere of influence in anticipation of a later change of
2 organization.

3 (c) If consistent with adopted policy, the commission may
4 authorize a city or district to provide new or extended services
5 outside its jurisdictional boundary and outside its sphere of
6 influence to respond to an existing or impending threat to the health
7 or safety of the public or the residents of the affected territory, if
8 both of the following requirements are met:

9 (1) The entity applying for approval has provided the
10 commission with documentation of a threat to the health and safety
11 of the public or the affected residents.

12 (2) The commission has notified any alternate service provider,
13 including any water corporation as defined in Section 241 of the
14 Public Utilities Code, that has filed a map and a statement of its
15 service capabilities with the commission.

16 (d) *The commission shall not authorize a city or a district to*
17 *extend drinking water infrastructure or services or wastewater*
18 *infrastructure or services pursuant to this section until it has*
19 *extended those services to all disadvantaged communities within*
20 *or adjacent to its sphere of influence that are facing existing or*
21 *impending threats to the public health or safety or has entered*
22 *into an agreement to extend those services to those disadvantaged*
23 *communities that are facing existing or impending threats to the*
24 *public health or safety, unless either of the following conditions*
25 *are met:*

26 (1) *The commission finds, based upon written evidence, that a*
27 *majority of the residents of the affected disadvantaged community*
28 *or communities are opposed to receiving the identified service or*
29 *services.*

30 (2) *The extension of services is authorized pursuant to*
31 *subdivision (c).*

32 (d)

33 (e) The executive officer, within 30 days of receipt of a request
34 for approval by a city or district to extend services outside its
35 jurisdictional boundary, shall determine whether the request is
36 complete and acceptable for filing or whether the request is
37 incomplete. If a request is determined not to be complete, the
38 executive officer shall immediately transmit that determination to
39 the requester, specifying those parts of the request that are
40 incomplete and the manner in which they can be made complete.

1 When the request is deemed complete, the executive officer shall
2 place the request on the agenda of the next commission meeting
3 for which adequate notice can be given but not more than 90 days
4 from the date that the request is deemed complete, unless the
5 commission has delegated approval of requests made pursuant to
6 this section to the executive officer. The commission or executive
7 officer shall approve, disapprove, or approve with conditions the
8 extended services. If the new or extended services are disapproved
9 or approved with conditions, the applicant may request
10 reconsideration, citing the reasons for reconsideration.

11 (e)

12 (f) This section does not apply to any of the following:

13 (1) Two or more public agencies where the public service to be
14 provided is an alternative to, or substitute for, public services
15 already being provided by an existing public service provider and
16 where the level of service to be provided is consistent with the
17 level of service contemplated by the existing service provider.

18 (2) The transfer of nonpotable or nontreated water.

19 (3) The provision of surplus water to agricultural lands and
20 facilities, including, but not limited to, incidental residential
21 structures, for projects that serve conservation purposes or that
22 directly support agricultural industries. However, prior to extending
23 surplus water service to any project that will support or induce
24 development, the city or district shall first request and receive
25 written approval from the commission in the affected county.

26 (4) An extended service that a city or district was providing on
27 or before January 1, 2001.

28 (5) A local publicly owned electric utility, as defined by Section
29 9604 of the Public Utilities Code, providing electric services that
30 do not involve the acquisition, construction, or installation of
31 electric distribution facilities by the local publicly owned electric
32 utility, outside of the utility's jurisdictional boundary.

33 (6) A fire protection contract, as defined in subdivision (a) of
34 Section 56134.

35 (f)

36 (g) This section applies only to the commission of the county
37 in which the extension of service is proposed.

38 (h) *The commission shall not approve a sphere of influence*
39 *update where there exists a disadvantaged unincorporated*
40 *community within or adjacent to the city or special district's sphere*

1 *of influence that lacks safe drinking water infrastructure or services*
2 *or adequate wastewater infrastructure or services unless the city*
3 *or special district has entered into an enforceable agreement to*
4 *extend those services into the disadvantaged community or*
5 *communities within five years of the sphere of influence change*
6 *or the commission finds, based upon written evidence, that a*
7 *majority of the residents of the affected disadvantaged community*
8 *or communities are opposed to receiving the identified service or*
9 *services.*

10 SEC. 2. Section 56133.5 of the Government Code is amended
11 to read:

12 56133.5. (a) A pilot program is hereby established for the
13 Napa and San Bernardino commissions. If consistent with adopted
14 policy, the Napa and San Bernardino commissions may authorize
15 a city or district to provide new or extended services outside its
16 jurisdictional boundary and outside its sphere of influence to
17 support existing or planned uses involving public or private
18 properties, subject to approval at a noticed public hearing in which
19 the commission makes all of the following determinations:

20 (1) The extension of service or services deficiency was identified
21 and evaluated in a review of municipal services prepared pursuant
22 to Section 56430.

23 (2) The extension of service will not result in either (1) adverse
24 impacts on open space or agricultural lands or (2) growth inducing
25 impacts.

26 (3) A sphere of influence change involving the subject territory
27 and its affected agency is not feasible under this division or
28 desirable based on the adopted policies of the commission.

