



Lou Ann Teixeira
 Executive Officer

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ALTERNATE MEMBERS

Diane Burgis <i>County Member</i>
Stanley Caldwell <i>Special District Member</i>
Charles R. Lewis, IV <i>Public Member</i>
Sean Wright <i>City Member</i>

August 12, 2020

August 12, 2020
Agenda Item 11

Contra Costa Local Agency Formation Commission
 40 Muir Road, 1st Floor
 Martinez, CA 94553

Legislative Report - Update and Position Letters

Dear Members of the Commission:

This year marks the second year of a two-year legislative session in Sacramento. Due to COVID-19, the Legislature has largely been shut down since mid-March. The Legislature met briefly in June to adopt a budget and address several critical bills. As of this writing, the State Assembly and Senate are currently adjourned.

The 2020 Legislative calendar indicates that the last day for each house to pass bills is August 31, 2020; and the last day for the Governor to sign or veto bills is September 30, 2020.

CALAFCO is tracking various bills this year as show on the attached report (Attachment 1). In addition, CALAFCO is sponsoring **AB (Rivas)** which, among other things, establishes one-time grant funding for LAFCOs to prepare reorganization studies in conjunction with the 2017 Little Hoover Commission report relating to special districts. In early July 2020, CALAFCO learned that Assembly Member Rivas does not plan to move this bill forward and will assign the bill to another Legislator for their use as a gut and amend.

Other CALAFCO legislative activities include working with several state associations to rewrite the LAFCO protest provisions. Due to COVID-19, this effort has been placed on hold.

On July 23rd, CALAFCO issued an urgent call for legislative action requesting that each LAFCO send a letter opposing proposed amendments to **SB 414 – Small System Water Authority Act of 2020**. In response to CALAFCO’s request, and in accordance with the Commission’s policy (see below) letters were sent to the Assembly Appropriations Committee and to the author Senator Caballero (Attachments 2 and 3).

Contra Costa LAFCO’s legislative policy 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."

RECOMMENDATION – Receive legislative update.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachment 1 – CALAFCO Legislative Report

Attachment 2 – Letter to Assembly Appropriations Committee Opposing Proposed Amendments to SB 414

Attachment 3 – Letter to Senator Caballero (author) Opposing Proposed Amendments to SB 414

CALAFCO Daily Legislative Report as of Wednesday, August 05, 2020

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AB 1751 (Chiu D) Water and sewer system corporations: consolidation of service.

Current Text: Amended: 7/5/2019 [html](#) [pdf](#)

Introduced: 2/22/2019

Last Amended: 7/5/2019

Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/12/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

The California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board related responsibilities and duties. Current law authorizes the state board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, as provided. This bill, the Consolidation for Safe Drinking Water Act of 2019, would authorize a water or sewer system corporation to file an application and obtain approval from the commission through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

Position: Watch

Subject: Water

CALAFCO Comments: This bill would authorize a water or sewer system corporation to file an application and obtain approval from the PUC through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system. The bill would require the commission to approve or deny the app. Unless the commission designates a different procedure because it determines a consolidation warrants a more comprehensive review, the bill would authorize a water or sewer system corporation to instead file an advice letter and obtain approval from the commission through a resolution authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

SB 414 (Caballero D) Small System Water Authority Act of 2019.

Current Text: Amended: 6/25/2019 [html](#) [pdf](#)

Introduced: 2/20/2019

Last Amended: 6/25/2019

Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/21/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would create the Small System Water Authority Act of 2019 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified.

Attachments:

[LAFCO Template Oppose Pending Amendment to Author CALAFCO Oppose Pending Amendments to AESTM](#)

[CALAFCO Oppose Pending Amendments to Author](#)
[CALAFCO Oppose Pending Amendments to SGFC](#)
[CALAFCO Oppose Pending Amendments to SEQ](#)
[LAFCO Template Oppose Pending Amendments to Assm Appropriations](#)
[CALAFCO Oppose Pending Amendments to ALGC](#)
[CALAFCO Oppose Pending Amendments to Assm Appropriations](#)

Position: Oppose Pending Amendments

Subject: Water

CALAFCO Comments: UPDATE AS OF 07/23/20. There are currently proposed pending amendments not yet in print being negotiated by the author and sponsors with Assm. Appropriations that remove LAFCo authority in the formation of the new water authority and give that quasi-legislative authority to the SWRCB. Further LAFCO will no longer have any authority in the dissolution of a public water supplier as part of the formation of the new authority, and all LAFCo funding for what is required to be done by LAFCo is being eliminated. There are numerous other issues with the pending amendments, all of which are detailed in our opposition letter.

