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General Counsel**MEETING DATE:** August 12, 2026**9b** | Commission
Discussion**TO:** Local Agency Formation Commission
of Orange County**FROM:** Executive Officer
Policy Analyst I**SUBJECT:** Legislative Report (August 2026)**DISCUSSION**

The Legislature reconvened from its summer recess on August 3, and legislators have continued to advance proposed legislation through committees to meet the August 31 deadline for each house to pass bills. Bills approved by both houses will then be enrolled and presented to Governor Newsom. The Governor has until September 30 to sign or veto bills passed by the Legislature.

Throughout the legislative session, staff has continued to participate in the Alliance of LAFCOs Legislative Committee to review, discuss, and monitor legislation previously reviewed by the Commission, and identify additional legislation of LAFCO interest. Accordingly, this report provides an update on previously reviewed legislation, the Amicus Brief, and the legislative committee's recent activity.

Update on Previously Reviewed Legislation

In June, the Commission received an update from staff on AB 1821 (Pacheco) – California Public Records Act and the Validating Acts SB 1440, 1441, and 1442 authored by the Senate Local Government Committee, noting that there were no changes to the bills. Since the June meeting, AB 1821 has experienced a minor non-substantive change. A summary of the recent change to AB 1821 and a table with status updates on bills previously reviewed by the Commission are provided below.

AB 1821 (Pacheco) - California Public Records Act: Agency Response Time.

AB 1821 proposes to modify the existing timelines for public agencies to respond to public records requests. If approved, AB 1821 would allow agencies to respond to a public records request within 10 business days rather than calendar days and allow extensions of up to 14 business days. The recent non-substantive amendment to the bill adds language acknowledging that state and local agencies provide a variety of public services and therefore, additional time may be needed to address public

records requests. Given that the amendment does not alter the bill's intent, staff recommends that the Commission maintain a **Support** position on AB 1821.

RECOMMENDED ACTION: **Support** position adopted on May 13, 2026. No additional action recommended.

Support: Alameda County Office of Education, California Association of Recreation & Park Districts, California Association of School Business Officials, California Municipal Clerks Association, California Special Districts Association, City of Bakersfield, City of Bellflower, City of Buena Park, City of Canyon Lake, City of Carlsbad, City of Concord, City of Corona, City of Eastvale, City of El Cerrito, City of Fontana, City of Grass Valley, City of Hesperia, City of Los Alamitos, City of Monterey Park, City of Norwalk, City of Rancho Cucamonga, City of Redding, City of Riverside, City of Rohnert Park, City of San Bernardino, City of Scotts Valley, City of St. Helena, City of Sunnyvale, City of Thousand Oaks, City of Vacaville, City of Woodland, County of Inyo, County of Mendocino, County of Monterey, County of Riverside, Los Angeles Unified School District, McKinleyville Community Service District.

Oppose: ADU Rights.org, Alliance for Boys and Men of Color, Alliance of Californians for Community Empowerment (ACCE) Action, American Friends Service Committee, Anti Police-terror Project, Association of Alternative Newsmedia Publishers, Bend the Arc: Jewish Action, California, Black Lives Matter California, CAIR California, California Advocates for Nursing Home Reform, California Coalition for Sheriff Oversight, California Faculty Association, California League of United Latin American Citizens, California News Publishers Association, California Rural Legal Assistance Foundation, Californians for Pesticide Reform, Cancel the Contract, Carceral Ecologies, Care First California, Center for Juvenile Law and Policy, Loyola Law School, Center for Policing Equity, Check the Sheriff, Communities United for Restorative Youth Justice, Community Legal Services in East Palo Alto, Courage California, Dignity and Power Now, Disability Rights California, Disability Rights Education & Defense Fund, East Bay Sanctuary Covenant, Environmental Working Group, Family Violence Appellate Project, Fight for the Future, Friends Committee on Legislation of California, Friends of the Eel River, Gente Organizada, Get the Flock Out - Santa Cruz County, Humboldt Waterkeeper, In Our Care San Mateo County, Inland Coalition for Immigrant Justice, Justice Teams Network, Justice2jobs Coalition, LA Defensa, LA Voice, League of United Latin American Citizens (LULAC), Legal Aid Association of California, Local 148 Los Angeles County Public Defender's Union, Los Angeles Community Action Network, Los Angeles Press Club, Mexican-American Legal Defense and Education Fund (MALDEF), National Housing Law Project, National Lawyers Guild - Los Angeles (NLG-LA), ORALE: Organizing Rooted in Abolition Liberation and Empowerment, Orange County Rapid Response Network, Parents Against Child Sexual Abuse, Partnership for the Advancement of New Americans, Pillars of the Community, Public Counsel, Public Interest Law Project, San Diego Pro Chapter of the Society of Professional Journalists, Saving Lives in Custody California, Secure Justice, Services, Immigrant Rights and Education Network (SIREN), Sister Warriors Freedom Coalition, Starting Over Strong, Stop LAPD Spying Coalition, Surfrider Foundation, The Ark, The Black Alliance for Just Immigration, The Daily Californian, The Impact Fund, The San Benito Blueprint, The Wage Justice Center, Transparent California, Trial Impact Project, Unite Here Local 11, University of Florida, College of Journalism and

Communications, University of San Francisco Racial Justice Clinic, Youth Justice Coalition, Youth Law Center.

