

Date of Hearing: April 18, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2258 (Caballero) – As Amended April 9, 2018

**SUBJECT:** Local agency formation commissions: grant program.

**SUMMARY:** Authorizes the Strategic Growth Council (SGC) to administer a grant program to finance certain local agency formation commission (LAFCO) activities. Specifically, **this bill:**

- 1) Requires the SGC to establish and administer a LAFCO grant program.
- 2) Specifies that program funding is subject to appropriation in the annual budget.
- 3) Provides that program funds provided to participating LAFCOs shall be used to supplement, and not supplant, existing funding and staffing levels.
- 4) Mandates that funds shall not be used to conduct municipal service reviews (MSRs).
- 5) Requires the SGC to, after consulting with the California Association of LAFCOs (CALAFCO), adopt guidelines, timelines, and application and reporting criteria for development and implementation of the program to meet the needs of the SGC and CALAFCO.
- 6) Provides that the SGC shall award grants to LAFCOs for any of the following purposes:
  - a) The payment of costs associated with initiating and completing the dissolution of inactive special districts;
  - b) The payment of costs associated with a study of services provided by a public agency to do either or both of the following:
    - i) Identify efficiencies to be gained in the provision of services; or,
    - ii) Determine what alternatives, if any, exist for improving efficiency and affordability of infrastructure and service delivery;
  - c) The payment of costs to do any of the following:
    - i) Initiate a change of organization, excluding a dissolution of an inactive special district;
    - ii) Develop and implement reorganization plans with timelines for expected outcomes; and,
    - iii) Incentivize service providers to work with the LAFCO to develop and implement reorganization plans with timelines for expected outcomes.
- 7) Specifies that in order to obtain grant funding, a LAFCO shall submit to the SGC an application for reimbursement of the costs of the dissolution proceedings of an inactive

district, in a form and manner specified by the SGC. At a minimum, the application shall include all of the following:

- a) The notification provided to the LAFCO by the State Controller of the inactive district and the requirement to initiate dissolution proceedings;
  - b) A full budget accounting for costs of dissolution; and,
  - c) All reports and documents pertaining to the final dissolution action.
- 8) Requires the SGC to review the application for reimbursement and, provided all documentation is submitted, issue reimbursement to the LAFCO within 60 days of the receipt of application.
- 9) Specifies that in order to obtain grant funding for the purposes of conducting a study, a LAFCO shall submit to the SGC an application in a form and manner specified by the SGC. At a minimum, the application shall include all of the following:
- a) A resolution adopted by the LAFCO authorizing submission of the grant application and a commitment to review and consider recommendations and potential actions contained in the study;
  - b) A full budget accounting for the estimated costs of the study to be performed;
  - c) A full explanation of the reason for the study; and,
  - d) The most recently completed MSR or study, which determinations were made by the LAFCO, indicating the agency should be studied and is a candidate for a change of organization or reorganization.
- 10) Provides that the SGC shall review the applications, select the program participants based on a criterion that furthers the purposes of this program, and notify the participants of their selection within two months of receiving the application. Funds shall be issued by the SGC to the LAFCO within 60 days of notification. A LAFCO that receives a grant shall commence the study within 30 days of receipt of funding and shall complete the study within two years of commencing the study. Upon completion of the study, the LAFCO shall do the following:
- a) Submit to the SGC a final report within 30 days of the completion of the study and the LAFCO's adoption of a resolution making determinations. The report shall be in the form and manner specified by the SGC. At a minimum, the report shall include the following:
    - i) The full study conducted;
    - ii) The resolution making determinations, as adopted by the LAFCO;
    - iii) A full budget accounting report of the funds used;
    - iv) A reimbursement of any unexpended funds; and,

- v) The LAFCO's plan for future action based on the study's conclusions;
  - b) Upon request of the SGC, participating LAFCOs shall provide the SGC with any supplemental information necessary to substantiate the information contained in the report.
- 11) Requires LAFCOs that apply for a grant to initiate a change of organization to submit to the SGC an application, in the form and manner specified by the SGC. At minimum, the application shall include the following:
- a) A resolution adopted by the LAFCO authorizing submission of the application for purposes defined in the application;
  - b) Change of organization or reorganization plans with timelines and expected outcomes;
  - c) A full budget accounting for estimated costs of the action to be performed; and,
  - d) The most recent completed study in which determinations were made by the LAFCO indicating the local agency should be reorganized or dissolved, or, if there exists a municipal service review or study with like determinations that is no more than five years old.
- 12) Mandates that the SGC shall review the application, select the program participants based on a criterion that furthers the purposes of the program, and notify the participants of their selection within two months of receiving the application.
- 13) Specifies that a LAFCO that receives funding shall commence the action within 30 days.
- 14) Requires a LAFCO that receives funding to initiate a change of organization or reorganization to hold a public hearing to consider the change action, and, if that action is approved, order the action.
- 15) If the dissolution of an active district is approved, the LAFCO shall conduct protest proceedings. If a majority protest exists, the dissolution of the active district is prohibited. If proceedings receive a 25% protest, an election is triggered.
- 16) Upon completion of the change of organization or reorganization, the LAFCO that receives funding from the SGC shall do both of the following:
- a) Submit to the SGC a final report within 30 days of the final action. The report shall be in a form and manner specified by the SGC. At a minimum, the report shall include all of the following:
    - i) The final action taken by the LAFCO;
    - ii) If the protest proceeding was terminated as a result of a successful protest, all necessary information to support that fact;
    - iii) All reports and documents pertaining to the final action or protest;
    - iv) A full budget accounting report of the funds used; and,

