



May 8, 2019

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CAROLYN EMERY
EXECUTIVE OFFICER

TO: Local Agency Formation Commission

FROM: Executive Officer
Policy Analyst

SUBJECT: Legislative Report (May 2019)

To date, the Commission has adopted positions on five bills of LAFCO-interest. In addition to an update on the bills previously reviewed by the Commission, this report provides an overview of additional bills that are moving swiftly through the Legislature's committees and recommended positions for Commission consideration.

PROPOSED BILLS OF LAFCO INTEREST**AB 600 (Chu): Local Government: Disadvantaged Unincorporated Communities**

Current law requires that LAFCOs, cities, and counties identify the existing disadvantaged communities within city boundaries and disadvantaged unincorporated communities ("DUCs").

LAFCOs are mandated to map existing DUCs within their local county. Additionally, during a municipal service review, LAFCOs are required to assess a DUC's present and planned capacity of public facilities; the adequacy of public services; and deficiencies, including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection.

Cities and counties are required to identify existing disadvantaged communities within their jurisdictional boundaries and within or adjacent to their sphere of influence and include them in the land use element of their general plan. The land use element must include an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies for each identified DUC.

The proposed bill requires that counties, cities, and special districts submit to LAFCO by January 1, 2021 an accessibility plan consisting of the following:

- Identification of the agencies that are best positioned to provide safe drinking water services, wastewater services, stormwater services, and structural fire protection to a DUC.
- Identification of the necessary actions from LAFCO to enable the delivery of services to a DUC.
- An analysis of the costs and benefits associated with the provision of improved water services and/or wastewater services to residents in DUCs.

CALAFCO, has expressed the following concerns to the author of the bill:

- The bill allows for the extension of services outside an agency's jurisdictional boundary without the anticipation of a later change of organization as provided by the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 ("CKH").
- The bill removes the discretion for LAFCOs to approve an extension of a service outside an agency's jurisdictional boundary.
- The bill requires that the cost and fees for services to residents in DUCs resulting from the implementation of an accessibility plan are not higher than those costs and fees charged to existing water and wastewater system customers.
- The bill proposes to add "consideration of equity" to the current purpose for the Commission without providing a definition for "equity".

While the intent of AB 600 is to ensure the delivery of services to DUCs, the proposed modifications to existing law do not effectively address the issue of inadequate and safe drinking water services and wastewater services to DUCs. AB 600, as currently written, creates inconsistencies in CKH, confusion involving the implementation of the accessibility plan, and additional unfunded state mandates.

RECOMMENDED OC LAFCO POSITION: Adopt "**Oppose**" position for AB 600.

POSITIONS OF OTHER AGENCIES AND ORGANIZATIONS:

Support: Leadership Counsel for Justice and Accountability, Alliance of Californians for Community Empowerment, Asian Pacific Environmental Network, California Coastkeeper Alliance, California Environmental Alliance, California Institute for Rural Studies, Camille Panni from Aoki Water Justice Clinic, Center for Community Action and Environmental Justice, Center for Race Poverty & the Environment, Center for Sustainable Neighborhoods, Central California Environmental Justice Network, Clean

Water Action, Community Water Center, Courage Campaign, Lutheran Office Public Policy-California, Planning and Conservation League, Policy Link, Pueblo Unido CDC, Roman Catholic Diocese of Fresno, Western Center Law and Poverty.

Oppose: California Association of LAFCOs, California Building Industry Association (unless amended), California Municipal Utilities Association, California Special District Association, Contra Costa LAFCO, Humboldt LAFCO, Marin LAFCO, Nevada LAFCO, Placer LAFCO.

BILL LOCATION/STATUS: Assembly Local Government Committee.

SB 414 (Caballero) Small System Water Authority

The California State Drinking Water Act provides the State Water Resources Control Board ("SWRCB") with specific responsibilities for overseeing the operations of small public water agencies. The SWRCB has the ability to consolidate small public water agencies that consistently fail to adequately provide water service to the DUCs that they serve.

This bill would create a Small System Water Authority Act of 2019, which would allow the State Board to create small system water authorities with powers to absorb, improve, and operate noncompliant public water systems. The following are key elements of the bill:

- ❖ Requires that by March 1, 2020, the State Board will provide notice to cure identified water contaminant violations to all public agencies, private water companies, or mutual water companies that operate a public water system that has either 3,000 service connections or that serves less than 10,000 people and is not in compliance between July 1, 2018 to December 31, 2019.
- ❖ Requires the SWRCB to mandate the dissolution of contiguous or non-contiguous existing water systems that consistently provide contaminated drinking water and authorize the SWRCB to initiate the formation of a new public water authority.
- ❖ The new small water authority will be subject to the approval of the local LAFCO process and the State Board's Division of Drinking Water.