This bill is very similar to AB 2050 (Caballero) from 2018. Several changes have been made. This bill is sponsored by Eastern Municipal Water District and the CA Municipal Utilities Assoc. The intent is to give the State Water Resources Control Board (SWRCB) authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems, this will add the authority to mandate dissolution and formation of a new public agency.

LAFCo will be responsible for dissolving any state mandated public agency dissolution, and the formation of the new water authority. The SWRCB's appointed Administrator will act as the applicant on behalf of the state. LAFCo will have ability to approve with modifications the application, and the new agency will have to report to the LAFCo annually for the first 3 years.

[SB 928](#) (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/5/2020 [html](#) [pdf](#)

Introduced: 2/5/2020

Status: 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar:

8/11/2020 9:30 a.m. - State Capitol, Room 4202 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

Summary:

This bill would enact the First Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Position: Support

CALAFCO Comments: This is the first of three annual validating acts.

[SB 929](#) (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/5/2020 [html](#) [pdf](#)

Introduced: 2/5/2020

Status: 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar:

8/11/2020 9:30 a.m. - State Capitol, Room 4202 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

Summary:

This bill would enact the Second Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Position: Support

CALAFCO Comments: This is the second of three annual validating acts.

SB 930 (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/5/2020 [html](#) [pdf](#)

Introduced: 2/5/2020

Status: 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar:

8/11/2020 9:30 a.m. - State Capitol, Room 4202 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

Summary:

This bill would enact the Third Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Position: Support

CALAFCO Comments: This is the third of three annual validating acts.

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AB 213 (Reyes D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Current Text: Introduced: 1/15/2019 [html](#) [pdf](#)

Introduced: 1/15/2019

Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/19/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would, for the 2019–20 fiscal year, require the vehicle license fee adjustment amount to be the sum of the vehicle license fee adjustment amount in the 2018–19 fiscal year, the product of that sum and the percentage change in gross taxable assessed valuation within the jurisdiction of that entity between the 2018–19 fiscal year to the 2018–19 fiscal year, and the product of the amount of specified motor vehicle license fee revenues that the Controller allocated to the applicable city in July 2010 and 1.17.

Attachments:

[CALAFCO Support Letter](#)

Position: Support

Subject: Tax Allocation

CALAFCO Comments: Sponsored by the League, this bill will reinstate ERAF funding for inhabited annexations. This bill is the same as AB 2268 (Reyes) from 2018.

3

AB 134 (Bloom D) Safe Drinking Water Restoration.

Current Text: Amended: 5/20/2019 [html](#) [pdf](#)

Introduced: 12/5/2018

Last Amended: 5/20/2019

Status: 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was E.Q. on 6/12/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would require the State Water Resources Control Board to report to the Legislature by July 1, 2025, on its progress in restoring safe drinking water to all California communities and to create an internet website that provides data transparency for all of the board’s activities described in this measure. The bill would require the board to develop metrics to measure the efficacy of the fund in ensuring safe and affordable drinking water for all Californians.

Position: Watch

Subject: Water**[AB 2370](#) (Limón D) Ventura Port District: aquaculture plots: federal waters.****Current Text:** Amended: 3/16/2020 [html](#) [pdf](#)**Introduced:** 2/18/2020**Last Amended:** 3/16/2020**Status:** 3/17/2020-Re-referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, a city or district may only provide new or extended services by contract or agreement outside of its jurisdictional boundary if it requests and receives written approval, as provided, from the local agency formation commission in the county in which the extension of service is proposed. This bill would, notwithstanding the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, authorize the Ventura Port District, to the extent permitted by federal law, to construct, maintain, operate, lease, and grant permits to others for the installation, maintenance, and operation of aquaculture plots in federal waters off the coast of California the County of Ventura, as prescribed, in order to aid in the development or improvement of navigation or commerce to the port district.

Position: Watch**Subject:** Special District Powers**CALAFCO Comments:** This is a local bill authorizing Ventura Port District to extend operations into federal waters. CALAFCO will work with Ventura LAFCo.

UPDATE: CALAFCO learned that the author has pulled the bill for 2020.

