

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 903 (Frazier) – As Amended April 5, 2021

SUBJECT: Los Medanos Community Healthcare District.

SUMMARY: Dissolves the Los Medanos Community Healthcare District (LMCHD) and designates the County of Contra Costa as the successor agency to the district. Specifically, **this bill:**

- 1) Provides that the LMCHD shall be dissolved effective February 1, 2022.
- 2) Specifies that the County of Contra Costa shall be the successor to the LMCHD and that all assets, rights, and responsibilities of the district are transferred to the County as the successor of the LMCHD.
- 3) Provides that as of the effective date of dissolution, the County shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgements, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of the LMCHD. Accounts payable and all other contract obligations shall be transferred to the County.
- 4) Requires the County to complete all of the following by the effective date of dissolution:
 - a) The County Board of Supervisors (Board) shall form a Los Medanos Health Advisory Committee (Advisory Committee) that reports directly to the Board and shall develop and conduct the Los Medanos Area Health Plan Grant Program (Program) focused on comprehensive health-related services. The Board shall appoint five members to the Advisory Committee. The Advisory Committee shall:
 - i) Develop an area health plan that identifies major health disparities impacting residents in the district's territory and identify priorities for improving health outcomes;
 - ii) Solicit proposal from service providers interested in participating in the Program and that are capable of addressing the priorities in an adopted health plan;
 - iii) Monitor the efficacy of the programs to which grants are made; and,
 - iv) Report to the Board not less than once a year on the execution of the health plan and the status of the Program;
 - b) Commence and complete a property tax transfer process, as specified;
 - c) Direct the county auditor-controller to establish a new special fund for the county treasurer to track the receipt and disbursement of ad valorem property tax revenues received by the County pursuant to the property tax transfer process;

- d) The Program shall be funded by ad valorem property tax funds received by the County as a result of the dissolution of the LMHCD and any other funds made available to the Program; and,
 - e) Accept all real and personal property, books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, judgements, and all other assets and obligations transferred from the district in “as-is” condition, without any payment or repair obligations from the LMCHD.
- 5) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of the California Constitution because of the unique circumstances surrounding the LMCHD.
- 6) Provides that no reimbursement is required by this act because a local agency or school district has the authority to levy service charges, fees, or assessment sufficient to pay for the program or level of service mandated by this act.

EXISTING LAW:

- 1) Provides for local healthcare districts, which govern certain health care facilities and services. Each healthcare district has specific duties and powers respecting the creation, administration, and maintenance of the healthcare district, including the authority to purchase, receive, take, hold, lease, use, and enjoy property of every kind and description within and without the boundaries of the healthcare district.
- 2) Requires the board of directors of healthcare districts to do all of the following:
 - a) Adopt an annual budget in a public meeting, on or before September 1 of each year, that conforms to generally accepted accounting and budgeting procedures for special districts;
 - b) Establish and maintain an Internet Web site that lists contact information for the district. The Internet Web site may also list any of the following:
 - i) The district's adopted budget;
 - ii) A list of the district's current board members;
 - iii) Information regarding public meetings required pursuant to the Local Health Care District Law or the Ralph M. Brown Act (Brown Act);
 - iv) A municipal service review (MSR) or special study conducted by a LAFCO pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, if any;
 - v) Recipients of grant funding or assistance provided by the district, if any;
 - vi) Audits of the district's accounts and records prepared pursuant to existing law;
 - vii) Annual financial reports to the Controller, submitted pursuant to existing law; and,

- viii) Any other information the board deems relevant.
- 3) Requires healthcare districts to adopt annual policies for providing assistance or grant funding, if the district provides assistance or grants, which must include the following:
- a) A nexus between the allocation of assistance and grant funding with health care and the mission of the district; and,
 - b) A process for the district to ensure allocated grant funding is spent consistently with the grant application and the mission and purpose of the district;
 - a) Requirements that a grant recipient must meet, such as contract terms and conditions, fiscal and programmatic monitoring by the district, and reporting to the district;
 - b) The district's plan for distributing grant funds for each fiscal year;
 - c) A process for providing, accepting, and reviewing grant applications;
 - d) A prohibition against individual meetings regarding grant applications between grant applicants and board members, officers or staff outside the district's grant award process, although this process may include the provision of technical assistance to grant applicants, upon request, by district program staff; and,
 - e) Beginning January 1, 2020, guidelines for additional elements, such as awarding grants to underserved individuals and communities, evaluating the financial need of applicants, considering eligibility for the types of programs eligible for funding, and other grant policy guidelines.