BILL LOCATION/STATUS: Senate Floor.

2026 Legislative Session – Bill Status			
Bill	Description	Adopted Positions	Status
AB 1821	AB 1821 would amend the California Public Records Act by modifying an agency's response timeline for public records requests from calendar days to business days, including the allowable extension timeline period.	Support	AB 1821 is currently under review on the Senate Floor. The next hearing date has not been identified.
SB 1440 SB 1441 SB 1442	Annual Validating Acts are meant to retroactively fix typographical, grammatical, and procedural errors that might invalidate boundary changes or bond issues.	Support	Signed by the Governor on June 17, 2026.

Alliance of LAFCOs Legislative Committee

The Alliance of LAFCOs Legislative Committee met on June 22 and July 27 to discuss bills of LAFCO interest. Staff from the four participating LAFCOs and Chris Lee from Politico Group discussed the legislative session timeline and a variety of bills covering several topics, including joint powers authorities, non-disclosure agreements, and public meeting accessibility. At this time, these bills do not have an impact on LAFCO's authority. Staff also discussed planning for the new FY 2026-2028 legislative session, including coordinating with Chris Lee on potential legislative priorities and how best to prepare and engage in the next legislative cycle. Staff will continue to participate in the Legislative Committee and provide the Commission with an update at future meetings.

Amicus Brief

On September 17, 2025, the Commission approved OC LAFCO's participation as a party to an amicus brief regarding the court case Monterey Peninsula Water Management District v. Monterey LAFCO. The court case developed from Monterey LAFCO's denial of Monterey Peninsula Water Management District's (MPWMD) request to activate latent powers to provide retail water service within a portion of Monterey County. The court ruled in favor of MPWMD, finding that Monterey LAFCO used an incorrect substantial evidentiary standard to deny the District's proposal. Monterey LAFCO appealed the court decision, asserting that the court's findings were based on applying an incorrect "rational connection" standard instead of the substantial evidence standard delineated in the Cortese-Knox-Hertzberg Local Government

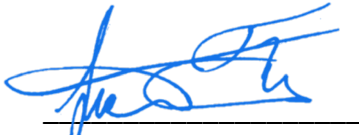
Reorganization Act of 2000. Given the potential implications of the appellate court's ruling, the Commission approved OC LAFCO's participation as a party to the amicus brief, which was also joined by Los Angeles, Marin, Placer, Sacramento, San Bernardino, San Diego, and San Joaquin LAFCO, along with the California Association of Local Agency Formation Commissions (CALAFCO). The purpose of the amicus brief is to provide the appellate court with additional information and perspective regarding the practical impacts of the court decision on LAFCOs throughout the state.

The amicus brief was submitted on July 24, 2026, by Bill Pellman of Nossaman LLP, on behalf of the participating LAFCOs. A copy of the amicus brief is attached. Staff will continue to monitor the appellate proceedings and will provide updates to the Commission during future meetings.

RECOMMENDED ACTION

This is a receive and file report and requires no action by the Commission.

Respectfully Submitted,



LUIS TAPIA

AIMEE DIAZ

Attachments:

1. Assembly Bill 1821 (Pacheco)
2. Amicus Brief of the California Association of Local Agency Formation Commissions and of Los Angeles, Marin, Orange, Placer, Sacramento, San Bernardino, San Diego, and San Joaquin Local Agency Formation Commissions - Amicus Brief



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AB-1821 California Public Records Act: agency response time. (2025-2026)

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AMENDED IN SENATE JUNE 25, 2026

AMENDED IN SENATE JUNE 10, 2026

AMENDED IN ASSEMBLY APRIL 06, 2026

AMENDED IN ASSEMBLY MARCH 16, 2026

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 1821
Introduced by Assembly Member Pacheco
February 11, 2026

An act to amend ~~Sections 7922.530 and~~ [Section](#) 7922.535 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1821, as amended, Pacheco. California Public Records Act: ~~methods of submission, fees, and~~ agency response time.

Existing law, the California Public Records Act, requires each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, to make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable, except with respect to public records exempt from disclosure by express provisions of law.

~~This bill would require an agency to designate a physical office location and a specified email address for the submission of requests, and authorize an agency to designate other reasonable methods for the submission of requests, including submission to a physical mailing address, subject to certain requirements, including that the agency accept upon receipt any request that is submitted at the designated physical office location or through the designated email address during the agency's normal business hours. If an agency designates any method for the submission of requests, the bill would deem a request as properly requested for purposes of specified provisions only if the request was submitted through a method of submission that was designated by the agency. If the agency finds that a request was not submitted through a method of submission that was designated by the agency, the bill would deem the request as not properly requested at the time of submission and not subject to specified timelines otherwise applicable to the request had it been properly requested, except as specified. The~~

~~bill would require an agency to provide notice to the public of any updates or changes to any method for the submission of requests designated by the agency by posting the updates or changes on its internet website:~~

~~If an agency determines that a request is a commercial use request, as defined, the bill would require a requester to submit to the agency, in addition to any other applicable fees, a payment of fees to cover the search and review time, as defined, for the request. The bill would exempt from that fee requirement any request made by an educational or noncommercial scientific institution, as specified, a government agency, and a representative of the news media, as defined. The bill would authorize an agency to petition the superior court for a determination that a requester submitted a request with malicious intent, as specified. If the court determines that the request was submitted with malicious intent, the bill would authorize the agency to impose on the requester, in addition to any other applicable fees, a payment of fees to cover the search and review time for the request. The bill would suspend an agency's duty to respond to a request during the pendency of any court proceeding under that provision. The bill would specify that the payment of fees by a requester to cover the search and review time for a request for these purposes includes an administrative fee and a professional fee, as specified:~~

Existing law requires each agency, within 10 days of a request for a copy of records, to determine whether the request seeks copies of disclosable public records in possession of the agency and to promptly notify the person of the determination and the reasons therefor. Existing law authorizes that time limit to be extended by no more than 14 days under unusual circumstances, as defined.

