

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 918 (Garcia) – As Amended April 17, 2023

AS PROPOSED TO BE AMENDED

SUBJECT: Health care district: County of Imperial.

SUMMARY: Renames the Pioneers Memorial Healthcare District (PMHD) as the Imperial Valley Healthcare District (IVHD), provides a process to expand IVHD to include all of Imperial County (County), establishes the board of IVHD, and dissolves the Heffernan Memorial Healthcare District (HMHD) contingent upon the expansion of IVHD. Specifically, **this bill:**

- 1) Renames the PMHD as the IVHD. The IVHD may be expanded in accordance with this bill. All other provisions of the Local Health Care District Law shall apply to the IVHD following its reorganization, as specified.
- 2) On or before January 5, 2024, the IVHD shall file a resolution of application with the Imperial County Local Agency Formation Commission (Imperial LAFCO), as specified, to initiate proceedings by the Imperial LAFCO for the purpose of expanding IVHD to include all of the County. The resolution of application shall comply with existing law and shall specify the source of funding for the expanded district. IVHD shall pay any fees associated with the resolution of application.
- 3) Provides that the Imperial LAFCO proceeding shall be deemed initiated on the date the resolution of application is accepted for filing. Subsequent to the initiation of the proceeding, the Imperial LAFCO shall hold a hearing pursuant to existing law. The Imperial LAFCO shall comply with existing notice requirements in connection with the hearing.
- 4) Specifies that the Imperial LAFCO shall complete its proceedings and direct the specified election no later than 150 days following receipt of the completed resolution of application. Notwithstanding any other law, the Imperial LAFCO shall not have the power to disapprove the resolution of application.
- 5) Provides that, notwithstanding any other law, the resolution of application filed by the IVHD shall not be subject to any protest proceedings.
- 6) Requires the Imperial LAFCO to order the expansion of the district subject to a vote of the registered voters residing within the territory to be annexed at an election following the completion of proceedings pursuant to 2) above. The Imperial LAFCO may condition the annexation on IVHD's imposition of sufficient revenues to provide services within the territory to be annexed, including, but not limited to, the concurrent approval of special taxes or benefit assessments that will generate those sufficient revenues.
- 7) Provides that the Imperial LAFCO shall direct the Board of Supervisors of the County to direct county officials to conduct the necessary election for approval of district expansion by placing the approval of IVHD expansion, as specified, and approval of any necessary funding

source for the expanded IVHD that requires voter approval on the ballot at the next countywide election.

- 8) Specifies that if a majority of the voters within the territory ordered to be annexed vote in favor of the expanded district and if a number of voters required under applicable law to approve any necessary funding source that requires voter approval vote in favor of that funding source, IVHD shall be expanded in accordance with this bill.
- 9) Requires IVHD to pay the County the actual cost of the services rendered in conducting the election.
- 10) Provides that LAFCO Law shall not apply to the expansion of the district, as specified. LAFCO Law shall apply to any other change of organization or reorganization, as specified, following the reorganization of IVHD pursuant to this bill.
- 11) Requires, 30 days after the expansion of IVHD, the Board of Directors of IVHD to adopt a resolution to increase the number of members of its board of directors from five to seven without the necessity of a petition or approval thereof by voters residing within IVHD. The resolution shall become effective on the date of, and subject to, any conditions specified in the resolution.
- 12) Provides that the additional vacancies created by the expansion shall be filled by appointment by the board of directors. A person appointed to fill a vacancy shall be a registered voter and a resident of the territory annexed by IVHD.
- 13) Specifies that, upon appointment, the board shall, by lot, designate one appointed member who shall leave office when their successor takes office pursuant to existing law, and one member appointed who shall leave office two years thereafter.
- 14) Provides that a vacancy in one or both of the board positions after the first appointments shall be filled, as specified.
- 15) Specifies that following the expansion of the Board of Directors of IVHD, the board of directors shall adopt a resolution to divide the district into seven voting districts, number the voting districts consecutively, and elect members of the board of directors by voting district beginning with the first district election occurring, at least, 30 days after the expansion of IVHD, as specified
- 16) Provides that in establishing the voting districts, the board of directors shall provide for representation in accordance with demographic, including population, and geographic factors of the entire area of the district. The board of directors shall fix the time and place and give public notice for a hearing on the proposed establishment of the voting districts, at which any elector of the district may present their views and plans in relation to the proposed division, but the board of directors shall not be bound thereby and their decision, in the resolution adopted, shall be final.
- 17) Requires the specified resolution to declare the voting districts and describe the boundaries of each voting district.

