



Lou Ann Teixeira
Executive Officer

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Donald A. Blubaugh <i>Public Member</i>	Mary N. Piepho <i>County Member</i>
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Michael R. McGill <i>Special District Member</i>	Igor Skaredoff <i>Special District Member</i>
Don Tatzin <i>City Member</i>	

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Candace Andersen
County Member
 Sharon Burke
Public Member
 Tom Butt
City Member
 Stanley Caldwell
Special District Member

April 13, 2016

April 13, 2016
 Agenda Item 9

Contra Costa Local Agency Formation Commission
 651 Pine Street, Sixth Floor
 Martinez, CA 94553

Legislative Report - Update and Positions

Dear Members of the Commission:

As reported to the Commission on March 9th, the second year of the 2015-16 legislative session is underway. This year, CALAFCO is sponsoring two bills and tracking a number of bills that have direct and indirect impact on LAFCOs (see Attachment 1 - CALAFCO Legislative Report).

Last month, in response to CALAFCO’s request, the Commission approved sending letters supporting SB 1266, SB 817, SB 971, SB 972 and SB 973.

On March 21st, Contra Costa LAFCO received an urgent request from CALAFCO, asking for members to send letters opposing both SB 1318 (Wolk) and AB 2032 (Linder).

SB 1318 is aimed at providing drinking water and wastewater infrastructure or services to disadvantaged communities. Unfortunately, the bill contains provisions which remove LAFCO’s discretion and authority, impose new requirements, and create significant unfunded mandates for LAFCOs and local agencies. For these and other reasons, CALAFCO opposes the bill and has asked its members to join in opposing SB 1318.

AB 2032 (Linder) proposes changes to the recently enacted disincorporation provisions. In 2015, CALAFCO sponsored AB 851 (Mayes) which made long overdue updates to the statutes relating to disincorporations. The bill was signed by the Governor. AB 2032 was recently introduced and proposes substantive changes to the disincorporation statutes, most of which are unnecessary and/or problematic. CALAFCO opposes AB 2032 and has asked its members to join in opposing AB 2032.

Last year, Contra Costa LAFCO adopted a legislative policy which provides our LAFCO with flexibility to respond to urgent legislation that affects LAFCO. Specifically, the policy provides that in “*situations when proposed legislation affecting LAFCO cannot be considered by the full*

Commission due to timing, the Executive Officer, in consultation with the LAFCO Chair (or Vice Chair in the absence of the Chair), is authorized to provide written or email comments communicating the Commission's position if the position is consistent with the adopted legislative policies of the Commission. The Chair or Vice Chair would review the letter or email prior to it being submitted. The Executive Officer will forward the email or letter to the Commission as soon as possible. The item will be placed on the next regular LAFCO meeting agenda as either "informational" or for discussion purposes."

In response to CALAFCO's request, and in accordance with the Commission's policy, letters of opposition to both SB 1318 and AB 2032 were sent on March 22nd (see Attachments 2 and 3).

RECOMMENDATION – Receive legislative update.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachment 1 - CALAFCO Legislative Update – April 6, 2016

Attachment 2 - Letter of Opposition - SB 1318 (Wolk)

Attachment 3 - Letter of Opposition – AB 2032 (Linder)

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

651 Pine Street, Sixth Floor • Martinez, CA 94553-1229

e-mail: LouAnn.Texeira@lafco.cccounty.us

(925) 335-1094 • (925) 335-1031 FAX



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March 22, 2016

Senator Lois Wolk
California State Senate
State Capitol Room 5114
Sacramento, CA 95814

Subject: Opposition to SB 1318

Dear Senator Wolk:

The Contra Costa Local Agency Formation Commission (LAFCO) regretfully must oppose SB 1318. The California Association of Local Agency Formation Commissions (CALAFCO) and LAFCOs are aware of and concerned about the disparity of local public services, especially for residents and properties located within disadvantaged unincorporated communities (DUCs). All Californians deserve adequate and safe drinking water and wastewater facilities. CALAFCO supports your ongoing efforts to address these problems, which persist in many counties, and we support partnering with you to find the appropriate solutions.