This bill would instead require each agency to determine whether the request seeks copies of disclosable public records in possession of the agency and to promptly notify the person as described above within 10 business days of a request for a copy of records. The bill would instead authorize the time period for each agency to respond to be extended by no more than 14 business days.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1. Section 7922.530 of the Government Code is amended to read:~~

~~7922.530.(a)(1) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication and any fees to cover the search and review time for a request described in paragraph (3), or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so:~~

~~(2)(A) An agency shall designate a physical office location and a specified email address for the submission of requests, and may designate other reasonable methods for the submission of requests, including, but not limited to, submission to a specified physical mailing address or through a specified online portal, subject to both of the following requirements:~~

~~(i) The agency shall accept upon receipt any request that is submitted in person at the designated physical office location or through the designated email address during the agency's normal business hours.~~

~~(ii) An agency shall make any method of submission that was designated by the agency clearly available on its internet website.~~

~~(B)(i) If an agency designates any method for the submission of requests, a request shall be deemed as properly~~

~~requested for purposes of this chapter only if the request was submitted through a method of submission that was designated by the agency.~~

~~(ii) If the agency finds that a request was not submitted through a method of submission that was designated by the agency, the request shall not be deemed as properly requested at the time of submission and shall not be subject to any timelines under this chapter otherwise applicable to the request had it been properly requested. This clause shall not apply if the agency had a reasonable basis to be aware of the request.~~

~~(C) An agency shall provide notice to the public of any updates or changes to any method for the submission of requests designated by the agency by posting the updates or changes on its internet website.~~

~~(3)(A)(i) If an agency determines that a request is a commercial use request, the requester shall submit to the agency, in addition to any other applicable fees, a payment of fees to cover cost of the search and review time for the request.~~

~~(ii) Clause (i) shall not apply to any request made by any of the following:~~

~~(I) An educational or noncommercial scientific institution whose purpose is scholarly or scientific research.~~

~~(II) A government agency.~~

~~(III) A representative of the news media.~~

~~(B) An agency may petition the superior court for a determination that a requester submitted a request with malicious intent, including for the purpose of delaying the agency. If the court determines that the request was submitted with malicious intent, the agency may impose on the requester, in addition to any other applicable fees, a payment of fees to cover the search and review time for the request. The agency's duty to respond to the request shall be suspended during the pendency of any court proceedings under this subparagraph.~~

~~(C) The payment of fees by a requester to cover the search and review time for a request pursuant to subparagraphs (A) and (B) shall be as follows:~~

~~(i) The payment of fees shall include both of the following fees:~~

~~(I) An administrative fee in the amount of twenty-two dollars and thirty-five cents (\$22.35) per hour, which may be increased by a cost-of-living adjustment.~~

~~(II) A professional fee in the amount of sixty-six dollars and twenty-six cents (\$66.26) per hour, which may be increased by a cost-of-living adjustment.~~

~~(ii) For purposes of clause (i), both of the following shall apply:~~

~~(I) Any charges that are for less than a full hour shall be billed in quarter-hour segments.~~

~~(II) The United States city average of the "Consumer Price Index for all Urban Consumers," as published by the United States Bureau of Statistics, shall be used as the basis for determining changes in the cost of living.~~

~~(D) For purposes of this paragraph, all of the following definitions apply:~~

~~(i) "Commercial use request" means a request from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the agency may ask the requester to provide information regarding the use to which a requester will put the documents requested. If the requester does not promptly provide this information, the agency may infer that the records have been requested for commercial use. When the agency has reasonable cause to doubt the requester's stated use of the records sought, or where the use is not clear from the request itself, the agency will seek additional clarification before assigning the request to a category.~~

~~(ii) "Representative of the news media" means a person who regularly gathers, prepares, collects, photographs, records, writes, edits, reports, or publishes news or information that concerns local, national, or international events or other matters of public interest for dissemination to the public for a substantial portion of the person's livelihood or for substantial financial gain.~~

~~(iii) "Search and review time" means the actual time spent identifying and locating records, including material within documents, responsive to a request, determining whether any portions are exempt from disclosure, and performing all tasks necessary to prepare the records for disclosure, including redacting portions exempt from~~

~~disclosure:~~

~~(b)A requester who inspects a disclosable record on the premises of the agency has the right to use the requester's equipment on those premises, without being charged any fees or costs, to photograph or otherwise copy or reproduce the record in a manner that does not require the equipment to make physical contact with the record, unless the means of copy or reproduction would result in either of the following:~~

~~(1)Damage to the record:~~

~~(2)Unauthorized access to the agency's computer systems or secured networks by using software, equipment, or any other technology capable of accessing, altering, or compromising the agency's electronic records.~~

~~(c)The agency may impose any reasonable limits on the use of the requester's equipment that are necessary to protect the safety of the records or to prevent the copying of records from being an unreasonable burden to the orderly function of the agency and its employees. In addition, the agency may impose any limit that is necessary to maintain the integrity of, or ensure the long-term preservation of, historic or high-value records:~~

SEC. 2. SECTION 1. Section 7922.535 of the Government Code is amended to read:

7922.535. (a) Each agency, upon a request for a copy of records, shall, within 10 business days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. If the agency determines that the request seeks disclosable public records, the agency shall also state the estimated date and time when the records will be made available.