FISCAL EFFECT: This bill is keyed fiscal and contains a state mandated local program.

COMMENTS:

- 1) **Bill Summary and Author's Statement.** This bill dissolves the LMCHD and designates Contra Costa County as the successor to the District. This bill also requires the County Board of Supervisors to form an Advisory Committee to develop a grant program for health-related services. Lastly, this bill directs the county auditor-controller to establish a new special fund to track the receipt and disbursement of property tax revenues received due to the dissolution, and it specifies that the Program shall be funded by these property tax revenues. The author is sponsor of this bill.

According to the author, "Over the past year, the COVID-19 pandemic has created tremendous disruption for every Californian. However, some communities have been more severely affected than others. The pandemic has highlighted inequities in healthcare, exacerbated gaps in services, and demonstrated the importance of every dollar spent to protect our communities.

"AB 903 effectively creates hundreds of thousands of dollars in new funding for badly needed healthcare services. Current grant recipients will continue to receive the funding they require to serve their communities. AB 903 will deliver even more money for healthcare

efforts like these. Most importantly, this bill ensures that the health and safety of communities, especially communities of color, is of the highest priority.”

- 2) **LAFCOs.** The Cortese-Knox-Hertzberg Act controls how local officials change the boundaries of cities and special districts, putting local agency formation commissions in charge of the proceedings. LAFCOs’ boundary decisions must be consistent with spheres of influence (SOIs) that LAFCOs adopt to show the future boundaries and service areas of the cities and special districts. Before LAFCOs can adopt their SOIs, they must prepare municipal service reviews (MSRs) which analyze population growth, public facilities, and service demands. LAFCOs may also conduct special studies of local governments.
 - a) Most boundary changes begin when a city or special district applies to LAFCO, or when registered voters or landowners file petitions with a LAFCO. In limited circumstances, LAFCO can initiate some special district boundary changes: consolidations, dissolutions, mergers, subsidiary districts, or reorganizations (AB 1335, Gotch, Chapter 1307, Statutes of 1993). Boundary changes, including district dissolutions, require four (sometimes five) steps:
 - b) First, there must be a completed application to LAFCO, including a petition or resolution, an environmental review document, and a property tax exchange agreement between the county and the district;
 - c) Second, 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 LAFCO disapproves, the proposed dissolution stops;
 - d) Third, LAFCO must hold another public hearing to measure protests;
 - e) Fourth, if state law requires an election, it occurs among the district’s voters. A successful dissolution requires majority-voter approval; and,
 - f) Finally, LAFCO’s staff files formal documents to complete the dissolution.
- 3) **Background.** Near the end of World War II, California faced a severe shortage of hospital beds. To respond to the inadequacy of acute care services in rural areas, the Legislature enacted the Local Hospital District Law, to provide medically underserved areas without access to hospital facilities a source of tax dollars that could be used to construct and operate community hospitals. In 1994, SB 1169 (Maddy) was enacted which renamed hospital districts “healthcare districts,” better reflecting the focus of healthcare services outside of hospital settings. The powers and duties granted to healthcare districts have remained largely unchanged, while demographics of areas served by these districts, access and provision of healthcare services, and districts themselves have vastly changed.

Today, there are 79 healthcare districts, 34 of which operate hospitals. Healthcare districts operate in rural, suburban and urban communities. Healthcare district law establishes the powers that local healthcare districts may exercise, which include operating healthcare facilities including hospitals, clinics, skilled nursing facilities, adult day health centers, nurses’ training schools, and child care facilities; providing ambulance services within and

outside of the district; operating programs that provide chemical dependency services, health education, wellness and prevention, rehabilitation, and aftercare; carrying out activities through corporations, joint ventures, and partnerships; establishing and participating in managed care; contracting with and making grants to provider groups and clinics in the community; and other activities that support good physical and mental health.

Most healthcare districts receive a share of local property taxes; some levy special parcel taxes, and some charge for services. Some healthcare districts generate revenues from district resources, such as property lease income; and some districts receive grants from public and private sources.