29 (b) Subdivision (d) of Section 56133 shall apply to any request
30 for new or extended services pursuant to this section.

31 (c) *The Napa and San Bernardino commissions shall not*
32 *authorize a city or a district to extend drinking water infrastructure*
33 *or services or wastewater infrastructure or services pursuant to*
34 *this section until it has extended those services to all disadvantaged*
35 *communities within or adjacent to its sphere of influence that are*
36 *facing existing or impending threats to the public health or safety*
37 *or has entered into an agreement to extend those services to those*
38 *disadvantaged communities that are facing existing or impending*
39 *threats to public health or safety.*

40 (e)

1 (d) For purposes of this section, “planned use” means any project
2 that is included in an approved specific plan as of July 1, 2015.

3 ~~(d)~~

4 (e) The Napa and San Bernardino commissions shall submit a
5 report before January 1, 2020, to the Legislature on their
6 participation in the pilot program, including how many requests
7 for extension of services were received pursuant to this section
8 and the action by the commission to approve, disapprove, or
9 approve with conditions. The report required to be submitted
10 pursuant to this subdivision shall be submitted in compliance with
11 Section 9795 of the Government Code.

12 ~~(e)~~

13 (f) The pilot program established pursuant to this section shall
14 be consistent with Chapter 8.5 (commencing with Section 1501)
15 of the Public Utilities Code.

16 ~~(f)~~

17 (g) This section shall remain in effect only until January 1, 2021,
18 and as of that date is repealed.

19 SEC. 3. Section 56375 of the Government Code is amended
20 to read:

21 56375. The commission shall have all of the following powers
22 and duties subject to any limitations upon its jurisdiction set forth
23 in this part:

24 (a) (1) To review and approve with or without amendment,
25 wholly, partially, or conditionally, or disapprove proposals for
26 changes of organization or reorganization, consistent with written
27 policies, procedures, and guidelines adopted by the commission.

28 (2) The commission may initiate proposals by resolution of
29 application for any of the following:

30 (A) The consolidation of a district, as defined in Section 56036.

31 (B) The dissolution of a district.

32 (C) A merger.

33 (D) The establishment of a subsidiary district.

34 (E) The formation of a new district or districts.

35 (F) A reorganization that includes any of the changes specified
36 in subparagraph (A), (B), (C), (D), or (E).

37 (3) A commission may initiate a proposal described in paragraph
38 (2) only if that change of organization or reorganization is
39 consistent with a recommendation or conclusion of a study
40 prepared pursuant to Section 56378, 56425, or 56430, and the

1 commission makes the determinations specified in subdivision (b)
2 of Section 56881.

3 (4) A commission shall not disapprove an annexation to a city,
4 initiated by resolution, of contiguous territory that the commission
5 finds is any of the following:

6 (A) Surrounded or substantially surrounded by the city to which
7 the annexation is proposed or by that city and a county boundary
8 or the Pacific Ocean if the territory to be annexed is substantially
9 developed or developing, is not prime agricultural land as defined
10 in Section 56064, is designated for urban growth by the general
11 plan of the annexing city, and is not within the sphere of influence
12 of another city.

13 (B) Located within an urban service area that has been delineated
14 and adopted by a commission, which is not prime agricultural land,
15 as defined by Section 56064, and is designated for urban growth
16 by the general plan of the annexing city.

17 (C) An annexation or reorganization of unincorporated islands
18 meeting the requirements of Section 56375.3.

19 (5) As a condition to the annexation of an area that is
20 surrounded, or substantially surrounded, by the city to which the
21 annexation is proposed, the commission may require, where
22 consistent with the purposes of this division, that the annexation
23 include the entire island of surrounded, or substantially surrounded,
24 territory.

25 (6) A commission shall not impose any conditions that would
26 directly regulate land use density or intensity, property
27 development, or subdivision requirements.

28 (7) The decision of the commission with regard to a proposal
29 to annex territory to a city shall be based upon the general plan
30 and rezoning of the city. When the development purposes are not
31 made known to the annexing city, the annexation shall be reviewed
32 on the basis of the adopted plans and policies of the annexing city
33 or county. A commission shall require, as a condition to
34 annexation, that a city prezone the territory to be annexed or present
35 evidence satisfactory to the commission that the existing
36 development entitlements on the territory are vested or are already
37 at build-out, and are consistent with the city's general plan.
38 However, the commission shall not specify how, or in what
39 manner, the territory shall be rezoned.

1 (8) (A) Except for those changes of organization or
2 reorganization authorized under Section 56375.3, and except as
3 provided by subparagraph (B), a commission shall not approve an
4 annexation to a city *or to a qualified special district* of any territory
5 greater than 10 acres, or as determined by commission policy,
6 where ~~there exists a~~ *either of the following exists:*

7 (i) (I) A disadvantaged unincorporated community that is
8 contiguous to the area of proposed annexation, unless an
9 application to annex the disadvantaged unincorporated community
10 to the subject city has been filed with the executive officer.

11 ~~(B)~~

12 (II) An application to annex a contiguous disadvantaged
13 community shall not be required if either of the following apply:

14 (†)

15 (ia) A prior application for annexation of the same
16 disadvantaged community has been made in the preceding five
17 years.