(b) In unusual circumstances, the time limit prescribed in this article and Article 1 (commencing with Section 7922.500) may be extended by written notice from the head of the agency or a designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. The notice shall not specify a date that would result in an extension for more than 14 business days.

(c) As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(5) The inability of the agency, because of a cyberattack, to access its electronic servers or systems in order to search for and obtain a record that the agency believes is responsive to a request and is maintained on the servers or systems in an electronic format.

(A) This paragraph does not relieve the agency of its obligation to comply with subdivision (a) when the requested record is maintained in a location other than on the electronic server or system affected by the cyberattack, or maintained in a nonelectronic format.

(B) This paragraph applies only until the agency regains its ability to access its electronic servers or systems and search for and obtain electronic records that may be responsive to a request.

(6) The need to search for, collect, and appropriately examine records during a state of emergency proclaimed by the Governor in the jurisdiction where the agency is located when the state of emergency currently and directly affects, due to the state of emergency, the agency's ability to timely respond to requests due to staffing shortages or closure of facilities where the requested records are located.

(A) This paragraph shall not apply to a request for records created during and related to the state of emergency proclaimed by the Governor.

(B) For purposes of this paragraph, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2).

~~SEC. 3.~~ **SEC. 2.** The Legislature finds and declares that Section 1 of this act, which amends Section ~~7922.530 of the Government Code, and Section 2 of this act, which amends Section~~ 7922.535 of the Government Code, ~~further, furthers~~, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act balances the right of the public to access public records in a timely manner while ~~providing public agencies the ability to designate methods to receive, obtain proper compensation for, and sufficient time to respond to, public record requests.~~ *acknowledging that state and local agencies provide a variety of public services and may need additional time to properly respond to requests.*

~~SEC. 4.~~ **SEC. 3.** The Legislature finds and declares that Section 1 of this act, which amends Section ~~7922.530 of the Government Code, and Section 2 of this act, which amends Section~~ 7922.535 of the Government Code, ~~impose~~ *imposes* a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act balances the right of the public to access public records in a timely manner while ~~providing public agencies the ability to designate methods to receive, obtain proper compensation for, and sufficient time to respond to, public record requests.~~ *acknowledging that state and local agencies provide a variety of public services and may need additional time to properly respond to requests.*

No. H051849

IN THE CALIFORNIA COURT OF APPEAL
SIXTH APPELLATE DISTRICT

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT,
Plaintiffs and Appellant,

v.

CALIFORNIA AMERICAN WATER COMPANY, et al.,
Defendants and Appellants.

On Appeal from the Monterey County Superior Court,
Trial Case No. 22CV000925
Honorable Thomas W. Wills

**APPLICATION FOR LEAVE TO FILE AMICUS BRIEF IN
SUPPORT OF APPELLANT; AMICUS BRIEF OF THE
CALIFORNIA ASSOCIATION OF LOCAL AGENCY
FORMATION COMMISSIONS AND OF LOS ANGELES,
MARIN, ORANGE, PLACER, SACRAMENTO, SAN
BERNARDINO, SAN DIEGO, AND SAN JOAQUIN LOCAL
AGENCY FORMATION COMMISSIONS**

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Placer, Sacramento, San Bernardino, San Diego, and San
Joaquin Local Agency Formation Commissions

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**APPLICATION FOR LEAVE TO FILE AMICUS CURIAE
BRIEF IN SUPPORT OF APPELLANT**

Pursuant to California Rules of Court, rule 8.200(c), the California Association of Local Agency Formation Commissions (“CALAFCO”) and the Los Angeles, Marin, Orange, Placer, Sacramento, San Bernardino, San Diego and San Joaquin Local Agency Formation Commissions (CALAFCO and the individual LAFCOs listed here are collectively referred to as the “LAFCO Amicus Parties”) respectfully request leave to file the accompanying Amicus Curiae brief in support of appellant Local Agency Formation Commission of Monterey County (“Monterey LAFCO”).

CALAFCO routinely works with its member commissions to monitor legislation and provide technical and policy guidance concerning the Cortese–Knox–Hertzberg Local Government Reorganization Act (Gov. Code, § 56000 et seq.) (“Cortese-Knox-Hertzberg Act”). Because judicial interpretations of the Cortese–Knox-Hertzberg Act directly affect all LAFCOs’ operations statewide, CALAFCO has a strong interest in ensuring that appellate decisions reflect the statutory and policy framework intended by the Legislature.

The Los Angeles, Marin, Orange, Placer, Sacramento, San Bernardino, San Diego and San Joaquin Local Agency Formation Commissions are state-mandated quasi-judicial countywide Commissions whose purview is to oversee boundary changes of cities and special districts consistent with the Cortese-Knox-Hertzberg Act. Because judicial interpretations of the Cortese-

Knox-Hertzberg Act directly affect LAFCO operations, procedures and decisions, these LAFCOs have a strong interest in ensuring that appellate decisions reflect the statutory and policy framework intended by the Legislature.

