

LAFCO

Santa Barbara Local Agency Formation Commission

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September 6, 2018 (Agenda)

Local Agency Formation Commission
105 East Anapamu Street
Santa Barbara CA 93101

Support for Assembly Bill 2258 (Caballero)

Dear Members of the Commission

RECOMMENDATION

It is recommended that the Commission Support for Assembly Bill 2258 (Caballero)

DISCUSSION

Assembly Bill 2258 would make grant funds available to LAFCO's to pay the costs associated with initiating and completing the dissolution of districts listed as inactive, and is based on determinations found in the study, as approved by the commission. The bill would specify application submission, reimbursement, and reporting requirements for a local agency formation commission to receive grants pursuant to the bill.

The bill would also require the Strategic Growth Council, after consulting with the California Association of Local Agency Formation Commissions, to develop and adopt guidelines, timelines, and application and reporting criteria for development and implementation of the program.

I have included a copy of CALAFCO Talking Points on the bill as well as copy of AB 2258.

Exhibit:

Exhibit A CALAFCO Talking Points
Exhibit B Assembly Bill 2258

Please contact the LAFCO office if you have any questions.

Sincerely,



PAUL HOOD
Executive Officer

Commissioners: Roger Welt, Chair ♦ Roger Aceves ♦ Craig Geyer ♦ Judith Ishkanian ♦ Steve Lavagnino ♦ Jim Richardson
♦ Janet Wolf ♦ Joan Hartmann ♦ David Seymour ♦ Shane Stark ♦ Etta Waterfield ♦ **Executive Officer:** Paul Hood

BUSINESS ITEM NO. 2

AB 2258 (Caballero) LAFCo Grant Funding



Problem statement: Local Agency Formation Commissions (LAFCos) are responsible for meeting important statutory directives to maintain orderly boundaries and seek greater efficiencies in delivering local services, and yet these directives cannot be regularly met under for a number of reasons. As a result, much-needed LAFCo activities are sometimes delayed or rejected. There is an increasing call in the Legislature for LAFCos to conduct more in-depth studies of local agency service providers that would consider options for greater efficiencies in the delivery of public services and improved governance models, and for LAFCos to initiate such actions. In some instances, such actions could potentially save California tax payers additional money and see improved efficiencies in the delivery of municipal services.

Solution: AB 2258, as a pilot program, addresses several of the significant deterrents for LAFCos to initiate action. Through AB 2258, LAFCos and service providers can work together to create greater efficiencies in the provision of sustainable municipal services, focusing on disadvantaged communities (based on amendments taken June 20) throughout California, by directing much needed resources to these areas. AB 2258 is a follow-up to one of the recommendations made by the Little Hoover Commission in their report published August 2017 titled, *Special Districts: Improving Oversight & Transparency*.

What the bill does:

- Establishes a funding program, administered by the Strategic Growth Council, for a five-year pilot program to sunset December 31, 2023. The program does the following:
 - ✓ Provides grants to LAFCos to address **known** service and governance concerns in disadvantaged communities that could potentially save California taxpayers additional money through the study, analysis and potential change of organization or reorganization of local government agencies for improved efficiencies in service delivery.
 - ✓ Provides financial reimbursement to LAFCos for the unfunded mandate to dissolve inactive districts identified by the State Controller's office (SCO), pursuant to SB 448 (Wieckowski, 2017).
 - ✓ Changes protest thresholds for purposes of actions taken in the pilot program to mirror existing Elections Code 11221. This tiered approach allows for a registered voter percentage threshold rather than a straight percentage.
- Requires that LAFCos have a Municipal Service Review (MSR) on file with determinations indicating efficiencies can be gained by a change of organization or reorganization in order to study the service provider further or initiate action.

What the bill does not do:

- **Does not remove the people's right to protest.**
- **Does not alter in any way the original intent of the Cortese-Knox-Hertzberg Reorganization Act.** The bill does not give LAFCo radical new powers and is an important step towards providing LAFCos the resources needed to address agencies that have already been identified as those with known service and/or governance issues. The only thing AB 2258 creates that is outside of the Cortese-Knox-Hertzberg Reorganization Act is a funding source.
- **Does not change the standard protest threshold for any other LAFCo initiated action.** The standard 10% threshold for any other LAFCo-initiated action will remain intact. The change in threshold pertains only to those actions taken within this project scope.