18 (††)

19 (ib) The commission finds, based upon written evidence, that
20 a majority of the registered voters within the affected ~~territory~~
21 *disadvantaged community* are opposed to annexation.

22 (ii) *A disadvantaged unincorporated community within or*
23 *adjacent to the sphere of influence of a city or qualified special*
24 *district that lacks safe drinking water infrastructure or services*
25 *or adequate wastewater infrastructure or services unless the city*
26 *or qualified special district has entered into an enforceable*
27 *agreement to extend those services into the disadvantaged*
28 *community or communities within five years of the completion of*
29 *the annexation.*

30 (B) *For purposes of this paragraph, “a qualified special*
31 *district” means a special district with more than 500 service*
32 *connections.*

33 (b) With regard to a proposal for annexation or detachment of
34 territory to, or from, a city or district or with regard to a proposal
35 for reorganization that includes annexation or detachment, to
36 determine whether territory proposed for annexation or detachment,
37 as described in its resolution approving the annexation, detachment,
38 or reorganization, is inhabited or uninhabited.

1 (c) With regard to a proposal for consolidation of two or more
2 cities or districts, to determine which city or district shall be the
3 consolidated successor city or district.

4 (d) To approve the annexation of unincorporated, noncontiguous
5 territory, subject to the limitations of Section 56742, located in the
6 same county as that in which the city is located, and that is owned
7 by a city and used for municipal purposes and to authorize the
8 annexation of the territory without notice and hearing.

9 (e) To approve the annexation of unincorporated territory
10 consistent with the planned and probable use of the property based
11 upon the review of general plan and rezoning designations. No
12 subsequent change may be made to the general plan for the annexed
13 territory or zoning that is not in conformance to the rezoning
14 designations for a period of two years after the completion of the
15 annexation, unless the legislative body for the city makes a finding
16 at a public hearing that a substantial change has occurred in
17 circumstances that necessitate a departure from the rezoning in
18 the application to the commission.

19 (f) With respect to the incorporation of a new city or the
20 formation of a new special district, to determine the number of
21 registered voters residing within the proposed city or special district
22 or, for a landowner-voter special district, the number of owners
23 of land and the assessed value of their land within the territory
24 proposed to be included in the new special district. The number
25 of registered voters shall be calculated as of the time of the last
26 report of voter registration by the county elections official to the
27 Secretary of State prior to the date the first signature was affixed
28 to the petition. The executive officer shall notify the petitioners of
29 the number of registered voters resulting from this calculation.
30 The assessed value of the land within the territory proposed to be
31 included in a new landowner-voter special district shall be
32 calculated as shown on the last equalized assessment roll.

33 (g) To adopt written procedures for the evaluation of proposals,
34 including written definitions consistent with existing state law.
35 The commission may adopt standards for any of the factors
36 enumerated in Section 56668. Any standards adopted by the
37 commission shall be written.

38 (h) To adopt standards and procedures for the evaluation of
39 service plans submitted pursuant to Section 56653 and the initiation

1 of a change of organization or reorganization pursuant to
2 subdivision (a).

3 (i) To make and enforce regulations for the orderly and fair
4 conduct of hearings by the commission.

5 (j) To incur usual and necessary expenses for the
6 accomplishment of its functions.

7 (k) To appoint and assign staff personnel and to employ or
8 contract for professional or consulting services to carry out and
9 effect the functions of the commission.

10 (l) To review the boundaries of the territory involved in any
11 proposal with respect to the definiteness and certainty of those
12 boundaries, the nonconformance of proposed boundaries with lines
13 of assessment or ownership, and other similar matters affecting
14 the proposed boundaries.

15 (m) To waive the restrictions of Section 56744 if it finds that
16 the application of the restrictions would be detrimental to the
17 orderly development of the community and that the area that would
18 be enclosed by the annexation or incorporation is so located that
19 it cannot reasonably be annexed to another city or incorporated as
20 a new city.

21 (n) To waive the application of Section 22613 of the Streets and
22 Highways Code if it finds the application would deprive an area
23 of a service needed to ensure the health, safety, or welfare of the
24 residents of the area and if it finds that the waiver would not affect
25 the ability of a city to provide any service. However, within 60
26 days of the inclusion of the territory within the city, the legislative
27 body may adopt a resolution nullifying the waiver.

28 (o) If the proposal includes the incorporation of a city, as defined
29 in Section 56043, or the formation of a district, as defined in
30 Section 2215 of the Revenue and Taxation Code, the commission
31 shall determine the property tax revenue to be exchanged by the
32 affected local agencies pursuant to Section 56810.

33 (p) To authorize a city or district to provide new or extended
34 services outside its jurisdictional boundaries pursuant to Section
35 56133.

36 (q) To enter into an agreement with the commission for an
37 adjoining county for the purpose of determining procedures for
38 the consideration of proposals that may affect the adjoining county
39 or where the jurisdiction of an affected agency crosses the boundary
40 of the adjoining county.