Pursuant to rule 8.200(c)(3), LAFCO Amicus Parties certify that no party or counsel for any party authored the proposed amicus brief in whole or in part, and no party, counsel for a party, or any other person or entity made a monetary contribution intended to fund the preparation or submission of the brief.

For these reasons, LAFCO Amicus Parties respectfully request that the Court grant leave to file the attached Amicus Curiae brief.

I. INTRODUCTION.

The question before this Court—what standard of judicial review governs Local Agency Formation Commission (“LAFCO”) determinations under the Cortese-Knox-Hertzberg Act—is of exceptional importance to local governance throughout California. For decades, LAFCOs have carried out the Legislature’s policy of promoting orderly growth, efficient service delivery, and the preservation of agricultural and open-space lands. (Gov. Code, § 56001.) These LAFCOs operate as legislative bodies, not adjudicative tribunals: they weigh evidence, balance competing public values, and make discretionary judgments about what best serves the affected communities. (See generally Gov. Code, § 56000 et seq.)

Because of that legislative character, the Legislature has prescribed a correspondingly deferential standard of review—whether that LAFCO’s decision is supported by “substantial evidence in light of the whole record.” (Gov. Code, § 56107, subd. (c).)¹ The statute does not authorize courts to inquire further into whether each finding bears a “rational connection” to the evidence.

Yet in *McBail & Co. v. Solano County LAFCO* (1998) 62 Cal.App.4th 1223 (“*McBail*”), the Court of Appeal introduced—without textual, doctrinal, or policy foundation—a hybrid “rational connection” test that blended substantial evidence review with arbitrary-and-capricious analysis. That unmoored formulation, if now reaffirmed or expanded, threatens to distort the uniform and deferential standard the Legislature intended. It invites courts to second-guess legislative policy determinations and compels LAFCOs to defend their reasoning with a level of analytical precision foreign to legislative decision making.

The LAFCO Amicus Parties file this Amicus Curiae brief in support of appellant Monterey LAFCO to urge the Court to reverse the trial court’s decision in its entirety and reaffirm the statutory standard of review: substantial evidence in the record. Together, CALAFCO and the Los Angeles, Marin, Orange, Placer, Sacramento, San Bernardino, San Diego and San Joaquin Local Agency Formation Commissions represent fifty-four of the

¹ For clarity, all references to “Section 56107” in this brief refer to Government Code section 56107.

fifty-eight county LAFCOs statewide and have a vital interest in preserving a clear, predictable framework for judicial review—one that respects both legislative intent and the institutional competence of local decisionmakers.

A published decision adopting a “rational connection” requirement would reverberate across the state. It may alter how every LAFCO structures its deliberations, drafts its resolutions, and evaluates proposals, shifting focus from substantive policy balance to defensive record-building. That outcome would not promote transparency or accountability. On the contrary, it would chill legitimate policymaking and erode the deference the Legislature deliberately conferred to LAFCOs under the Cortese-Knox-Hertzberg Act.

For the reasons explained herein, this Court should decline to perpetuate *McBail*’s hybrid formulation and reaffirm that judicial review of LAFCO decisions under the Cortese–Knox–Hertzberg Act is—and always has been—limited to determining whether substantial evidence supports the LAFCO’s action.

II. ARGUMENT.

A. The Legislature Intentionally Adopted the Substantial Evidence Standard and Has Never Required a “Rational Connection” Test.

The Cortese–Knox–Hertzberg Act (Gov. Code, § 56000 et seq.) assigns to each LAFCO the quintessentially *legislative* responsibility of shaping local governance boundaries and service delivery patterns in a manner that promotes orderly

development, efficient services, and the preservation of agricultural and open-space lands. (Gov. Code, §§ 56375, 56886.)

LAFCOs act in a quasi-legislative capacity when exercising discretion in making determinations on proposals. (*Sierra Club v San Joaquin Local Agency Formation Comm’n* (1999) 21 Cal.4th 489, 495.) Each LAFCO must balance a constellation of public policy factors—community identity, fiscal sustainability, service efficiency, consistency with local and regional plans, and the effect on adjacent jurisdictions. (See *Sierra Club, supra*, 21 Cal.4th at 495; see also *City of Agoura Hills v. Local Agency Formation Com.* (1988) 198 Cal.App.3d 480, 485.) These determinations are not mechanical fact findings. They are the product of judgment, weighing, and policy discretion. They resemble the deliberations of a city council or board of supervisors more than those of a trial-type adjudicative body.

This means LAFCO decisions are likely to be upheld as long as statutory procedures are followed and any substantial evidence supports LAFCO determinations. (Gov. Code, § 56107, subd (a).) Technical noncompliance with certain statutory procedures will not invalidate the affected proceedings. (*Ibid.*)

Recognizing that character, the Legislature has supplied a single, well-understood measure of judicial review: “In any action or proceeding to attack, review, set aside, void, or annul a determination by a commission on grounds of noncompliance with this division, any inquiry shall extend only to whether there was fraud or a prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the court finds that the determination

or decision is not supported by substantial evidence in light of the whole record.” (Gov. Code, § 56107, subd (c).)