- 4) **Los Medanos Community Healthcare District.** The LMCHD was formed in 1948 by a vote of local residents to build and operate a community hospital. LMCHD operated the Los Medanos Community Hospital until 1994, when the hospital closed due to financial difficulties and the District was forced to declare bankruptcy. LMCHD has since recovered, and the bankruptcy debt was largely repaid five years ahead of schedule. Since 1998, the District has leased the hospital building to Contra Costa County, which houses the County's largest health clinic, the Pittsburg Health Center (PHC), with over 100,000 patient visits per year.

Today, the District no longer operates a healthcare facility and presently provides community-based healthcare services to its residents through sponsoring and funding programs and activities related to health, wellness and prevention. LMCHD serves a largely disadvantaged community of over 97,000 people encompassing the City of Pittsburg, small portions of the cities of Antioch, Clayton and Concord, unincorporated Bay Point and surrounding unincorporated areas. LMCHD has a directly elected board composed of five members.

- 5) **1999 Proposal to Dissolve LMCHD.** In 1999, an application to dissolve LMCHD was submitted to Contra Costa LAFCO by a petition of registered voters. A petition has a minimum 10% threshold (i.e., registered voter, landowners). The reasons for the proposed dissolution were that the LMCHD no longer operated an acute care hospital, was not expected to operate such a facility in the near future, and that property taxes were being collected for the purpose of providing direct hospital and healthcare services but such services were not being provided. Following several months of public hearings, in September 2000, the LAFCO denied the proposal to dissolve LMCHD. LAFCO commissioners expressed concern about confusion and inaccuracy in the petition regarding dissolution and potential tax relief to the taxpayers; the District's ongoing debt; and that dissolution was premature given the District's upcoming contested election. The LAFCO indicated its intent to revisit dissolution of LMCHD in 2004 in conjunction with the healthcare MSR.
- 6) **Grand Jury Reports.** The Contra Costa County Grand Jury has issued several reports covering LMCHD, including those in 1998, 2003, 2010, and 2018. In the 2018 report (No. 1802 -"Los Medanos Community Healthcare District") the Grand Jury stated, "LMCHD does not provide any hospital, physician, or emergency medical services. Instead, LMCHD funds grants to third-party agencies that provide healthcare programs and activities related to health, wellness, and disease prevention. The Grand Jury also found LMCHD grant program administrative expenses are high compared to the amount spent on grants. For example, in FY2016-2017, LMCHD spent 40% of its revenue on grants and 36% administering those

grants, with the remaining 24% going to reserves. LMCHD's FY2017-2018 budget allocates 42% for grant programs, and 51% for grant program administration. Earlier years' administrative expenditures were similarly distributed. Typically, comparable local governmental administrative entities devote 10-20% to administrative expenses. Previous Grand Jury reports reached similar conclusions.

“Based on these findings, the Grand Jury recommends that the Local Agency Formation Commission (LAFCO) consider dissolving LMCHD. The Grand Jury also recommends that the grants for healthcare programs currently funded by LMCHD be maintained by a successor. These healthcare programs are important to the community. Any savings from the dissolution could be applied to improvement and expansion of healthcare programs.”

In a letter, LMCHD responded to the 2018 grand jury report, disagreeing with a number of the findings and recommendations presented by the Contra Costa Grand Jury. Among other responses, LMCHD argued that it had reduced its administrative costs to approximately 25% of its budget in the 2018-2019 fiscal year and that the County's administrative costs were higher than those of the LMCHD.

- 7) **Contra Costa LAFCO.** On November 7, 2017, the Contra Costa County Board adopted Resolution 2017/384 requesting that Contra Costa LAFCO initiate proceedings for dissolution of LMCHD. The LAFCO's Executive Officer's report on the dissolution concluded that, “At the State level, there have been numerous reports and committee hearings regarding the role of healthcare districts, and recognition that healthcare districts have evolved from operating hospitals, to providing and funding preventative healthcare, noting the importance of these services. There are also concerns regarding lack of collaboration and potential for redundancies with County services, fiscal challenges, lack of transparency; and that healthcare districts should improve both the nexus between allocation of funds and the mission of the districts, and the process for ensuring that grant funding is spent consistently with the grant application and the mission and purpose of healthcare districts.