Our primary concern is that the outcome of this legislation does not result in any changes to community services or facilities, or address the root causes of the lack of acceptable drinking water and wastewater facilities to these communities. We are aware that CALAFCO has shared concerns with your staff and the bill's sponsor, and we echo those concerns.

Specifically, this bill:

1. *Creates a Significant Unfunded Mandate to LAFCo and Local Agencies.* The studies, analysis and preparation of recommendations regarding underserved disadvantaged communities that would be required by SB 1318 impose an unfunded mandate on all LAFCOs. By law, Contra Costa LAFCO must then pass these costs on to its funding agencies – the County, cities, and special districts which fund the commission. In these challenging economic times for local agencies this is a difficult proposition. LAFCOs have no other revenue source to fund the required studies. With limited staff, many of these studies will require outside consultants at an added cost.
2. *Studies Outside of a Sphere.* The legislation would require LAFCOs, for the first time, to study territory outside of an agency's sphere of influence (SOI). This is a significant new

requirement and a costly study process. Further, the term “adjacent” is undefined and since these communities have no boundary it is impossible to know what constitutes “adjacent.”

3. *Studies of Non-Public Agencies.* The legislation would also require LAFCOs, for the first time, to identify the level of water and wastewater services provided by public or private utilities and mutual water companies that serve disadvantaged communities and DUCs. LAFCo has no authority over private entities, and would be prohibited from allowing an extension of service from a city or public agency within or adjacent to an SOI if a private company, public or private utility, or mutual water company provided unsafe drinking water or inadequate wastewater infrastructure or services within or adjacent to the same SOI. While LAFCOs support efficient delivery of public services to all residents, the legislature has not granted LAFCo the authority to regulate or approve service extensions of the non-public service providers included in this legislation. This will lead to confusion, potential conflict and likely litigation.
4. *Precedent-setting Change in Final Authority of Spheres.* The bill changes existing law by removing from LAFCo final authority over the SOI and instead puts that authority in the hands of the voters. This is in direct conflict with the existing definition of a sphere. The legislature has established a framework that gives voters and landowners the final say in changes of jurisdiction. Spheres are not jurisdictional changes; they are planning tools. Planning functions are not typically delegated to voters. In addition, the bill proposes an inconsistent use of the terms “voters” and “residents”, thereby creating confusion as to the intent.
5. *Removes LAFCo Discretion.* When considering a change of organization pursuant to Government Code Section 56133, LAFCo has the discretion to consider the unique local circumstances and conditions that exist. This is an important and basic construct within the legislatively stated purpose of LAFCOs. This bill removes that discretion and authority.
6. *One size does not fit all.* We are concerned that SB 1318 has unintended consequences in the provision of necessary services to an existing DUC. For example, if it is reasonable to extend services to a particular DUC but not to others, this bill prevents the extension of services to the area that can reasonably be serviced. The same is true for those areas currently contained within a city of district’s SOI, where it may be best to have another service provider providing the service. In the latter case, the bill proposes an election, and we are concerned not only with the precedent-setting nature of a voter-approved sphere, but also the cost of the election. These changes are complicated by the fact SB 1318 interchangeably uses the terms “disadvantaged community” and “disadvantaged unincorporated community.”
7. *Changes Governmental Reorganization Recommendations from May to Shall.* The amended language requires LAFCo to assess governmental reorganizations and non-governmental service provisions in all sphere determinations, rather than allowing commission discretion. This will add costly, time consuming and often wasted studies to every sphere review, and may create unintended litigation issues. Current law allows LAFCo to determine those cases where a reorganization study may be appropriate to

further the goals of orderly development as well as efficient and affordable service delivery. Again, to require it in all cases creates costly, unnecessary studies.

Contra Costa LAFCo and CALAFCO remain committed to help find solutions to the disparities in service delivery to disadvantaged communities. We recognize, however, that simply changing the boundaries or spheres of local agencies does little to ensure adequate services are actually delivered. A major obstacle remains the infrastructure and operational funding for these services. We believe that addressing the needs of disadvantaged communities through the planning process and finding tools to support the infrastructure deficiencies remain a very important part of the solution.