Supporting data and evidence: In a 2017 CALAFCO member survey, LAFCos overwhelmingly indicated that significant deterrents to initiating actions included a lack of money and the protest provision threshold of 10%. In fact, 27% of respondents indicated the protest threshold and lack of funding are such significant deterrents that while the LAFCo may recommend an action in a MSR, they will rarely ever initiate action as a result. It is hard to measure that which does not exist. With approximately 50% of LAFCos having an annual budget of under \$200,000/year, expending this level of money for special studies and actions can have a significant impact to their overall budget and annual work plan. AB 2258 will help with this financial burden.

AMENDED IN SENATE AUGUST 24, 2018
AMENDED IN SENATE AUGUST 6, 2018
AMENDED IN SENATE JULY 2, 2018
AMENDED IN ASSEMBLY APRIL 23, 2018
AMENDED IN ASSEMBLY APRIL 9, 2018
AMENDED IN ASSEMBLY MARCH 15, 2018
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2258

**Introduced by Assembly Member Caballero
(Coauthor: Assembly Member Grayson)
(Coauthor: Senator Hertzberg)**

February 13, 2018

An act to add and repeal Section 75131 of the Public Resources Code, relating to local ~~government, and making an appropriation therefor.~~ *government.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2258, as amended, Caballero. Local agency formation commissions: grant program.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for special districts, as specified. The act requires a local agency formation commission in each county to encourage the orderly formation and development of local agencies based upon local conditions and circumstances, among other things.

Existing law also establishes the Strategic Growth Council in state government and assigns to the council certain duties, including providing, funding, and distributing data and information to local governments and regional agencies that will assist in the development and planning of sustainable communities.

This bill would require the Strategic Growth Council, until ~~January 1,~~ *July 31, 2024*, to establish and administer a local agency formation commissions grant program for the payment of costs associated with initiating and completing the dissolution of districts listed as inactive, the payment of costs associated with a study of the services provided within a county by a public agency to a disadvantaged community, as defined, and for other specified purposes, including the initiation of an action, as defined, that is limited to service providers serving a disadvantaged community and is based on determinations found in the study, as approved by the commission. The bill would specify application submission, reimbursement, and reporting requirements for a local agency formation commission to receive grants pursuant to the bill. The bill would require the council, after consulting with the California Association of Local Agency Formation Commissions, to develop and adopt guidelines, timelines, and application and reporting criteria for development and implementation of the program, as specified, and would exempt these guidelines, timelines, and criteria from the rulemaking provisions of the Administrative Procedure Act. The bill would ~~appropriate \$1,500,000 from the General Fund to the Strategic Growth Council for purposes of the grant program, as specified.~~ *make the grant program subject to an appropriation for the program in the annual Budget Act, and would repeal these provisions on January 1, 2025.*

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. The Legislature hereby finds and declares:
- 2 (a) Local agency formation commissions play a critical role in
- 3 the logical formation of local agency boundaries, the promotion
- 4 of orderly development, and the efficient and effective provision
- 5 of services.
- 6 (b) It is the intent of the Legislature in adding Section 75131 to
- 7 the Public Resources Code to assist local agency formation

1 commissions in initiating studies of existing government agencies
2 and their provision of services and to consider action based on the
3 results of these studies, including dissolving inactive districts, for
4 the purpose of creating streamlined local government services and
5 improved efficiency in service delivery.

6 SEC. 2. Section 75131 is added to the Public Resources Code,
7 to read:

8 75131. (a) (1) The council shall establish and administer a
9 local agency formation commissions grant program for the
10 purposes described in subdivision—(b): (b), *subject to an*
11 *appropriation for this program in the annual Budget Act.*

12 (2) Program funds provided to participating local agency
13 formation commissions shall be used to supplement, and not
14 supplant, existing funding and staffing levels.

15 (3) Program funds provided to participating local agency
16 formation commissions shall not be used to conduct a service
17 review of municipal services pursuant to Section 56430 of the
18 Government Code.

19 (4) All local agency formation commissions shall be eligible to
20 participate in the program.

21 (5) The council shall, after consulting with the California
22 Association of Local Agency Formation Commissions
23 (CALAFCO), adopt guidelines, timelines, and application and
24 reporting criteria for development and implementation of the
25 program to serve the purposes of this section and mutually meet
26 the needs of the council and the CALAFCO.

27 (6) The council, in granting funds pursuant to the program, shall
28 give preference to a local agency formation commission whose
29 decisions are consistent with the goals of the sustainable
30 communities strategy adopted pursuant to Section 65080 of the
31 Government Code.

32 (b) The council shall award grants to local agency formation
33 commissions for any of the following purposes:

34 (1) The payment of costs associated with initiating and
35 completing the dissolution of a special district that is listed by the
36 Controller as inactive pursuant to Section 56879 of the Government
37 Code.