1 (r) To approve with or without amendment, wholly, partially,
2 or conditionally, or disapprove pursuant to this section the
3 annexation of territory served by a mutual water company formed
4 pursuant to Part 7 (commencing with Section 14300) of Division
5 3 of Title 1 of the Corporations Code that operates a public water
6 system to a city or special district. Any annexation approved in
7 accordance with this subdivision shall be subject to the state and
8 federal constitutional prohibitions against the taking of private
9 property without the payment of just compensation. This
10 subdivision shall not impair the authority of a public agency or
11 public utility to exercise eminent domain authority.

12 SEC. 4. Section 56425 of the Government Code is amended
13 to read:

14 56425. (a) In order to carry out its purposes and responsibilities
15 for planning and shaping the logical and orderly development and
16 coordination of local governmental agencies subject to the
17 jurisdiction of the commission to advantageously provide for the
18 present and future needs of the county and its communities, the
19 commission shall develop and determine the sphere of influence
20 of each city and each special district, as defined by Section 56036,
21 within the county and enact policies designed to promote the logical
22 and orderly development of areas within *or adjacent to* the sphere.

23 (b) Prior to a city submitting an application to the commission
24 to update its sphere of influence, representatives from the city and
25 representatives from the county shall meet to discuss the proposed
26 new boundaries of the sphere and explore methods to reach
27 agreement on development standards and planning and zoning
28 requirements within the sphere to ensure that development within
29 the sphere occurs in a manner that reflects the concerns of the
30 affected city and is accomplished in a manner that promotes the
31 logical and orderly development of areas within the sphere. If an
32 agreement is reached between the city and county, the city shall
33 forward the agreement in writing to the commission, along with
34 the application to update the sphere of influence. The commission
35 shall consider and adopt a sphere of influence for the city consistent
36 with the policies adopted by the commission pursuant to this
37 section, and the commission shall give great weight to the
38 agreement to the extent that it is consistent with commission
39 policies in its final determination of the city sphere.

1 (c) If the commission's final determination is consistent with
2 the agreement reached between the city and county pursuant to
3 subdivision (b), the agreement shall be adopted by both the city
4 and county after a noticed public hearing. Once the agreement has
5 been adopted by the affected local agencies and their respective
6 general plans reflect that agreement, then any development
7 approved by the county within the sphere shall be consistent with
8 the terms of that agreement.

9 (d) If no agreement is reached pursuant to subdivision (b), the
10 application may be submitted to the commission and the
11 commission shall consider a sphere of influence for the city
12 consistent with the policies adopted by the commission pursuant
13 to this section.

14 (e) In determining the sphere of influence of each local agency,
15 the commission shall consider and prepare a written statement of
16 its determinations with respect to each of the following:

17 (1) The present and planned land uses in the area, including
18 agricultural and open-space lands.

19 (2) The present and probable need for public facilities and
20 services in the area.

21 (3) The present capacity of public facilities and adequacy of
22 public services that the agency provides or is authorized to provide.

23 (4) The existence of any social or economic communities of
24 interest in the area if the commission determines that they are
25 relevant to the agency.

26 (5) For an update of a sphere of influence of a city or special
27 district that provides public facilities or services related to sewers,
28 municipal and industrial water, or structural fire protection, that
29 occurs pursuant to subdivision (g) on or after July 1, 2012, the
30 present and probable need for those public facilities and services
31 of any disadvantaged unincorporated communities within *or*
32 *adjacent* the existing sphere of influence.

33 (f) Upon determination of a sphere of influence, the commission
34 shall adopt that sphere.

35 (g) On or before January 1, 2008, and every five years thereafter,
36 the commission shall, as necessary, review and update each sphere
37 of influence.

38 (h) In determining a sphere of influence, the commission ~~may~~
39 *shall* assess the feasibility of governmental reorganization of
40 particular agencies and recommend reorganization of those

1 agencies when reorganization is found to be feasible and if
2 reorganization will further the goals of orderly development and
3 efficient and affordable service delivery. The commission shall
4 make all reasonable efforts to ensure wide public dissemination
5 of the recommendations.

6 (i) When adopting, amending, or updating a sphere of influence
7 for a special district, the commission shall establish the nature,
8 location, and extent of any functions or classes of services provided
9 by existing districts.

10 (j) When adopting, amending, or updating a sphere of influence
11 for a special district, the commission may require existing districts
12 to file written statements with the commission specifying the
13 functions or classes of services provided by those districts.

14 (k) *The commission shall not approve a sphere of influence*
15 *update that removes a disadvantaged community from a city's*
16 *sphere of influence unless a majority of the voters in the*
17 *disadvantaged community approve of the proposed sphere of*
18 *influence.*

19 SEC. 5. Section 56430 of the Government Code is amended
20 to read:

21 56430. (a) In order to prepare and to update spheres of
22 influence in accordance with Section 56425, the commission shall
23 conduct a service review of the municipal services provided in the
24 county or other appropriate area designated by the commission.
25 The commission shall include in the area designated for service
26 review the county, the region, the subregion, or any other
27 geographic area as is appropriate for an analysis of the service or
28 services to be reviewed, and shall prepare a written statement of
29 its determinations with respect to each of the following:

30 (1) Growth and population projections for the affected area.