[AB 3312](#) (Gray D) Local agency formation: annexation: City of Merced.**Current Text:** Amended: 7/31/2020 [html](#) [pdf](#)**Introduced:** 2/21/2020**Last Amended:** 7/31/2020**Status:** 7/31/2020-Read second time and amended. Ordered to third reading.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar:

8/5/2020 #37 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary:

Would authorize the annexation of territory comprising the main campus of the University of California, Merced, as specified, and any road strip, as defined, to the City of Merced, notwithstanding the requirement that the territory be contiguous with the city, if other conditions are met, including that the territory is within the city's sphere of influence. The bill would prohibit the commission from approving a subsequent annexation of a road strip pursuant to these provisions unless the territory proposed to be annexed is contiguous to the property comprising the main campus of the University of California, Merced or the boundaries of the City of Merced as it existed on January 1, 2021.

Attachments:[CALAFCO Oppose as amended](#)**Position:** Oppose**Subject:** Annexation Proceedings**CALAFCO Comments:** UPDATE: The amendments of 7/23/20 change the bill so that all territory adjacent to the road strip (rather than just tot he campus) are eligible for annexation. This will create a wide swath of checkerboard annexations and sets a precedent. Further, the City has been working on an annexation feasibility study for 2 years that is supposed to be presented to the City Council within the next month or two, so this legislation is premature to that study. CALAFCO is now opposed to the bill as amended.

This is a local bill for Merced. It allows a defined section of the UC Merced campus and access road to be annexed if certain conditions are met and keeps the LAFCo process intact. CALAFCO will watch the bill to ensure the LAFCo process remains protected and work with Merced LAFCo.

[SB 625](#) (Bradford D) Central Basin Municipal Water District: receivership.**Current Text:** Amended: 6/8/2020 [html](#) [pdf](#)

Introduced: 2/22/2019**Last Amended:** 6/8/2020**Status:** 6/18/2020-Re-referred to Com. on RLS. pursuant to Senate Rule 29.10(d).

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would dissolve the board of directors of the Central Basin Municipal Water District (CBMWD) and would provide that the November 3, 2020, election for directors of CBMWD shall not occur. The bill would require the Water Replenishment District of Southern California (WRD) to act as the receiver for CBMWD, would vest WRD with all necessary powers under the Municipal Water District Law of 1911 to take control of CBMWD, and would transfer all powers vested in the board of directors of CBMWD to the board of directors of WRD, except as specified. The bill would require CBMWD's board of directors to surrender all control of CBMWD and its resources to WRD.

Attachments:[LAFCo Support letter template](#)[CALAFCO Support June 12, 2020](#)**Position:** Support**Subject:** Municipal Services**SB 806 (Grove R) Worker status: employees: independent contractors.****Current Text:** Amended: 4/29/2020 [html](#) [pdf](#)**Introduced:** 1/9/2020**Last Amended:** 4/29/2020**Status:** 5/18/2020-May 14 set for first hearing. Failed passage in committee. (Ayes 1. Noes 4.) Reconsideration granted.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would establish a new test that, for purposes of specific provisions of the Labor Code governing the relationship of employer and employees, a person providing labor or services for remuneration is considered an employee rather than an independent contractor, unless the hiring entity demonstrates that the person is (1) free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact, determined by a preponderance of factors, with no single factor of control being determinative, and either that (2) the person performs work that is outside the usual course of the hiring entity's business, or the work performed is outside the place of business of the hiring entity, or the worker is responsible for the costs of the place of the business where the work is performed, or that (3) the person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Position: Watch**Subject:** Other**CALAFCO Comments:** This bill proposes amendments to AB 5 in terms of the exemption tests which may impact the contractual/employee relationship of CALAFCO and its two primary contractors.

Total Measures: 11

Total Tracking Forms: 11

8/5/2020 12:32:44 PM

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

40 Muir Road, 1st Floor • Martinez, CA 94553

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

(925) 313-7133



Lou Ann Teixeira
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July 24, 2020

The Honorable Lorena Gonzalez
Chair, Appropriations Committee
California State Assembly
State Capitol, Room 2114
Sacramento, CA 95814

RE: SB 414 – Small System Water Authority Act of 2020
OPPOSE PROPOSED AMENDMENTS

Dear Chair Gonzalez:

The Contra Costa Local Agency Formation Commission (LAFCo) joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose the proposed amendments to **SB 414** (Caballero). The bill is currently being held in your committee. While there are vast policy issues with the proposed amendments, this letter to you and your committee will focus our concerns on the fiscal issues included in the proposed amendments.

According to the sponsors, in an effort to reduce costs associated with the bill, the role of LAFCos that exists in the current version of the bill (dated June 25, 2019) is being drastically diminished. The proposed amendments strip LAFCos of their authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of, and by the authority of, LAFCo. Additionally, the proposed amendments remove LAFCos' authority to dissolve a public water system as authorized by the State Water Resources Control Board (SWRCB) and as part of the formation process of the new authority.

