

Date of Hearing: May 12, 2020

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 3312 (Gray) – As Amended May 4, 2020

SUBJECT: Local agency formation: annexation: City of Merced.

SUMMARY: Authorizes the City of Merced to annex the territory comprising the campus of the University of California, Merced (UCM), as specified. Specifically, **this bill**:

1. Defines the following terms:
 - a) “Main campus of UCM” as the area within the boundaries of the campus of UCM as described in the UCM 2020 Long-Range Development Plan dated March 2020, and comprising of no more than 1,026 acres, and;
 - b) “Road Strip” as the street, highway, or road that connects the territory of the property to be annexed to the annexing city.
2. Authorizes unincorporated territory consisting of property comprising the main campus of UCM, together with the road strip, to be annexed to a city if the following conditions are met:
 - a) The affected territory is within the sphere of influence of the annexing city, as adopted by the local agency formation commission (LAFCO); and,
 - b) The affected territory lies within an unincorporated area within the County of Merced.
3. Provides that the LAFCO shall not approve any subsequent annexation to the road strip or the affected territory, as specified, unless the territory proposed to be annexed is contiguous to the property comprising the main campus of UCM.
4. Specifies that this bill only applies to the City of Merced.
5. Finds and declares that a special statute is necessary and that general statute cannot be made applicable because of the unique circumstances relating to the property comprising UCM campus located in unincorporated territory within the County of Merced.

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.

FISCAL EFFECT: None

COMMENTS:

- 1) **Background and Author's Statement.** This bill provides an exemption to LAFCO law and authorizes the Merced LAFCO to approve an annexation of the territory comprising UCM and a connecting road strip. This bill also specifies that the LAFCO is prohibited from approving any subsequent annexation to the road strip or the affected territory, unless the territory proposed to be annexed is contiguous to the property comprising the main campus of UCM. The author is the sponsor of this bill.

According to the author, "As the youngest campus in the UC system, UC Merced has faced unique challenges since it opened its doors just as the Great Recession decimated promised public and private financial resources. The resilient campus has turned to creative means to continue to expand and enroll students and recently achieved its 2020 goal of enrolling 10,000 students. While an adjacent vibrant urban community was always envisioned around the campus, no development has yet occurred as the campus nears its 20th anniversary. This is a unique situation faced by no other UC campus, and has resulted in a lack of off campus housing, access to food and basic services, and minimal public and affordable transportation options.

"Existing law does not account for the unique challenges of a newly established UC campus cited in a rural community more than three miles from the nearest development. In order to facilitate smart growth to support the campus community without an incidental annexation of hundreds or thousands of acres of additional land, AB 3312 provides a limited exemption from current law to allow the City of Merced to complete an annexation of the UCM campus and directly adjacent properties."

- 2) **LAFCO.** 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. LAFCO law establishes procedures for local government changes of organization, including special district consolidations. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals for these procedures.

The process for most boundary changes and agency formations requires numerous steps:

- a) Application to LAFCO, by petition or resolution, for an environmental review, property tax exchange agreement, and a plan for services that describe what services will be provided and how the services will be financed;
- b) Noticed public hearing, testimony, and approval or disapproval by LAFCO in which LAFCO can impose terms and conditions;

- c) Additional public hearing for protests. If a majority of the city's voters file protest, the disincorporation stops, and if not, LAFCO must order an election on the proposed disincorporation;
 - d) If existing law requires it, an election that requires a majority vote approval; and,
 - e) LAFCO staff files documents to complete the reorganization. LAFCOs are required to approve district consolidations where each merging district passes a resolution endorsing the consolidation, but provisions that govern protest and elections still apply.
- 3) **UC Merced.** The UC Board of Regents selected a site in eastern Merced County adjacent to Lake Yosemite Park as the location for the 10th campus of the University of California in May 1995. The Merced County location was selected based upon a number of factors, including:
- 1) The land was to be donated by the Virginia Smith Trust (VST), a charitable trust that provides college scholarships to Merced-area high school students;
 - 2) Adequate water would be available for university needs;
 - 3) The county government initiated a planning process to assure compatible development of adjacent land and good transportation access; and,
 - 4) Merced is centrally located with easy access from communities in the San Joaquin Valley, including the Valley's largest city, Fresno.

By 1997, UCM had established a regional office at Merced College, and the UC Fresno Center also served as a focal point for the new UCM campus. In 1998, the University joined with the Merced County Board of Supervisors, VST, the City of Merced, and the Merced Irrigation District to initiate a collaborative planning process for the university community. UCM officially opened with its first class of undergraduate students in September 2005, and as of 2018, had more than 8,000 undergraduate and graduate students.

- 4) **Policy Consideration.** Generally, territory must be contiguous to a city before a LAFCO can approve the annexation. Exceptions to the contiguous requirement are rare in order to avoid leapfrog development. This bill provides an exemption to the City of Merced by authorizing a non-contiguous annexation of the land comprising UCM. A very similar exemption was authorized for the City of Cupertino by the Legislature by SB 612 (Smith), Chapter 13, Statutes of 1980. Nevertheless, the Legislature has been very judicious about providing such exemptions to LAFCO law. The Committee may wish to consider if the unique challenges facing the City of Merced and UCM warrant an exception from the contiguous territory requirement.
- 5) **Supporting Arguments.** VST argues that, “AB 3312 provides the City, County, and LAFCO with another, responsible, alternative to fulfill the Merced Promise. It is important to note that using this option does NOT encourage the development of property that is not already planned for development, it only allows the City and County to achieve the essential legislative intent of CKH which is ‘...accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and

provide necessary governmental services...in the most efficient manner feasible.’ The City and County have already agreed on a development plan for the University Plan area, and an EIR has been certified for the project, and the City of Merced can best provide the necessary services in the most efficient manner feasible. The current legal mechanisms to effectuate annexation are currently lacking, and another approach is needed to annex UCM and VST sooner than later.”

6) **Opposing Arguments.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Steve Tietjen, Merced County Superintendent of Schools
Virginia Smith Trust

Opposition

None on file

Analysis Prepared by: Jimmy MacDonald / L. GOV. / (916) 319-3958