31 (2) The location and characteristics of any disadvantaged
32 unincorporated communities within or contiguous to the sphere
33 of influence.

34 (3) Present and planned capacity of public facilities, adequacy
35 of public services, and infrastructure needs or deficiencies including
36 needs or deficiencies related to sewers, municipal and industrial
37 water, and structural fire protection in any disadvantaged,
38 unincorporated communities within or contiguous to the sphere
39 of influence.

40 (4) Financial ability of agencies to provide services.

1 (5) Status of, and opportunities for, shared facilities.

2 (6) Accountability for community service needs, including
3 governmental structure and operational efficiencies.

4 (7) Any other matter related to effective or efficient service
5 delivery, as required by commission policy.

6 (b) In conducting a service review, the commission shall
7 comprehensively review all of the agencies that provide the
8 identified service or services within the designated geographic
9 area. The commission ~~may~~ *shall* assess various alternatives for
10 improving efficiency and affordability of infrastructure and service
11 delivery within and contiguous to the sphere of influence,
12 including, but not limited to, the consolidation of governmental
13 ~~agencies~~ *agencies or the extension of services, or both.*

14 (c) In conducting a service review, the commission ~~may~~ *shall*
15 include a review of whether the agencies under review, including
16 any public water system as defined in Section 116275, are in
17 compliance with the California Safe Drinking Water Act (Chapter
18 4 (commencing with Section 116270) of Part 12 of Division 104
19 of the Health and Safety Code). A public water system may satisfy
20 any request for information as to compliance with that act by
21 submission of the consumer confidence or water quality report
22 prepared by the public water system as provided by Section 116470
23 of the Health and Safety Code.

24 (d) The commission may request information, as part of a service
25 review under this section, from identified public or private entities
26 that provide wholesale or retail supply of drinking water, including
27 mutual water companies formed pursuant to Part 7 (commencing
28 with Section 14300) of Division 3 of Title 1 of the Corporations
29 Code, and private utilities, as defined in Section 1502 of the Public
30 Utilities Code.

31 (e) The commission shall conduct a service review before, or
32 in conjunction with, but no later than the time it is considering an
33 action to establish a sphere of influence in accordance with Section
34 56425 or 56426.5 or to update a sphere of influence pursuant to
35 Section 56425.

36 SEC. 6. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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SB 1318 | LAFCOs and DUCs

Red are changes proposed by Senator Wolk

Blue changes proposed by CALAFCO Committee

Section 56375 of the Government Code is Amended to Read:

(CKH Statute Outlining LAFCOs' Regulatory Powers Over Governmental Boundary Changes)

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a)(1) To review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals by resolution of application for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) The annexation of a disadvantaged unincorporated community as defined and identified pursuant to Section 56378.5.

~~(F)~~ (G) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430 and the commission makes the determinations specified in subdivision (b) of Section 56881.

SB 1318 | LAFCOs and DUCs

Red are changes proposed by Senator Wolk

Blue changes proposed by CALAFCO Committee

Section 56133 of the Government Code is Amended to Read:

(CKH Statute Outlining LAFCOs' Regulatory Power Over Outside Service Extensions)

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission. The commission may initiate a proposal for a city or district to provide water and/or wastewater service to a disadvantaged unincorporated community identified under Section 56378.5, in accordance with subsections (b) and (c).

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization or providing water and/or wastewater service to disadvantaged unincorporated community identified under Section 56378.5(b).

(c) If consistent with adopted policy, the commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, or a disadvantaged unincorporated community, if ~~both of the~~ following requirements are met:

(1) The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code that has filed a map and a statement of its service capabilities with the commission.

(3) If applicable, the disadvantaged unincorporated community has been identified by the commission or the State of California.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall 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 requests made pursuant to this section to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the extended services. If the new or extended services are disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to any of the following:

- (1) Two or more public agencies where 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 where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.
- (2) The transfer of nonpotable or nontreated water.
- (3) 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. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall 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 boundary.
- (6) A fire protection contract, as defined in subdivision (a) of Section 56134.
- (f) This section applies only to the commission of the county in which the extension of service is proposed.

SB 1318 | LAFCOs and DUCs

Red are changes proposed by Senator Wolk

Blue changes proposed by CALAFCO Committee

Section 56425 of the Government Code is Amended to Read:

(CKH Statute Outlining LAFCOs' Planning Responsibility to Prepare Sphere Updates)

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies subject to the jurisdiction of the commission to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each city and each special district, as defined by Section 56036, within the county and enact policies designed to promote the logical and orderly development of areas within or adjacent to the sphere.

(b) Prior to a city submitting an application to the commission to update its sphere of influence, representatives from the city and representatives from the county shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached between the city and county, the city shall forward the agreement in writing to the commission, along with the application to update the sphere of influence. The commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement to the extent that it is consistent with commission policies in its final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

- (1) The present and planned land uses in the area, including agricultural and open-space lands.
- (2) The present and probable need for public facilities and services in the area.
- (3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
- (5) For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any

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This is a DRAFT working document and not necessarily intended to be the final set of CALAFCO proposed amendments. 05/17/16

EXHIBIT E

disadvantaged unincorporated communities within or adjacent to the existing sphere of influence.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere.