38 (2) The payment of costs associated with a study prepared
39 pursuant to Section 56378 of the Government Code of the services

- 1 provided within a county by a public agency to a disadvantaged
2 community to do either or both of the following:
- 3 (A) Identify if there are any efficiencies to be gained in the
4 provision of services.
- 5 (B) Determine what alternatives, if any, exist for improving
6 efficiency and affordability of infrastructure and service delivery.
- 7 (3) The payment of costs to do any of the following:
- 8 (A) Initiate an action described in paragraph (2) of subdivision
9 (a) of Section 56375, other than the dissolution of a special district
10 that is listed by the Controller as inactive pursuant to Section 56879
11 of the Government Code, that is limited to service providers serving
12 a disadvantaged community and is based on determinations found
13 in a study prepared pursuant to Section 56378 of the Government
14 Code, as approved by the commission.
- 15 (B) Develop and implement reorganization plans with timelines
16 for expected outcomes.
- 17 (C) Incentivize service providers to work with the local agency
18 formation commission to develop and implement reorganization
19 plans with timelines for expected outcomes.
- 20 (c) (1) In order to obtain a grant award pursuant to paragraph
21 (1) of subdivision (b), a local agency formation commission shall
22 submit to the council an application for reimbursement of the costs
23 of the dissolution proceedings, in the form and manner specified
24 by the council. At a minimum, the application shall include all of
25 the following:
- 26 (A) The notification provided to the commission by the
27 Controller of the inactive district(s) and the requirement to initiate
28 dissolution proceedings.
- 29 (B) A full budget accounting for costs of the dissolution.
- 30 (C) All reports and documents pertaining to the final dissolution
31 action.
- 32 (2) The council shall review the application for reimbursement
33 and, provided all documentation is in order, issue reimbursement
34 to the local agency formation commission within 60 days of receipt
35 of the application.
- 36 (d) (1) In order to obtain a grant award pursuant to paragraph
37 (2) of subdivision (b) for purposes of conducting a study, a local
38 agency formation commission shall submit to the council an
39 application, in the form and manner specified by the council. At
40 a minimum, the application shall include all of the following:

1 (A) A resolution adopted by the commission authorizing
2 submission of the grant application and a commitment to review
3 and consider the recommendations and potential actions contained
4 in the study.

5 (B) A full budget accounting for estimated costs of the study to
6 be performed.

7 (C) A full explanation of the reason for the study.

8 (D) The most recent completed municipal service review or
9 study in which determinations were made by the local agency
10 formation commission indicating the agency to be studied is a
11 candidate for a change of organization or reorganization.

12 (E) An identification of the disadvantaged community that is
13 expected to benefit from the study.

14 (2) The council shall review the applications submitted pursuant
15 to paragraph (1), select the program participants based on criteria
16 that furthers the purposes of this section, and notify the participants
17 of their selection within two months of receiving the application.
18 Funds shall be issued by the council to the local agency formation
19 commission within 60 days of notification.

20 (3) A local agency formation commission that receives a grant
21 pursuant to paragraph (2) of subdivision (b) shall commence the
22 study within 30 days of receipt of funding and shall complete the
23 study within two years of commencing the study. Upon completion
24 of the study, the local agency formation commission shall do all
25 of the following:

26 (A) Submit to the council a final report within 30 days of the
27 completion of the study and the commission's adoption of a
28 resolution making determinations. The report shall be in the form
29 and manner specified by the council. At a minimum, the report
30 shall include all of the following:

31 (i) The full study conducted.

32 (ii) The resolution making determinations as adopted by the
33 local agency formation commission.

34 (iii) A full budget accounting report of the funds used.

35 (iv) A reimbursement of any unexpended funds.

36 (v) The local agency formation commission's plan for future
37 action based on the study's conclusions.

38 (B) Upon the request of the council, participating local agency
39 formation commissions shall provide the council with any

1 supplemental information necessary to substantiate the information
2 contained in the report submitted pursuant to this subdivision.

3 (4) A local agency formation commission shall repay the entire
4 amount of the grant awarded pursuant to this subdivision to the
5 council if the study funded pursuant to this subdivision is not
6 completed within two years of receipt of the grant funds. The local
7 agency formation commission shall make this repayment within
8 30 days from the two-year anniversary of receipt of the grant funds.

9 (e) (1) A local agency formation commission that elects to
10 apply for a grant pursuant to paragraph (3) of subdivision (b) shall
11 submit to the council an application, in the form and manner
12 specified by the council. At a minimum, the application shall
13 include all of the following:

14 (A) A resolution adopted by the commission authorizing
15 submission of the application for purposes defined in the
16 application.