“At the local level, as noted in the Contra Costa Grand Jury reports, LMCHD has struggled with fiscal, administrative/management and service issues. The Grand Jury also notes challenges and deficiencies of local healthcare districts relating to lack of direct services and high administrative costs; lack of strategic planning and collaboration; and a disconnect in identifying health needs, funding programs that address these needs, and measuring outcomes.”

The Contra Costa LAFCO voted to dissolve the LMCHD on September 12, 2018 with a vote of 6-0.

- 8) **Pending Status of Dissolution.** Following the vote for dissolution, a request was submitted by LMCHD for the LAFCO to reconsider the approval to dissolve the district in October 2018. The LAFCO considered and denied LMCHD's request for reconsideration at its meeting on November 14, 2018. The adoption of a resolution to dissolve LMCHD triggered a protest period. According to the Contra Costa County Superior Court in *Los Medanos Community Healthcare District v. Contra Costa Local Agency Formation Commission, et al.*, “The adoption of the resolution to dissolve the District triggered a protest period. LAFCO indicated that the District needed approximately 10,500 valid protests. The District relied on that number when it sought signatures on protests petitions and tailored its signature-

gathering efforts to achieve the 10,500 target protests. Despite assurances of the number of protests by LAFCO, the District learned in January 2019 that LAFCO would be requiring 11,013 protests to compel an election. LAFCO indicated that it would use the November 30, 2018 voter roll as the basis for calculating the applicable protest threshold. The District submitted 16,702 protests. The District learned, less than 24 hours before the January 9, 2019 LAFCO commission hearing, that the County was only validating 10,594 of the protests. LAFCO voted to dissolve the District on January 9, 2019.”

Shortly after the protest proceeding concluded, LMCHD filed a petition for a writ of mandate with the county superior court alleging the, “LAFCO has a clear, present, and ministerial duty to obtain voter approval before dissolving a local agency when it is presented with sufficient protest signatures.” LMCHD also alleged that, “in reliance on LAFCO’s representation, the District tailored its signature gathering efforts accordingly. The District obtained 10,594 valid signatures.” On January 12, 2020, the court ruled in favor of LMCHD and granted the writ of mandate. The County of Contra Costa has filed a notice of appeal and is awaiting a hearing date.

- 9) **Policy Considerations:** The Committee may wish to consider the following:
- a) **Premature?** The dissolution and formation of districts is often a complex, technical, and political matter. State law makes LAFCOs responsible for encouraging orderly formation and development of local agencies based on local conditions and circumstances. The local officials who sit on the Contra Costa County LAFCO are typically in the best position to evaluate the local conditions and circumstances that should determine the services provided by LMCHD. The LAFCO conducted a thorough study of the County’s application to dissolve the LMCHD and deliberated the dissolution and potential alternatives in multiple public hearings, ultimately approving dissolution with a 6-0 vote. Despite LAFCO’s approval for dissolution, state law generally allows the community to weigh-in through a protest process, potentially triggering an election of the voters.

Due to a recent court decision and a subsequent appeal, the final outcome of the dissolution has not been resolved. As the adjudication process continues, clarity should be provided on whether the protest successfully triggered an election, or if the protest was insufficient to garner further public input through the election process. If adopted, this bill could preempt any future court action and possibly limit the ability of the local community to vote on the district’s dissolution. Taking into account the efforts to evaluate the dissolution through the court process, the Committee may wish to consider whether it is appropriate for the Legislature to intervene at this time and if this bill allows for the proper level of public input.

- b) **Have Circumstances Changed?** If this bill is adopted, and by the time it goes into effect, it will have been more than three years since the dissolution of LMCHD had been approved by the LAFCO in 2018. Although it may not be ideal for some local stakeholders, nothing precludes the County from submitting another application for dissolution and restarting the LAFCO process. If a new protest process were to be conducted today, it is unclear if it would be more or less successful in reaching the protest threshold and potentially triggering an election. The Committee may wish to

consider, that in light of the time that has passed since the LAFCO's decision to dissolve the LMCHD, if local circumstances have changed enough for a reevaluation by the LAFCO to be warranted.

- c) **Continuity.** Some stakeholders believe that by dissolving the LMCHD, significant costs can be saved and rededicated for increasing services. Contra Costa County portends that this bill "will result in a significant reduction in administrative costs, making additional funds available to be spent on effective health-related programs."