(g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

(h) In determining a sphere of influence, the commission shall assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies when reorganization is found to be feasible and if reorganization will further the goals of orderly development and efficient and affordable service delivery. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(i) When adopting, amending, or updating a sphere of influence for a special district, the commission shall establish the nature, location, and extent of any functions or classes of services provided by existing districts.

(j) When adopting, amending, or updating a sphere of influence for a special district, the commission may require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

~~(k) The commission shall not approve a sphere of influence update that removes a disadvantaged community from a city or a special district unless the commission makes a finding, based on written evidence that the removal of the disadvantaged community will result in improved service delivery to the community.~~

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SB 1318 | LAFCOs and DUCs

Red are changes proposed by Senator Wolk

Blue changes proposed by CALAFCO Committee

Section 56430 of the Government Code is Amended to Read:

(CKH Statute Outlining LAFCOs' Planning Responsibility to Prepare MSRs)

(a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

(1) Growth and population projections for the affected area.

(2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

(3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.

(4) Financial ability of agencies to provide services.

(5) Status of, and opportunities for, shared facilities.

(6) Accountability for community service needs, including governmental structure and operational efficiencies.

(7) Any other matter related to effective or efficient service delivery, as required by commission policy.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area. Where there exists a disadvantaged unincorporated community that lacks adequate drinking water and wastewater services and infrastructure within or contiguous with the subject sphere, the commission shall assess various alternatives for improving efficiency and affordability of drinking water or wastewater infrastructure and service delivery within and contiguous to the sphere of influence, including, but not limited to, the consolidation of governmental agencies or the extension of services, or both.

(c) In conducting a service review, the commission ~~may~~ *shall* include a review of whether the agencies under review, including any public water system as defined in Section 116275 of the Health and Safety Code, are in compliance with the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code) if the information is ~~readily~~ available from the State Water Resources Control Board or other sources. A public water system may satisfy any request for information as to compliance with that act by submission of the consumer confidence or water quality report prepared by the public water system as provided by Section 116470 of the Health and Safety Code.

(d) The commission may request information, as part of a service review under this section, from identified public or private entities that provide wholesale or retail supply of drinking water, including mutual water companies formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code, and private utilities, as defined in Section 1502 of the Public Utilities Code.

(e) ~~(1)~~ The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or 56426.5 or to update a sphere of influence pursuant to Section 56425.

~~(2) On or before January 1, 2022, and every five years thereafter, the commission shall conduct service reviews sufficient to have reviewed the entire territory of the county.~~

~~(f) The commission shall file a map of the county that identifies disadvantaged unincorporated communities that lack safe drinking water or adequate wastewater in electronic format with the Office of Planning and Research. The Office of Planning and Research shall make the map available on its Internet Web site.~~

~~(g) (1) Within two years of identification of a disadvantaged unincorporated community that lacks safe drinking water or adequate wastewater services pursuant to this section, the commission shall recommend a plan based on the alternatives analyzed and shall adopt any actions necessary to implement the plan, including sphere of influence updates, extensions of service, or changes of organization.~~

~~(2) Actions taken to adopt a plan under this subdivision shall not be subject to an election or any protest proceedings, as defined in Section 56069.5, except that the commission shall conduct protest proceedings for residents of the disadvantaged community.~~

~~(3) The commission shall not be required to adopt or implement a plan if the commission finds, based on substantial evidence, that there is no technical or economically feasible way of connecting the disadvantaged unincorporated community to an existing system, considering any financial assistance available from the State Water Resources Control Board or any other applicable source of financial assistance. These findings shall not interfere with or inform other programs or policies designed to expand basic services to disadvantaged unincorporated communities, including, but not limited to, Sections 116680 to 116684, inclusive, of the Health and Safety Code.~~

~~(h) (1) Notwithstanding Section 56133, 56133.5, or 56375, on and after January 1, 2022, a commission shall not change the sphere of influence of, or authorize extension of services by, a qualifying city or special district if the commission has not done one of the following:~~

~~(A) Conducted the analysis required by this section.~~

~~(B) Adopted a plan or taken the actions required by subdivision (g).~~

~~(2) Notwithstanding Section 56133, 56133.5, or 56375, a commission shall not change the sphere of influence of, or authorize an extension of services by, a qualifying city or special district if the city or special district has been designated in a plan developed pursuant to subdivision~~

~~(g) to provide water or wastewater services and the city or special district has not begun providing water or wastewater service, as identified by the commission's plan, within three years of being designated in the plan.~~

~~(3) The prohibition against a change to a sphere of influence or extension of service pursuant to paragraphs (1) and (2) shall not apply to either of the following:~~

~~(A) An application to extend services to, or include in their sphere of influence, a disadvantaged unincorporated community.~~

~~(B) An extension of service authorized pursuant to subdivision (c) of Section 56133.~~

~~(i) As used in this section, "a qualifying city or special district" means a city or special district that provides water service or wastewater services and serves 500 or more connections. SEC. 6. SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

SB 1318 | LAFCOs and DUCs

Red are changes proposed by Senator Wolk

Blue changes proposed by CALAFCO Committee

Section 56378.5 of the Government Code is Added to Read:

(Positioned in CKH to Follow LAFCOs Special Study Power in 56378)

56378.5

(a) For purposes of this section, the following definition applies:

(1) "Disadvantaged unincorporated community" means inhabited territory, as defined by Section 56046, or as determined by commission policy, that constitutes all or a portion of a "disadvantaged community" as defined by Section 79505.5 of the Water Code and that lacks safe drinking water or adequate wastewater services.