Sincerely,



Mary N. Piepho, Chair
Contra Costa LAFCO

- c: Members, Senate Governance & Finance Committee
- Pamela Miller, Executive Director, CALAFCO
- Anton Favorini-Csorba, Consultant, Senate Local Governance and Finance Committee
- Ryan Eisberg, Consultant, Senate Republican Caucus
- Members, Contra Costa LAFCO

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March 22, 2016

Assembly Member Eric Linder
 California State Assembly
 State Capitol, Room 2016
 Sacramento, CA 95814

Subject: OPPOSITION TO AB 2032 (AS AMENDED)

Dear Assembly Member Linder:

The Contra Costa Local Agency Formation Commission (LAFCo) is aware of and has been following your bill, AB 2032, which makes substantive changes to the disincorporation statutes. Regrettably, we must oppose AB 2032 as amended March 17, 2016.

We are aware that the California Association of Local Agency Formation Commissions (CALAFCO) has shared concerns regarding the proposed amendments to your staff as well as to a representative of the bill's sponsor.

Most of the proposed amendments are unnecessary, as the authority or actions to which they pertain are already found in existing statutes. These include: items pertaining to the comprehensive fiscal analysis (CFA) [i.e., proposed amendments Gov. Code §§56816(2), (3), (5) and (6)]; information that LAFCo can obtain through the application process and the CFA [proposed amendments Gov. Code §§56804 and 56816(2), (3), (5) and (6)]; and terms and conditions that LAFCo can place on the application when making a determination (proposed amendment Gov. Code §57412). Moreover, Gov. Code §56804(g), as amended, duplicates the requirements currently outlined in Gov. Code §56816 also proposed for amendment, and the proposed amendment to Gov. Code §56084(h). This change requires the disincorporating city to provide even more financial information that, while attainable in the

CFA, will place additional burdens on an agency already in crisis. Placing additional burdens on the distressed city will likely have an unfavorable outcome.

The amendment proposed to Gov. Code §56670(g) divests LAFCo of its existing authority [Gov. Code §56886(l)] and transfers that authority to the successor agency.

In addition, the amendment adding Gov. Code §57407(b) raises concern, as you cannot legally limit the liability of investors (pursuant to Gov. Code §56122). Further, the proposed amendment in Gov. Code §56816 (8) is already covered in the preceding paragraph in Gov. Code §56816(7).

The proposed change in Gov. Code §56670(e) assumes a continuing level of service which will not likely be the case – if that were the case there would be no substantive reason for the city to disincorporate. The tax rate referenced therein would be subject to an election requiring 2/3 voter approval.

Finally, we are confused by the proposed amendments moving Gov. Code §56813(c)(1) (A)(B)(C) to Gov. Code §56804 and the complete removal of subsection (c), as we do not fully understand the reasoning behind these changes.

While we oppose the bill as currently written, we support the idea that CALAFCO is willing to discuss several amendments, and support the proposed amendments as noted below.

1. 56804

(g) All debt obligations and current and long-term liabilities of the city proposed for disincorporation, including the balance of restricted and unrestricted funds available to extinguish the obligations and liabilities.

(h) ~~The required~~ **potential** financing mechanism(s) to address any shortfalls and obligations, for those responsibilities identified in this section, including but not limited to taxes or assessments.

2. 56816 (a)(3) The amount of any tax levy, direct **assessment**, or other obligation due the city that is unpaid or has not been collected.

3. 57405

If a tax or **assessment** has been levied by the disincorporated city and remains uncollected, the county tax collector shall collect it when due and pay it into the county treasury on behalf of the designated successor agency or county to wind up the affairs of the disincorporated city.

4. 57412

The ~~board of supervisors~~ **governing body** of the successor shall provide for collection of debts due the city and wind up its affairs. Upon an order by the **commission** ~~board~~

~~of supervisors~~, the appropriate ~~county~~ officer of the successor shall perform any act necessary for winding up the city affairs, with the same effect as if it had been performed by the proper city officer.

Please feel free to contact me with any questions you may have about our opposition to AB 2032.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Mary N. Piepho', written in a cursive style.

Mary N. Piepho, Chair
Contra Costa LAFCO

c: Members, Assembly Local Government Committee
Pamela Miller, Executive Director, CALAFCO
Misa Lennox, Associate Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Matt Siverling, Legislative Advocate, State Association of County Auditors
Members, Contra Costa LAFCO