In the LAFCO resolution dissolving LMCHD, it placed terms and conditions on Contra Costa County to follow after becoming the successor agency to the district. These conditions included, among other things, that all of the property tax funds and any new revenues generated from changes in the LMCHD facilities or property obtained by the county are used for the grant programs and their administration in the District area. The Committee may wish to consider the unique local conditions and the language in this bill to determine if the existing levels of services are protected moving forward.

- 10) **Committee Amendments.** To ensure that existing and future LMCHD revenues continue to be used for the purposes of health services within the jurisdiction of LMCHD, the Committee may wish to consider amending the bill to further clarify the following:

- a) That all ad valorem property tax funds received by the county as a result of the dissolution of the LMCHD fund the Program;
- b) That the Program is only conducted within the territory of the existing LMCHD;
- c) That if any changes in the facility or property obtained pursuant to the dissolution of LMCHD generate new revenues (i.e., sale, transfer, reuse, etc.), that those profits must be directed to the Program for health related services; and,
- d) That the Contra Costa Auditor-Controller is required to track the ad valorem property tax revenues received by the county.

- 11) **Related Legislation:** AB 912 (Gordon), Chapter 109, Statutes of 2011, created an expedited process for the dissolution of special districts in certain circumstances.

AB 2471 of 2016 would have required the Alameda County LAFCO to order the Eden Township Healthcare District's dissolution if the District met specified criteria. This bill died on the Senate Inactive File.

AB 1728 (Committee on Local Government, Chapter 265, Statutes of 2017) required healthcare districts to adopt an annual budget, adopt a grant funding policy, and establish an Internet Web site.

AB 2019 (Aguiar-Curry, Chapter , Statutes of 2018) required set-asides for affordable units when a healthcare district uses design-build to construct housing, requires healthcare districts to post additional information online, expands what healthcare districts must include in their grant policies, and requires healthcare districts to notify their LAFCO when a district files for bankruptcy.

SB 522 (Glazer, Chapter 133, Statutes of 2018) dissolved the existing Board of Directors of the West Contra Costa Healthcare District and required the Board of Supervisors of Contra Costa County to either serve as or appoint the district board.

- 12) **Arguments in Support.** Contra Costa County argues that, “This bill would require the dissolution of the Los Medanos Community Healthcare District, as specified. The bill would also require the County of Contra Costa to be successor of all rights and responsibilities of the district, and require the County to complete a property tax transfer process to ensure the transfer of the district's health related ad valorem property tax revenues to the County in order to operate the Los Medanos Area Health Plan Grant Program.

“Contra Costa County supports this bill, as it will result in a significant reduction in administrative costs, making additional funds available to be spent on effective health-related programs. The Board of Supervisors has created the Los Medanos Health Advisory Committee to make recommendations for grant funding after the District’s dissolution, and grant funding allocations will be based on priorities determined by an area health plan that will identify and work to address major health disparities impacting the Pittsburg/Bay Point area. In addition, the County has the financial resources necessary to continue operating and maintaining the Pittsburg Health Center, which is the County’s largest clinic in our clinic healthcare delivery system.”

- 13) **Arguments in Opposition.** The Association of California Healthcare Districts argues that, “Healthcare districts, alongside the entire health care delivery system, have stepped-up during the COVID-19 pandemic to serve the health needs of their communities. Due to the unique nature of healthcare districts, each healthcare district throughout the state has addressed the health needs during the pandemic differently and continues to evolve as the pandemic response shifts. Los Medanos Community Healthcare District is no exception. For example, the district has been working to disseminate culturally appropriate public health information regarding COVID-19, including access to vaccinations, to those vulnerable populations throughout their communities identified through their census 2020 partnerships.

“Procedurally, ACHD is concerned with using the legislative process to dissolve a healthcare district without a vote of the constituents served by the district. Additionally, we are concerned with the precedent-setting approach AB 903 takes to address a local issue, which we believe can be best resolved by a local discussion. Such a discussion is, in fact, already taking place and is currently in the midst of a pending lawsuit.”

REGISTERED SUPPORT / OPPOSITION:

Support

Contra Costa County
Contra Costa Local Agency Formation Commission

Opposition

Association of California Healthcare Districts
California Special Districts Association
Los Medanos Community Healthcare District

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