- v) The reimbursement of any unexpended funds.
  - b) Upon request of the SGC, the participating LAFCO shall provide the SGC with any supplemental information necessary to substantiate the information contained in the submitted report.
- 17) Includes findings and declarations.
- 18) Contains a sunset date of December 31, 2023.

**EXISTING LAW:**

- 1) Enacts the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), which:
  - a) Controls how local officials change the boundaries of cities and special districts, putting LAFCOs in charge of the proceedings; and,
  - b) Directs LAFCOs to ensure that services are effectively and efficiently delivered, and local governments can only exercise their powers and provide services where allowed to by LAFCO, including the formation of new cities and special districts, modifications of existing boundaries, and dissolutions of unsustainable special districts.
- 2) Defines "inactive district" to mean a special district that meets all of the following:
  - a) The special district, as defined in LAFCO law, to mean an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries, as specified;
  - b) The special district has had no financial transactions in the previous fiscal year;
  - c) The special district has no assets and liabilities; and,
  - d) The special district has no outstanding debts, judgments, litigation, contracts, liens, or claims.
- 3) Requires the State Controller to notify the LAFCO in the county or counties in which the inactive district is located, if the State Controller has included the district on the list.
- 4) Requires the LAFCO to initiate dissolution of inactive districts by resolution within 90 days of receiving notification from the State Controller, unless the LAFCO determines that the district does not meet the specified criteria.
- 5) Requires the LAFCO to notify the State Controller, if the LAFCO determines that a district does not meet the criteria for an inactive district.
- 6) Requires the LAFCO to hold one public hearing, within 90 days of the adoption of the resolution initiating dissolution, on the dissolution of an inactive district.
- 7) Prohibits the dissolution of an inactive district from being subject to protest and election requirements or determinations by the LAFCO.

- 8) Prohibits the dissolution process for inactive districts in this bill from applying to a special district formed by special legislation during the period of time in which the district is authorized to obtain funding.

**FISCAL EFFECT:** This bill is keyed fiscal.

**COMMENTS:**

- 1) **LAFCOs.** The Cortese-Knox-Hertzberg Act of 2000 controls the manner in which local officials change the boundaries of cities and special districts, and designates a LAFCO in each county to oversee boundary changes. Besides the more common annexations to cities and special districts, LAFCOs also control district formations, consolidations, and dissolutions, as well as city incorporations, consolidations, and disincorporations. The statutory mission of LAFCOs is to discourage urban sprawl and encourage the orderly formation and development of local agencies.

Most boundary changes begin when a city or special district applies to a LAFCO, or when registered voters or landowners file a petition with a LAFCO. In limited circumstances, a LAFCO can initiate some special district boundary changes, including consolidations, dissolutions, mergers, subsidiary districts, or reorganizations (AB 1335, Gotch, 1993). Boundary changes, including district dissolutions, require four (sometimes five) steps:

- a) First, there must be a completed application to a LAFCO, including a petition or resolution, an environmental review document, and a property tax exchange agreement between the county and the district;
  - b) Second, a LAFCO must hold a noticed public hearing, take testimony, and may approve the proposed district dissolution. LAFCO may impose terms and conditions that spell out what happens to the district's assets and liabilities. If a LAFCO disapproves, the proposed dissolution stops;
  - c) Third, a LAFCO must hold another public hearing to measure protests. In general, LAFCOs must order an election on the proposed dissolution, but there are many statutory exemptions. For example, if a district has been inactive for three years, no election is required;
  - d) Fourth, if state law requires an election, it occurs among the district's voters. A successful dissolution requires majority-voter approval; and,
  - e) Finally, a LAFCO's staff files formal documents to complete the dissolution.
- 2) **Little Hoover Commission.** The Little Hoover Commission serves as California's independent oversight agency by investigating government operations. Through reports and legislative proposals, it makes recommendations to the Governor and Legislature to promote economy, efficiency, and improved service in state operations. The Commission released the report "Special Districts: Improving Oversight and Transparency" in August 2017, making 20 different recommendations to improve the accountability and operation of special districts. In the report, the Little Hoover Commission suggested that, "The Commission in its 2000 report and again in this study heard that certain LAFCOs and smaller districts lack the