17 (B) Change of organization or reorganization plans with
18 timelines for expected outcomes.

19 (C) A full budget accounting for estimated costs of the action
20 to be performed.

21 (D) The most recent completed study in which determinations
22 were made by the local agency formation commission indicating
23 the agency should be reorganized or dissolved, or, if there exists
24 a municipal services review or study with like determinations that
25 is no more than five years old.

26 (E) An identification of the disadvantaged community that is
27 expected to benefit from the action.

28 (2) The council shall review the applications submitted pursuant
29 to paragraph (3) of subdivision (b), select the program participants
30 based on criteria that furthers the purposes of this section, and
31 notify the participants of their selection within two months of
32 receiving the application. Funds shall be issued by the council to
33 the local agency formation commission within 60 days of
34 notification.

35 (3) A local agency formation commission that receives funds
36 pursuant to paragraph (3) of subdivision (b) shall commence action
37 within 30 days of receipt of funding.

38 (4) A local agency formation commission that receives funds
39 pursuant to paragraph (3) of subdivision (b) shall hold a public
40 hearing to consider the action described in paragraph (2) of

1 subdivision (a) of Section 56375, except the dissolution of a special
2 district that is listed by the Controller as inactive pursuant to
3 Section 56879 of the Government Code. If the action is approved
4 by a local agency formation commission, that local agency
5 formation commission shall order the change of organization or
6 reorganization subject to Section 57075 of the Government Code,
7 except that the level of protest necessary to require an election for
8 confirmation by the registered voters residing within the affected
9 territory shall be determined by the corresponding percentage of
10 registered voters or land owners required to qualify a recall on the
11 ballot pursuant to subdivision (a) or (d), as appropriate, of Section
12 11221 of the Elections Code. The calculation of registered voters
13 shall be made pursuant to subdivision (b) of that section. Upon
14 completion of the change of organization or reorganization, the
15 local agency formation commission that receives funds pursuant
16 to paragraph (3) of subdivision (b) shall do both of the following:
17 (A) Submit to the council a final report within 30 days of the
18 final action. The report shall be in the form and manner specified
19 by the council. At a minimum, the report shall include all of the
20 following:
21 (i) The final action taken by the local agency formation
22 commission.
23 (ii) If proceedings were terminated as a result of protest, all
24 necessary information pertinent to support that fact.
25 (iii) All reports and documents pertaining to the final action or
26 protest action.
27 (iv) A full budget accounting report of the funds used.
28 (v) The reimbursement of any unexpended funds.
29 (B) Upon the request of the council, the participating local
30 agency formation commission shall provide the council with any
31 supplemental information necessary to substantiate the information
32 contained in the report submitted pursuant to this subdivision.
33 (f) The Legislature finds and declares that there is a compelling
34 public interest in allowing the council to implement and administer
35 this section as expeditiously as possible, and to thereby accelerate
36 local agency formation commission efforts. The guidelines,
37 timelines, and application and reporting criteria adopted by the
38 council for purposes of this section shall be exempt from the
39 rulemaking provisions of the Administrative Procedure Act
40 (Chapter 3.5 (commencing with Section 11340) of Part 1 of

1 Division 3 of Title 2 of the Government Code) for the purpose of
2 carrying out the duties enumerated in this section.

3 (g) For the purposes of this section, the following terms shall
4 apply:

5 (1) “Disadvantaged community” means a community with an
6 annual median household income that is less than 80 percent of
7 the statewide annual median household income.

8 (2) “Local agency formation commission” means a local agency
9 formation commission that operates in a county pursuant to the
10 Cortese-Knox-Hertzberg Local Government Reorganization Act
11 of 2000 (Division 3 (commencing with Section 56000) of Title 5
12 of the Government Code).

13 (h) This section shall not be interpreted to effect the
14 independence or discretion exercised by a local agency formation
15 commission in carrying out an action pursuant to this section.

16 ~~(i) This section shall be repealed on December 31, 2023.~~

17 ~~(i) This section shall become inoperative on July 31, 2024, and,~~
18 ~~as of January 1, 2025, is repealed.~~

19 ~~SEC. 3. The sum of one million five hundred thousand dollars~~
20 ~~(\$1,500,000) is, notwithstanding Section 13340 of the Government~~
21 ~~Code, hereby continuously appropriated to the Strategic Growth~~
22 ~~Council for allocation during the fiscal years 2018–19 to 2022–23,~~
23 ~~inclusive, for purposes of funding the grant program established~~
24 ~~by Section 75131 of the Public Resources Code, as added by the~~
25 ~~act that added this section during the 2017–18 Regular Session.~~

O