“Substantial evidence has been defined as relevant evidence that a reasonable mind might accept as adequate support for a conclusion. A presumption exists that an administrative action was supported by substantial evidence. The burden is on the appellant to show there is no possible substantial evidence whatsoever to support the findings of the District.” (*Taylor Bus Service, Inc. v. San Diego Bd. of Education* (1987) 195 Cal.App.3d 1331, 1340-41, internal citations omitted.) This standard of review strikes the intended balance between deference and oversight.

And although the Legislature has amended the Cortese-Knox-Hertzberg Act since 1998 – the year *McBail* was published – it has never altered Section 56107 or incorporated *McBail*’s ruling. A useful point of comparison is the Legislature’s response to *Malibu Committee for Incorporation v. Board of Supervisors* (1990) 222 Cal.App.3d 397, a case interpreting the predecessor provisions to Government Code section 57202.

In *Malibu Committee*, the Court of Appeal held that the county board of supervisors—rather than the LAFCO—could set the effective date of a city incorporation if the LAFCO had not done so. (*Malibu Committee, supra*, 222 Cal.App.3d at 409–410.) That holding had immediate and practical consequences for the allocation of responsibilities between LAFCOs and the conducting authority. The following year, the Legislature amended section 57202 to clarify the intended division of authority and to confirm

that LAFCOs, not the board of supervisors, control the effective date of incorporation. (Stats. 1991, ch. 37.) Because the ruling had immediate implications for how authority was allocated between LAFCOs and conducting authorities, the Legislature amended section 57202 the next year to make clear that only LAFCO controls the effective date. The amendment ensured that the statutory structure functioned as intended.

Nothing similar occurred after *McBail*. The reason is simple: *McBail* did not expose any structural uncertainty or statutory gap. The Cortese–Knox–Hertzberg Act already contained a clear standard of judicial review—substantial evidence in light of the whole record—and that standard was functioning without difficulty. *McBail*’s reference to a “rational connection” did not implicate the allocation of responsibilities among governmental actors, nor did it identify any defect in the statutory scheme that would require legislative clarification. It simply added a phrase not found in the Cortese–Knox–Hertzberg Act.

The Legislature’s decision not to amend Section 56107 therefore supports retaining the text as written. The substantial evidence standard already provided the appropriate level of deference for the policy-laden decisions LAFCOs make, and nothing in the years since *McBail* has suggested that LAFCOs, reviewing courts, or applicants have struggled to apply it. Introducing an extra-statutory “rational connection” requirement would expand judicial review beyond what the Legislature prescribed and would invite courts to revisit policy judgments

that belong to LAFCOs. The Legislature's inaction confirms that no such expansion was intended or needed.

When the statutory framework is working as designed, and the Legislature has expressed no desire to alter the standard, courts should not read into the Cortese-Knox-Hertzberg Act a requirement that does not appear in its text. The substantial evidence standard in Section 56107 remains the sole measure of judicial review of LAFCO determinations.

B. *McBail's* Reasoning Does Not Justify Departing from the Statutory Substantial Evidence Framework.

McBail is best understood as a response to an agency decision resting on a legally irrelevant justification, not as an attempt to alter the statutory substantial evidence" standard.

In *McBail*, the First District Court of Appeal confronted a narrow procedural defect in a local agency's denial of an annexation petition. (*McBail, supra*, 62 Cal.App.4th at 1223.) Solano LAFCO had denied the proposal on the ground that the project "did not enhance the mission of Travis Air Force Base." (*Id.* at p. 1227.) The Court of Appeal concluded that this articulated reason was outside the purposes of the Cortese-Knox Act (the precursor to the Cortese-Knox-Hertzberg Act)—discouraging urban sprawl and encouraging orderly governmental formation—and therefore could not support the denial. (*Id.* at pp. 1233–1235.)

In explaining its reasoning, the court quoted a sentence from *California Hotel & Motel Assn. v. Industrial Welfare Com.*

(1979) 25 Cal.3d 200 (“*California Hotel*”) that has since generated confusion: “A court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute.” (*McBail, supra*, 62 Cal.App.4th at 1231 [quoting *California Hotel, supra*, 25 Cal.3d at 212].) Yet *California Hotel* involved state-level quasi-legislative rulemaking under the Labor Code, not a LAFCO proceeding. (*California Hotel, supra*, 25 Cal.3d at 204.) The *McBail* court imported this “rational connection” language without examining whether it fit within Section 56107, which already prescribes the applicable standard: substantial evidence in the record supporting the LAFCO’s determination.

In any event, the disposition in *McBail* ultimately turned not on the absence of a rational connection but on the absence of any valid statutory basis for the denial. (*McBail, supra*, 62 Cal.App.4th at 1231.) Solano LAFCO’s stated ground—failure to “enhance” a military base— was “clearly beyond the scope of the [Cortese-Knox-Hertzberg] Act.” (*Ibid.*) Properly understood, *McBail*’s holding rested solely on the absence of any lawful statutory ground for the denial. It did not alter the standard of review or require courts to assess the agency’s reasoning beyond the statutory substantial evidence test.

Although the court correctly required that LAFCO’s decisions relate to the statutory purposes of the Cortese-Knox-Hertzberg Act, it blurred the distinction between that threshold legality inquiry and the Legislature’s prescribed standard of

review. Section 56107 states plainly: “Any determination of a commission shall be upheld unless the court finds that the determination or decision was not supported by substantial evidence in the record.” The statute contains no “rational connection” requirement. (Gov. Code, § 56107, subd (c).)