The bill sponsors indicate that the proposed amendments, which change numerous processes in SB 414, are intended to reflect closer alignment with processes and SWRCB authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and in AB 2501 (2018, Chu). SB 88 and AB 2501 deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One cannot be compared to the other.

The current version of SB 414, as noted in last fiscal analysis on August 21, 2019 in your committee, reflects a cost of up to \$10.65 million to LAFCos for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using the fiscal projections in the current bill, the costs associated with LAFCo are significantly below every other entity and related provision (with one exception) of the dissolutions, formations, administration, SWRCB support and support for the authorities once formed. The cost for LAFCos to process dissolution of public water systems and form

the new authority is likely to be far less than having the SWRCB perform these functions. Thus, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not, in fact, reduce costs – it simply transfers the cost from the local level to the state level. Further, we assert that the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCos to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority’s performance for the first three years; and (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority’s performance, and provide a report to the SWRCB on comments received at the hearing.

The proposed amendments remove all funding for LAFCo for all actions required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCo) “*incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board.*” All the LAFCo expenses related to SB 414 are over and above normal operating budget costs. In order to cover these costs should the state not, it is likely LAFCo will have to increase fees to the local government agencies, the very agencies that pay into the annual LAFCo budget (i.e., cities, counties, and special districts).

LAFCos need to be added to the language in Section 78115 (a)(1). All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved, and retain funding for all state agencies involved, is inappropriate and places the burden on local government.

For these fiscal reasons, we oppose the proposed pending amendments to **SB 414** and strongly urge your committee to reject the amendments and hold the bill.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Sincerely,



Candace Andersen, Chair
Contra Costa LAFCO

- c: Members, Assembly Appropriations Committee
- Honorable Senator Caballero
- Jennifer Galehouse, Assembly Appropriations Committee Deputy Chief Consultant
- Suzanne Sutton, Consultant, Senate Republican Caucus
- Pamela Miller, Executive Director, CALAFCO



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July 24, 2020

The Honorable Anna Caballero
California State Senate
State Capitol, Room 5052
Sacramento, CA 95814

**RE: SB 414 – Small System Water Authority Act of 2020
OPPOSE PROPOSED AMENDMENTS**

Dear Senator Caballero:

The Contra Costa Local Agency Formation Commission (LAFCo) joins the California Association of Local Agency Formation Commissions (CALAFCO) in opposing the proposed pending amendments to **SB 414**. It is our understanding you are proposing that the amendments be made in Assembly Appropriations where the bill is currently being held in Suspense.

We support efforts to ensure all Californians have safe, affordable drinking water. However, the proposed amendments have a significant negative impact to LAFCos, and we must oppose these amendments.

It is our understanding that these changes are an effort to reduce the cost of the bill, and to more closely align processes and State Water Resources Control Board (SWRCB) authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems; whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply cannot be compared to the other.

The proposed amendments strip LAFCos of their part and authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of, and by the authority of, LAFCo. Additionally, the proposed amendments remove LAFCos’ authority to dissolve a public water system as authorized by the SWRCB and as part of the formation process of the new authority. As you know, formation of a new, local public agency has been the authority of LAFCo since 1963 when the Legislature created LAFCo. To now turn that authority over to the SWRCB in an effort to “save money” or “streamline the process”, we believe, creates a false perception that the cost will be reduced, and furthermore, sets a dangerous precedent.

As proposed, SECTION 1 of the bill is completely stricken, and therefore, divests LAFCo of all involvement in the formation process and removes LAFCo from the process of dissolving any public water system identified by the SWRCB as mandated for dissolution and inclusion into the new authority except for holding a public hearing on the matter. Not only does this removal divest LAFCo of its authority and delegate it to the SWRCB, it eliminates the Plan for Service requirements to be included in the draft conceptual formation plan. All other proposals are required to submit a comprehensive Plan for Service when applying to LAFCo to provide services; exempting any authority from doing so sets a harmful precedent.

Code Section 78038(b) proposes to give quasi-legislative authority to the SWRCB in the action to form the new authority. The Legislature created LAFCo as a quasi-legislative body decades ago to do this very thing. While the Legislature has exercised its authority to create new service providers in the past, until now there has been no state agency with that authority. We fail to understand the need to create an entity at the state level to do something LAFCos have been effectively doing for 57 years – forming new districts – which rightfully happens at the local level.