(b) The commission shall identify and determine the location of the disadvantaged unincorporated communities that are within or adjacent to a city or special district sphere of influence by January 1, 2018. This information shall be updated by the commission no less than every five years thereafter.

(c) The commission shall review the adequacy and need for water and wastewater services within identified communities identified under subsection (b) no later than January 1, 2020 and every five years thereafter in accordance with analysis prepared under Sections 56378 or 56430. The commission analysis on the adequacy and need for water and wastewater services undertaken by this section shall consider, among other items, analysis prepared by cities and counties under Section 65302.10, to include a written accessibility plan adopted by the commission at a noticed hearing identifying opportunities and strategies to address any existing service inefficiencies or needs within the communities. The accessibility plan may include information and actions identified by local jurisdictions in compliance with Section 65302.10(b)(2) and (3). The written accessibility plan shall be prepared by the commission and contain at a minimum, statements addressing the following factors:

(1) The local agency best positioned to provide the subject water and or wastewater services to the affected territory;

(2) The actions and alternatives necessary to be taken by the commission, if any, to enable the local agency identified in subsection (c)(1) to provide services to the affected territory under Section 56000 et seq.;

(3) Identification of any applicable subsequent actions to be taken by local agencies and/or the State of California that the commission believes is necessary to establish services to the disadvantaged unincorporated community;

(4) Any related consideration required in establishing public water and or wastewater services to the affected disadvantaged unincorporated community with respect to the commission's regional growth management responsibilities under Section 56301.

(d) On or before January 1, 2020, the commission shall file a map of the county that identifies disadvantaged unincorporated communities that lack safe drinking water or adequate wastewater along with the adopted accessibility plan as determined under

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subsection (c) in electronic format with the Office of Planning and Research. Maps and adopted accessibility plans addressing disadvantaged unincorporated communities that lack safe drinking water shall also be provided to the State Water Resources Control Board, and those lacking adequate wastewater shall be provided to the State Regional Water Quality Control Board. All maps shall be made available on the State agency's website.

(e) The commission shall review as part of a noticed hearing the status of all disadvantaged unincorporated communities subject to a written accessibility plan prepared under subsection (c) within two years of commission adoption. If it is determined by the commission the service needs remain unaddressed, the commission shall take one of the following actions:

(1) Initiate a change of organization or reorganization pursuant to this chapter or by contract or agreement under Section 56133;

(2) Notify the State Water Resources Control Board of unaddressed drinking water accessibility locations. The State Water Resources Control Board shall prioritize those disadvantaged unincorporated communities and upon determining change of organization or reorganization pursuant to this chapter or by contract or agreement under Section 56133 is the best course of action, shall initiate the action with the local agency formation commission as the applicant;

(3) Notify the State Regional Water Quality Control Board of unaddressed adequate wastewater accessibility locations. The State Regional Water Quality Control Board shall prioritize those disadvantaged unincorporated communities and upon determining change of organization or reorganization pursuant to this chapter or by contract or agreement under Section 56133 is the best course of action, shall initiate the action with the local agency formation commission as the applicant.

(A) Actions taken to implement an adopted accessibility plan under this section shall not be subject to an election or any protest proceedings, as defined in section 56069.5.

(B) Any actions taken by the commission under this section shall be conditioned by the sufficient completion as determined by the commission of an engineering, funding, and other related planning activity by the subject local agency and/or the State of California necessary to establish services to the affected territory.

(C) Should the commission initiate the implementation of the accessibility plan, the commission shall be eligible for reimbursement by the State for all associated costs.

(f) The commission shall not be required to adopt or implement an accessibility plan prepared under subsection (c) if the commission finds at a noticed public hearing, and based on substantial evidence, that there is no technically or economically feasible way of connecting the DUC to an existing system, considering any financial assistance available from the State Water Resources Control Board or any other applicable source of financial assistance. These findings shall not interfere with or inform other programs or policies designed to expand basic services to disadvantaged unincorporated communities, including, but not limited to, Sections 116680 to 116684, inclusive, of the Health and Safety Code.

SB 1318 | LAFCOs and DUCs

Red are changes proposed by Senator Wolk

Blue changes proposed by CALAFCO Committee

Section 65302.10 of the Government Code is Amended to Read:
(General Plan Law)

65302.10. (a) As used in this section, the following terms shall have the following meanings:

(1) "Community" means an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another.

(2) "Disadvantaged unincorporated community" means a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income.

(3) "Fringe community" means any inhabited and unincorporated territory that is within a city's sphere of influence.

(4) "Island community" means any inhabited and unincorporated territory that is surrounded or substantially surrounded by one or more cities or by one or more cities and a county boundary or the Pacific Ocean.