By importing *California Hotel*’s language from a state rulemaking context and applying it to a local boundary decision already subject to substantial evidence review, *McBail* introduced an extra analytical step that the statute does not require. Nothing in Section 56107 supports that additional layer, and no published decision since 1998 has expanded upon or reaffirmed it. (Cf. *Tracy Rural Cnty. Fire Prot. Dist. v. Local Agency Formation Comm'n of San Joaquin County* (2022) 84 Cal.App.5th 91, 107 [analysis to whether there was a prejudicial abuse of discretion under Section 56107 did not include a “rational connection” analysis].)

Read narrowly, *McBail* stands only for the unremarkable proposition that a LAFCO may not base its decision on a criterion outside the statutory purposes of the Cortese-Knox-Hertzberg Act. When a LAFCO approves or denies a proposal, it must articulate a basis that falls within the statute’s enumerated factors so that a reviewing court can determine whether substantial evidence supports that basis. (*McBail*, *supra*, 62 Cal.App.4th at 1231.) That limited holding does not justify importing an amorphous “rational connection” standard into Section 56107.

Here, under Government Code section 56668, Monterey LAFCO's determinations involve multiple factors, but the statute does not require positive findings on each. (Gov. Code, § 56668.) If substantial evidence supports Monterey LAFCO's conclusion as to any one statutory factor, the decision is valid. Judicial review ends once the court identifies such support. Courts are not authorized to reweigh evidence or assess the rationality of each factor's relationship to the record.

This approach reflects California courts' consistent deference to the discretionary aspects of state and local quasi-legislative decisions, based on the recognition that agencies—not courts—have the subject-matter expertise to evaluate the policy considerations at stake. (See e.g., *Pitts v. Perluss* (1962) 58 Cal.2d 824, 834-835 ["Under such circumstances, courts should let administrative boards and officers work out their problems with as little judicial interference as possible. The substitution of the judgment of a court for that of the administrator in quasi-legislative matters would effectuate neither the legislative mandate nor sound social policy"], internal quotes and citations omitted.) The contrary approach would invite courts to second-guess legislative judgments and transform substantial evidence review into de novo policy review—contrary to the purpose of the Cortese–Knox–Hertzberg Act and the separation of powers.

**C. Section 56107's Text Forecloses Any Additional
"Rational Connection" Requirement.**

A comparison of administrative review statutes shows why the Cortese-Knox-Hertzberg Act should not permit courts to

impose a “rational connection” requirement onto Section 56107. By comparison, in similar statutory schemes, the Legislature has chosen to broaden judicial review by expressly authorizing courts to examine both (1) whether the agency proceeded “in a manner required by law”, or (2) whether its determination is supported by substantial evidence. (Pub. Resources Code, § 21168.5; see also Cal. Water Code, § 10651 [similarly defining abuse of discretion as either failure to proceed in “a manner required by law” or lack of “substantial evidence”].)

The California Environmental Quality Act (“CEQA”) provides a useful comparison. There, the governing statute provides that an abuse of discretion is established “if the agency has not proceeded *in a manner required by law* or if the agency’s determination is not supported by substantial evidence.” (Pub. Resources Code, § 21168.5.) Because CEQA expressly contains both prongs, courts reviewing CEQA decisions have, at times, applied a “rational connection” analysis. (See, e.g., *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 577 [CEQA case invoking California Hotel’s “rational connection” language].) That reasoning can be understood, however, as flowing naturally from CEQA’s broader review structure, which requires courts to determine whether the underlying policy “proceeded in a manner required by law.”

Section 56107, on the other hand, adopts a different—and narrower—formulation. It states that “[p]rejudicial abuse of discretion is established if the court finds that the determination or decision is not supported by substantial evidence in light of the

whole record.” (Gov. Code, § 56107, subd. (c).) Unlike CEQA, Section 56107 does not include the separate “manner required by law” clause. (*Ibid.*) That omission is subtle but significant. By limiting review solely to whether substantial evidence supports the determination, the Legislature signaled that courts should not require the kind of analytical demonstration that accompanies statutes using the broader CEQA formulation.

Other statutory schemes further support this point. The Agricultural Labor Relations Act under Labor Code section 1160.8, for example, also uses a “substantial evidence” standard without any “manner required by law” language. (Lab. Code, § 1160.8.) Thus, in *Gerawan Farming, Inc. v. Agricultural Labor Relations Bd.* (2018) 23 Cal.App.5th 1129, the Court of Appeal applied that standard exactly as written: it reviewed that board’s findings for substantial evidence “on the record considered as a whole.” (*Id.* at p. 1162-63.) Under this standard, the court emphasized, “[W]e do not reweigh the evidence. If there is a plausible basis for the Board’s factual decisions, we are not concerned that contrary findings may seem to us equally reasonable, or even more so.” (*Id.* at p. 1162 [citing *Rivcom Corp. v. Agricultural Labor Relations Bd.* (1983) 34 Cal.3d 743, 756-757].) At no point did the court undertake a separate “rational connection” inquiry or assess whether the agency’s reasoning was sufficiently articulated beyond what the substantial evidence test itself demands.

