

Date of Hearing: May 9, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 3254 (Committee on Local Government) – As Introduced March 14, 2018

**SUBJECT:** Local government organization: omnibus.

**SUMMARY:** Makes several non-controversial changes to the local agency formation commission (LAFCO) statutes which govern local government organization and reorganization.

**EXISTING LAW** establishes the procedures for the organization and reorganization of cities, counties, and special districts under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000 (Act).

**FISCAL EFFECT:** None

**COMMENTS:**

- 1) **LAFCOs.** LAFCOs are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structures, and preparing a sphere of influence for each city and special district within each county. The courts refer to LAFCOs as the Legislature's "watchdog" over local boundary changes. The Act establishes procedures for local government changes of organization, including city incorporations, disincorporations, city and special district consolidations, and annexations to a city or special district. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals for these procedures.
- 2) **Background and Prior Legislation.** As statutes go into effect, local officials and others often discover problems or inconsistencies in the language of the law and approach the Legislature to correct them. These minor problems do not warrant separate bills, so this Committee has found that it is expeditious and relatively inexpensive to respond to multiple minor, non-controversial requests on related issues by combining them into an annual "omnibus bill." Since the major rewrite of the Act governing local agency organization and reorganization [AB 2838 (Hertzberg), Chapter 761, Statutes of 2000], the Committee has focused its omnibus bill efforts on LAFCO-related issues.

Prior bills authored by the Committee include: AB 2795, Chapter 47, Statutes of 2010; AB 1430, Chapter 300, Statutes of 2011; AB 2698, Chapter 62, Statutes of 2012; AB 1427, Chapter 87, Statutes of 2013; AB 2762, Chapter 112, Statutes of 2014; AB 1532, Chapter 114, Statutes of 2015; AB 2910, Chapter 165, Statutes of 2016; and, AB 1725, Chapter 353, Statutes of 2017.

This bill reflects the concerns of LAFCOs and other stakeholders who have brought proposals and issues to the Committee. All proposals are vetted by a large number of stakeholders. Any proposal that provokes any controversy or opposition is rejected for inclusion.

- 3) **Bill Summary.** This bill is sponsored by the California Association of LAFCOs (CALAFCO) and makes several non-controversial changes to the Act, including the following:
- a) **Affected Territory.** Existing law defines "affected territory" and limits it to any territory for a change of organization, reorganization, or sphere of influence change that is proposed or ordered. However, the term "affected territory" is found in several other code sections all addressing extensions of service beyond an agency's jurisdictional boundary. This proposal encompasses in the definition of "affected territory" those situations that refer to extension of service, as well as changes of organization, reorganization, and sphere of influence changes. This proposal clarifies the statute and improves consistency in the Act.
  - b) **Uninhabited Territory.** Existing law provides a definition for "inhabited territory" which also includes a default definition for "uninhabited territory." This proposal provides a separate definition of "uninhabited territory" to ensure that a definition of both terms can be found separately and distinctly, within the Act, for any inquiring party searching for either term independently of the other term.
  - c) **Mailed Notification.** Existing law states that when mailed notice is required to be given, LAFCOs must provide the notice to owners of land within the subject boundary and registered voters residing within that boundary, as well as to landowners and registered voters within 300 feet of the exterior boundary of the subject properties. That requirement is appropriate for a LAFCO's initial proceeding, when LAFCO considers the merits of a proposal. However, once the LAFCO has approved a proposal, and the proposal is subject to a protest proceeding, only landowners and registered voters within the boundary have the right of protest, per Government Code Section 57051. Consistent with that section, Government Code Section 57025 requires notice of the protest proceeding to be sent only to landowners and registered voters within the subject boundary. The generalized statement in Section 56157, which requires notice to be sent to landowners and registered voters outside the subject boundary, is confusing if read in isolation, incorrectly implies that they have the right to protest when they do not, and is inconsistent with other sections of state law. The proposed change refines the language to direct notice to the outside landowners and voters only for LAFCO's initial proceeding and not in conjunction with the protest proceeding.
  - d) **Disincorporation.** AB 851 (Mayes), Chapter 304, Statutes of 2015, made several changes to the statutes governing the city disincorporation process. During the process of the disincorporation statutes update, the change to Government Code Section 56375 (o) was overlooked. This proposed language keeps the power conferred upon the LAFCO to address the disincorporation issue and clearly identifies that the LAFCO has the power and authority to address the transfer of property tax revenues during the disincorporation process as defined in Government Code Section 56813.
  - e) **Per Capita.** Current law requires a LAFCO to consider a number of factors in the review of a proposal. Government Code Section 56668 (a) requires, among other information, the LAFCO to consider "per capita assessed valuation." Per capita is defined as: equally to each individual; per unit of population; or by or for each person, thus this factor would require the LAFCO to calculate the assessed valuation on a per

person basis. As a result, the number of residents living on a proposal area influences the assessed valuation of the proposal area. While the per capita calculation does not add value to the analysis for a change of organization/reorganization, the assessed valuation of the proposal area provides relevant information to the LAFCO to assist in their consideration of a proposal. The proposal is to only remove "per capita" from 56668(a).

4) **Arguments in Support.** CALAFCO states, "This annual bill includes technical changes to the Act which governs the work of local agency formation commissions. These changes are necessary as commissions implement the Act and small inconsistencies are found or clarifications are needed to make the law as unambiguous as possible. This legislation helps insure the Cortese-Knox-Hertzberg Act remains a vital and practical law that is consistently applied around the state."

5) **Arguments in Opposition.** None on file.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

CALAFCO [SPONSOR]

California State Association of Counties

LAFCOs of: Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Imperial, Kern, Lake, Lassen, Los Angeles, Mendocino, Merced, Modoc, Nevada, Orange, Riverside, San Benito, San Bernardino, San Luis Obispo, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Yolo, and Yuba

##### **Opposition**

None on file

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