resources to propose consolidations and dissolutions. As part of the August 2016 hearing and June 2017 advisory committee meeting the Commission was told a small one-time infusion of \$1 million to \$3 million in grant funding could save California taxpayers money if local government is streamlined and efficiency is improved. This funding could provide an incentive for LAFCOs or smaller districts to start a dissolution or consolidation process. Participants in the Commission's public process suggested the Strategic Growth Council or Department of Conservation could administer this one-time funding. The Legislature should provide one-time grant funding to pay for specified LAFCO activities, particularly to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation."

- 3) **Bill Summary.** This bill requires the SGC to establish and maintain a grant program to fund LAFCO actions and studies. Individual LAFCOs can apply to the SGC for funding. This measure requires the SGC adopt guidelines, timelines, and application and reporting criteria for development and implementation of the program after consulting with CALAFCO. This bill is sponsored by CALAFCO.
- 4) **Author's Statement.** According to the author, "LAFCOs are responsible for meeting important statutory directives to maintain orderly boundaries and seek greater efficiencies in delivering local services, and yet these directives cannot be regularly met under current funding mechanisms. As a result, much-needed LAFCO activities are sometimes delayed or rejected because of the lack of funds. In fact, an August 2017 Little Hoover Commission report on special districts outlined concerns about LAFCOs, and suggested that if local government services were streamlined and efficiency were improved, it would save taxpayers money. AB 2258 establishes a grant funding program, administered by the SGC, to provide LAFCOs with funding to initiate and complete dissolution of inactive districts, prepare special studies, and potentially initiate actions based on determinations contained in the study. The grant program includes specific eligible activities and a requirement to report to the SGC as to the use of grant funds. This will go a long way in creating the type of efficiencies LAFCOs need."
- 5) **Who Pays?** Traditionally, the agency that initiates dissolution, consolidation, annexation, or other change of organization pays for the costs associated with completing the process. LAFCOs are funded by the cities, counties, and, in 30 counties, special districts. CALAFCO states that one third of the 58 LAFCOs have an annual budget of less than \$100,000 and one-fifth have an annual budget of less than \$50,000.
- 6) **Policy Considerations.** The California Special Districts Association (CSDA) has concerns that the bill raises the protest threshold for actions initiated by a LAFCO from 10 % to 25%. CSDA is concerned that AB 2258 would set up a scenario where a community facing a LAFCO action funded by a grant under this program would have less of a voice than a community facing a LAFCO action funded by the LAFCO. Additionally, raising the threshold to 25% could make it virtually impossible for local residents to maintain self-determination with regard to who governs them. Lastly, CSDA is concerned that the increase is being proposed with no evidence to suggest that it is necessary.

- 7) **Technical Amendments.** The Government Code dictates two separate methods for dissolving special districts. One process is specific for districts that the State Controller deems “inactive.” The State Controller can order a LAFCO to dissolve an inactive district, and the LAFCO can utilize a streamlined dissolution process that does not require it to hold protest proceedings. When dissolving an active district that currently provides services, the LAFCO must conduct a protest proceeding, and if enough protests are submitted, an election can be triggered or the dissolution can be canceled outright. To ensure this bill does not require a LAFCO to conduct protest proceedings when dissolving a district that has been deemed inactive, the Committee may wish to amend the bill to clarify the two separate procedures for special district dissolution.
- 8) **Arguments in Support.** Supporters argue that local resources are not sufficient to undertake the highly specialized, complex, and time consuming requirements to address all identified opportunities for local agency consolidations and dissolutions. The situation is even more acute for small LAFCOs that struggle with basic financial and operational challenges. AB 2258 remedies this situation in part by making available to all LAFCOs the opportunity to apply for a portion of grant funding for consolidation, dissolution, and related activities.
- 9) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:****Support**

CALAFCO [SPONSOR]

California State Association of Counties

LAFCOs of: Butte, Calaveras, Contra Costa, El Dorado, Fresno, Humboldt, Imperial, Kern,  
Lake, Los Angeles, Marin, Mendocino, Monterey, San Benito, San Bernardino, San Luis  
Obispo, Santa Cruz, Solano, Sonoma, and Yolo

Rural County Representatives of California

Urban Counties Caucus

**Concerns**

California Special Districts Association

**Opposition**

None on file

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