The bill is currently under review and several modifications by the author are expected.

RECOMMENDED OC LAFCO POSITION: Adopt "Watch" position for SB 414.

POSITIONS OF OTHER AGENCIES AND ORGANIZATIONS:

Support: None Received.

Oppose: None Received.

BILL LOCATION/STATUS: Assembly Local Government Committee.

LEGISLATION PREVIOUSLY REVIEWED

During the April regular meeting, the Commission adopted positions on several bills of LAFCO-interest. Some of the topics addressed by the bills include: technical corrections to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, reinstating financial funding for inhabited annexations and city incorporations, and LAFCO's request for a funding grant from the Legislature. The bills are scheduled to be heard in May by the legislative committees listed under "Status Update" on the table below.

Status Update of 2018-19 Proposed Legislation			
Bill	Description	Commission's Adopted Position	Status Update
AB 1822	Makes minor and/or non-substantive changes to the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 that clarify and provide consistency in how the CKH Act is applied throughout the State.	Support	Assembly Local Government Committee
AB 213	Proposes to restore the financial funding for city incorporations that was removed by SB 89 in 2011.	Support	Assembly Local Government Appropriation Committee
AB 818	Proposes to restore financial funding for future annexations of inhabited areas that were originally removed by SB 89 in 2011.	Support	Assembly Local Government Appropriation Committee
AB 1253	Proposes a one-time funding grant allocation for LAFCOs to address known service and governance issues in disadvantaged unincorporated communities.	Support	Assembly Local Government Appropriation Committee

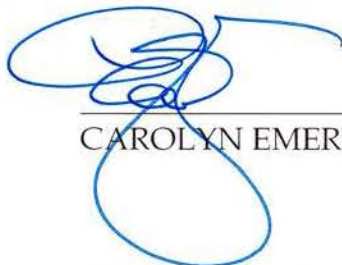
Bill	Description	Commission's Adopted Position	Status Update
SB 646	Proposes to require that the fee or charge for an extension of water or sewer service should be utilized for those facilities or services for which the fee or charge is imposed.	No Position	Senate Governance and Finance Committee
SB 379, SB 380, SB 381	Yearly Validating Acts meant to retroactively fix typographical, grammatical, and procedural errors that might invalidate boundary changes or bond issues.	Support	Senate Governance and Finance Committee

RECOMMENDATIONS

Staff recommends that the Commission:

1. Receive and file the May 8, 2019 Legislative Report.
2. Adopt recommended positions on the following bills:
 - A. AB 600 (Oppose)
 - B. SB 414 (Watch)
3. Direct staff to submit letter of opposition for AB 600 (Attachment A).

Respectfully Submitted,



CAROLYN EMERY



LUIS TAPIA

Attachment A: Letter of Opposition for AB 600



May 8, 2019

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CAROLYN EMERY
EXECUTIVE OFFICER

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

**RE: *Oppose* - AB 600: Local Government: Disadvantaged
Unincorporated Communities**

Dear Assembly Member Chu:

The Orange County Local Agency Formation Commission ("OC LAFCO") must respectfully oppose AB 600 at this time. OC LAFCO commends your effort to address service deficiencies in disadvantaged unincorporated communities ("DUCs") and believes that all of California should receive adequate and safe drinking water and wastewater facilities.

OC LAFCO supports the author's intent, but as currently written, the bill does not represent a collective stakeholder dialogue with reasonable and systemic solutions to the problem. The concerns and reasons for the opposition to AB 600 include the following:

1. Annexations Concerns.

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

Further, changes to §56375(a)(8)(B) create an inconsistent exception for protest proceedings which takes away rights that have been long-

established in governmental reorganizations in California. The residents of the DUC are afforded the right to file protests for boundary changes but other residents living within a larger annexation boundary that are not part of the DUC would lose their right to protest.

2. Removes LAFCO discretion.

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

3. Lack of Clarity.

The bill proposes changes to §56301 by adding “considerations of equity” as an additional basis upon which LAFCOs fulfill their purposes. However, the bill does not define “considerations of equity”, which leads to a wide-open interpretation. As a result, each LAFCO will create their own local policies related to “considerations of equity.”

4. Accessibility Plans.

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

5. Creates a significant unfunded mandate to LAFCO and local agencies.

The studies, analysis, preparation of recommendations regarding DUCs and public hearings on all accessibility plans and potential subsequent actions initiated by LAFCO that would be required, all impose unfunded mandates on counties, cities, qualified special districts and LAFCOs. By law LAFCO is forced to pass their costs on to cities, counties and, in 30 counties, special districts through its annual budget.

OC LAFCO recognizes the intent of the bill to address service deficiencies to DUCS. However, based on the reasons noted above, OC LAFCO respectfully opposes AB 600.

Respectfully,

Cheryl Brothers

Chair

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