(5) "Legacy community" means a geographically isolated community that is inhabited and has existed for at least 50 years.

(b) On or before the due date for the next adoption of its housing element pursuant to Section 65588, each city or county shall review and update the land use element of its general plan, based on available data, ~~including, but not limited to,~~ and incorporating the data and analysis developed pursuant to Sections 56430 and 56378.5 by the local agency formation commission, of unincorporated island, fringe, or legacy communities inside or near its boundaries. The updated land use element shall include all of the following:

(1) In the case of a city, an identification of each island or fringe community within the city's sphere of influence that is a disadvantaged unincorporated community. In the case of a county, an identification of each legacy community within the boundaries of the county that is a disadvantaged unincorporated community, but not including any area within the sphere of influence of any city. This identification shall include a description of the community and a map designating its location.

(2) For each identified community, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies.

(3) An analysis, based on then existing available data, of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible.

(c) On or before the due date for each subsequent revision of its housing element pursuant to Section 65588, each city and county shall review, and if necessary amend, its general plan to update the analysis required by this section and incorporate any updated data and analysis developed pursuant to Sections 56430 and 56378.5.

Section 56653 of the Government Code is Amended to Read:

56653. (a) If a proposal for a change of organization or reorganization is submitted pursuant to this part, the applicant shall submit a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

(1) An enumeration and description of the services, currently provided or to be extended to the affected territory.

(2) The level and range of those services.

(3) An indication of when those services can feasibly be extended to the affected territory, if new services are proposed.

(4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

(5) Information with respect to how those services will be financed.

(c) (1) In the case of a change of organization or reorganization initiated by a local agency that includes a disadvantaged, unincorporated community as defined in Section 56033.5, a local agency may include in its resolution of application for change of organization or reorganization an annexation development plan adopted pursuant to Section 99.3 of the Revenue and Taxation Code to improve or upgrade structures, roads, sewer or water facilities, or other infrastructure to serve the disadvantaged, unincorporated community through the formation of a special district or reorganization of one or more existing special districts with the consent of each special district's governing body.

(2) The annexation development plan submitted pursuant to this subdivision shall include information that demonstrates that the formation or reorganization of the special district will provide all of the following:

(A) The necessary financial resources to improve or upgrade structures, roads, sewer, or water facilities or other infrastructure. The annexation development plan shall also clarify the local entity that shall be responsible for the delivery and maintenance of the services identified in the application.

(B) An estimated timeframe for constructing and delivering the services identified in the application.

(C) The governance, oversight, and long-term maintenance of the services identified in the application after the initial costs are recouped and the tax increment financing terminates.

(3) If a local agency includes an annexation development plan pursuant to this subdivision, a local agency formation commission may approve the proposal for a change of organization or reorganization to include the formation of a special

district or reorganization of a special district with the special district's consent, including, but not limited to, a community services district, municipal water district, or sanitary district, to provide financing to improve or upgrade structures, roads, sewer or water facilities, or other infrastructure to serve the disadvantaged, unincorporated community, in conformity with the requirements of the principal act of the district proposed to be formed and all required formation proceedings.

(4) Pursuant to Section 56881, the commission shall include in its resolution making determinations a description of the annexation development plan, including, but not limited to, an explanation of the proposed financing mechanism adopted pursuant to Section 99.3 of the Revenue and Taxation Code, including, but not limited to, any planned debt issuance associated with that annexation development plan.

(d) This section shall not preclude a local agency formation commission from considering any other options or exercising its powers under Section 56375.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

DRAFT

LAFCO

Santa Barbara Local Agency Formation Commission

105 East Anapamu Street ♦ Santa Barbara CA 93101

805/568-3391 ♦ FAX 805/568-2249

www.sblafco.org ♦ lafco@sblafco.org

May 4, 2016

Honorable Susan Talamantes Eggman, Chair
Assembly Local Government Committee
California State Assembly
State Capitol, Room 3173
Sacramento, CA 95814

RE: SUPPORT of AB 2910: Local Government Committee Omnibus Bill

Dear Chair Eggman:

The Santa Barbara Local Agency Formation Commission (LAFCO) is pleased to support the Assembly Local Government Committee Bill **AB 2910** 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 local agency formation commissions. 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 2910** makes several minor technical changes, corrects obsolete and incorrect code references, and corrects typographical errors. The California Association of Local Agency Formation Commissions (CALAFCO) and the Santa Barbara LAFCO are grateful to the members of our Legislative Committee and to your Committee and staff, 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 local agency formation commissions.

Yours sincerely,



Paul Hood, Executive Officer
Santa Barbara LAFCO

cc: Members, Assembly Local Government Committee
Misa Lennox, Associate Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Pamela Miller, Executive Director, CALAFCO

Commissioners: **Craig Geyer, Chair** ♦ Roger Aceves ♦ Doreen Farr ♦ Jeff Moorhouse ♦ Bob Orach ♦ Janet Wolf
Judith Ishkanian ♦ Steve Lavagnino ♦ Jim Richardson ♦ Shane Stark ♦ Roger Welt ♦ **Executive Officer:** Paul Hood

EXHIBIT F