Gerawan thus illustrates the same principle that should guide review under Section 56107: where the Legislature confines

judicial review to a substantial evidence test, courts should not supplement that framework with a separate “rational connection” inquiry. In this context, courts should apply the substantial evidence test—and only the substantial evidence test—the statute provides. Section 56107 uses that same limited formulation. Its text forecloses importing a rational-connection requirement from unrelated administrative contexts, and confirms that judicial review ends once substantial evidence supports the LAFCO’s determination in light of the whole record.

D. A New “Rational Connection” Test Would Carry Significant Policy Consequences for All LAFCOs.

LAFCOs occupy a unique place in California’s local government framework. They are not ordinary administrative agencies adjudicating private rights, nor are they political bodies operating without statutory constraint. They are hybrid institutions performing delegated legislative functions under a statewide statutory mandate—the Cortese-Knox-Hertzberg Act—to guide orderly growth, protect agricultural lands, and ensure efficient service delivery. To carry out that mission, each LAFCO must balance numerous, sometimes competing, policy factors that have no single “correct” answer.

A published appellate decision endorsing a “rational connection” test would have immediate and far-reaching policy consequences for all LAFCOs across the state.

First, it would blur the line between judicial review and policy discretion. LAFCOs would be forced to draft findings and

resolutions not only to demonstrate evidentiary support, but also to anticipate post hoc judicial scrutiny of whether each factor was “rationally connected” to the evidence. This would inject a level of analytical rigidity foreign to LAFCO decision making. LAFCOs, which are composed of locally elected officials and public members, are meant to deliberate and weigh competing public interests—not to defend their reasoning as if they were administrative law judges issuing quasi-judicial findings.

Second, introducing a “rational connection” overlay would encourage litigation and discourage local experimentation. The existing substantial evidence test provides predictability: LAFCO decisions stand if the record contains reasonable evidentiary support. A new, separate “rational connection” standard would create fertile ground for challengers to reframe disagreements over policy balancing as alleged failures of logic. That shift would invite courts to revisit the merits of legislative determinations and could embolden disappointed applicants to challenge almost any denial, claiming insufficient “rational connection” between the evidence and the agency’s policy conclusions.

Third, the new standard would undermine consistency and statewide coordination. Part of CALAFCO’s role is to educate its members on the application of relevant statutes in order to encourage uniformity among LAFCOs so that similar proposals are evaluated under consistent principles while taking into account unique, local conditions. While operating independent of each other and each commission has its own set of policies applicable to their respective county, the Los Angeles, Marin,

Orange, Placer, Sacramento, San Bernardino, San Diego and San Joaquin Local Agency Formation Commissions implement the same statute and have a clear guideline to follow for creating their administrative records. The adoption of an ambiguous and non-statutory review standard would fragment that uniformity, as individual commissions might begin altering their procedures and recordkeeping practices to “litigation-proof” their decisions. Over time, this would create a patchwork of inconsistent approaches, defeating the Legislature’s intent that the Cortese–Knox-Hertzberg Act operate as a coherent statewide framework.

Finally, expanding judicial review in this way may erode confidence in the delegation of legislative authority to LAFCOs. The Legislature created LAFCOs precisely to place local boundary decisions in the hands of bodies that understand local service conditions and growth pressures. If courts begin reassessing the “rationality” of those policy judgments, the careful division of responsibility between local and judicial decisionmakers will be compromised. Such a result would frustrate the very purpose of the Cortese–Knox-Hertzberg Act and could discourage commissioners from making the difficult, politically sensitive judgments that the statute requires.

For all of these reasons, the Court should resist any invitation to transform the deferential “substantial evidence” standard into a nebulous “rational connection” review. A published decision doing so would ripple through every county in California, chilling legitimate policymaking and introducing

precisely the kind of uncertainty that the Cortese–Knox–Hertzberg Act was designed to avoid.

III. CONCLUSION.

The “rational connection” test announced in *McBail* was unnecessary and unfounded in statute. The Legislature has provided a clear and sufficient standard—substantial evidence in the record—and California precedent in analogous contexts confirms that courts do not add rational-connection analysis where the statute does not require it.

Accordingly, this Court should reaffirm that judicial review of LAFCO determinations under the Cortese–Knox–Hertzberg Act is confined to the substantial evidence standard. Applying that test, Monterey LAFCO’s decision must be upheld if supported by substantial evidence in the record.

Dated: July 24, 2026

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CERTIFICATION OF WORD COUNT
(Cal. Rules of Court, Rule 8.204(c)(1))

The text of this brief consists of 3,665 words as counted by the Windows Word Count Tools feature of the Microsoft Word word-processing program used to prepare this brief.

Dated: July 24, 2026

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CERTIFICATE OF SERVICE

I certify that on July 24, 2026, I electronically filed the following document(s) described as **APPLICATION FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF APPELLANT; AMICUS BRIEF OF THE CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS AND OF LOS ANGELES, MARIN, ORANGE, PLACER, SACRAMENTO, SAN BERNARDINO, SAN DIEGO, AND SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSIONS**, with the Clerk of the California Court of Appeal, Sixth Appellate District, by using the Court's electronic filing service, TrueFiling and also served the document by first class mail as follows:

Hon. Thomas W. Willis
 Monterey County Superior Court
 1200 Aguajito Road, Department 15
 Monterey, CA 93940

My business address is 777 S. Figueroa Street, 34th Floor, Los Angeles, CA 90017.

I declare under penalty of perjury that the foregoing is true and correct.



Mitchi Shibata

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