Further, LAFCo is being excluded from several critical notification points:

- Code Section 78033(a)(1) excludes LAFCo from the list of entities the SWRCB is to notify of their intent to form the authority. *LAFCo needs to be included in the list of other local agencies receiving such notification* (i.e., cities, counties, water districts, etc.). Further, this section allows the SWRCB to invite other public water suppliers to consider dissolving and join the authority. Without including LAFCo in the notification under this section, we would be unaware of those local districts (independent and dependent) that may consider dissolving.
- Code Section 78033(a)(2)(A) excludes LAFCo notification from an entity wishing to consolidate into a proposed authority. *LAFCo needs to be included in this notification.*
- Code Section 78033(a)(2)(B) provides that customers of an entity wishing to join a proposed authority petition the SWRCB directly. Not only does this keep LAFCo in the dark, it is a run-around of the current service provider as there appears to be no notification to them as well.
- Code Section 78033(b) allows the governing board of a county or city dependent special district to notify the formation coordinator they wish to opt into the new authority. Here again, without LAFCo receiving this notification there is no way for us to know of the pending dissolution.

In addition to removing LAFCos' existing authority from the formation process of a public agency service provider, we are concerned about Code Section 78037(a)(3) which requires the LAFCo to hold a public hearing to allow for public comment on the dissolution of the public water system mandated for dissolution by the SWRCB. This provision also requires LAFCo to provide all comments back to the SWRCB for consideration (without the funding to do either). Further, this section states that dissolution shall be ordered upon completion of the public hearing. We question the purpose of reporting back the public comments to the SWRCB for consideration if the dissolution is ordered immediately upon closure of the public hearing.

If one of the goals of these amendments is to closer align processes with SB 88, then it would stand to reason that the SWRCB would be the entity conducting the public hearing (pursuant to Code Section

116682 of the Health and Safety Code), especially given the fact that with these amendments, the local LAFCo no longer has any other part in the actual dissolution.

Ordering a dissolution for a service provider who is currently providing service requires a successor agency to assume the delivery of service as well as all assets and liabilities of the entity being dissolved. Code Section 78037(a)(4) requires the order of dissolution to make appropriate equitable arrangements for the interim operation of the public water system until the formation of the authority is complete, and they are prepared to take over service delivery. While that “interim” service provider may be identified in the draft conceptual formation plan, 78037(a)(4) does not explicitly state to whom the service, assets and liabilities would be transferred. We suggest language be added to explicitly state the interim operator as identified in the approved conceptual formation plan.

Proposed amendments to the draft conceptual plan

We have the following concerns relating to the draft conceptual plan.

- Code Section 78035(c) requires the formation coordinator to submit the draft conceptual formation plan to the SWRCB and any applicable LAFCo for comments within 60 days of its receipt. Further, the formation coordinator shall finalize the plan for public comment no later than 30 days after receiving comments from the SWRCB. What is omitted from this section are the comments on the plan from the LAFCo. Undoubtedly, as the local agency who is responsible for the formation of public agencies, LAFCOs know what to look for and consider when reviewing formation plans. *The LAFCo comments need to be considered by the SWRCB and the formation coordinator before the document is available for public comment.*
- Code Section 78038 requires LAFCo to hold two public hearings on the draft conceptual formation plan, and to subsequently submit a report to the SWRCB summarizing public comment and any recommendations the LAFCo may have for the SWRCB on the plan. *We would like to see amendments requiring the SWRCB to specifically adopt or reject each of our recommendations on the draft plan and explain their response for those decisions.*

Removing funding for LAFCo mandates

The current version of the bill reflects a cost of up to \$10.65 million to LAFCOs for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using these projections, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions, formations, administration, SWRCB support and support for the authorities once formed. The cost for LAFCOs to perform the dissolution of public water systems and to form the new authority are likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCOs to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the

new authority, summarize comments received, and provide a report to the SWRCB; (4) review a report on the authority’s performance for the first three years; and (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority’s performance, and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCo for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCo) “*incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board.*” All of the LAFCo expenses related to SB 414 are over and above normal operating budget costs. In order to cover these costs, should the state not, it is highly likely LAFCOs will have to increase fees to the local government agencies that pay into the annual LAFCo budget (i.e., cities, counties, special districts).

We strongly believe LAFCOs need to be added to the language in Section 78115 (a)(1). All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved, and retain funding for all state agencies involved, places a financial burden on local government.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Sincerely,



Candace Anderson, Chair
Contra Costa LAFCO

- c: Assembly Local Government Committee
- Assembly Environmental Safety & Toxic Materials Committee
- Senate Governance and Finance Committee
- Senate Environmental Quality Committee
- Pamela Miller, Executive Director, CALAFCO