- 18) Requires the voting districts and any necessary procedures for implementing the election of the board of directors by voting districts to be established and implemented within 30 days of an expansion of IVHD, as specified.
- 19) Specifies that the voting districts established pursuant to this bill shall be effective for subsequent district elections, commencing with the next district election occurring after their establishment. At the expiration of the terms of office of the members of the board of directors then in office, and thereafter, these members of the board of directors shall be elected by voting districts. One member of the board of directors shall be elected by the electors of each of the voting districts. A person shall not be eligible to hold the office of member of the board of directors unless they have been a resident of the voting district from which they are elected for 30 days next preceding the date of the election.
- 20) Provides that a vacancy upon the board that results in a voting district left unrepresented prior to the expiration of the term of that board position shall be filled by appointment of the remaining members of the board of directors. A member of the board of directors appointed pursuant to this subdivision shall be a resident of the voting district left unrepresented on the board of directors.
- 21) Requires HMHD to hereby be dissolved.
- 22) Specifies that IVHD shall be the successor to the HMHD. All assets, rights, and responsibilities of HMHD are transferred to the IVHD. As of the effective date of the dissolution, the IVHD shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, 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 HMHD. Accounts payable and all other contract obligations shall be transferred to the IVHD.
- 23) Provides that specified provisions in this bill shall become operative only if IVHD is expanded in accordance with this bill.
- 24) Specifies that it is the intent of the Legislature that the IVHD maximize the use of its assets to provide direct health services to individuals within the district through direct operation of or funding provided to organizations that own or operate hospitals, medical clinics, ambulance services, transportation programs for seniors or persons with disabilities, wellness centers, health education services, promotoras, mental health services, veterans' health services, and other similar services.
- 25) Finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique community needs in the County that would be served by the expansion of the IVHD to include all of the County to provide health care services for an underserved population that suffers from a higher than average prevalence of preventable disease.
- 26) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made.

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. [Health and Safety Code (HSC) § 32000 et. Seq.]
- 2) Requires the board of directors of healthcare districts to do all of the following (HSC § 32139):
 - 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 (CKH Act), 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.
 - 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 (HSC § 32139):
 - a) A nexus between the allocation of assistance and grant funding with health care and the mission of the district.
 - 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.
 - c) 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.

- d) The district's plan for distributing grant funds for each fiscal year.
- e) A process for providing, accepting, and reviewing grant applications.
- f) 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.
- g) 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 renames PMHD to IVHD and authorizes the expansion of IVHD to include all of the County by requiring IVHD to submit a resolution of application to the Imperial LAFCO to initiate proceedings to expand IVHD and establishes a process for expanding IVHD. This bill requires Imperial LAFCO to order the expansion of IVHD subject to a vote of the registered voters residing within the area to be annexed, as specified. This bill establishes the governing board of IVHD and requires the creation of voting districts for board elections. Lastly, this bill dissolves HMHD and designates IVHD as the successor only if IVHD is expanded pursuant to the requirements in this bill. The author is the sponsor of this bill.

According to the author, "Currently, there are significant barriers preventing Imperial Valley residents' access to health care providers and services. Some of the barriers include shortages in the number of primary care providers, shortages in various medical and surgical specialties, a lack of urgent care services, a lack of transportation, and excessive wait times for medical care. Solving the persistent barriers has proven to be challenging. Imperial County stakeholders and I believe that expanding the current healthcare district is best to address these persistent needs. Pointing to the impact and success of the Desert Healthcare District expansion in addressing the health needs of its current constituency."

- 2) **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. SB 1169 (Maddy), Chapter 696, Statutes of 1994, changed the name of the principal act to "The Local Healthcare District Law" to better reflect the shift in the provision of healthcare services outside hospital settings.

The powers and duties granted to healthcare districts under existing law have remained largely unchanged while the demographics of areas being served by the districts, access and provision of healthcare services, and the districts themselves have vastly changed. For example, following the change in law in 1994, at least 14 healthcare districts have filed for

bankruptcy, and over one-third of the healthcare districts in California have either closed or sold their hospital.

State law allows healthcare districts to exercise various powers, including to lease or own property; build and operate healthcare facilities and services, including emergency services, free clinics, diagnostic and testing centers, health education programs, wellness and prevention programs, rehabilitation, and aftercare; to provide assistance to other entities to carry out those services; and to sell their assets.

New healthcare districts can be formed according to procedures laid out in the Local Healthcare District Law, the District Organization Law, and LAFCO Law. These procedures provide multiple opportunities for local agencies and voters to weigh in on the question of district formation. These procedures include: an impartial analysis by the LAFCO of the proposed formation, a determination that the district is “feasible, economically sound, and for the public interest,” and a requirement that a majority of voters approve the formation of the district.

Generally, a five-member board of directors manages each healthcare district. Each member must be a registered voter residing in the district and serves a four-year term, with the exception of the initial board. The board of supervisors of the county with the greatest share of land in the district appoints the initial board. Upon appointment, the board selects two members by lot to serve two-year terms with the remaining three serving four-year terms.

Many 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.

- 3) **Local Government Boundaries.** The Legislature has the authority to create, dissolve, or otherwise modify the boundaries and services of local governments. Beginning in 1963, the Legislature delegated the ongoing responsibility to control the boundaries of cities, county service areas, and most special districts to LAFCOs in each county. The responsibilities and authority of LAFCOs have been modified in subsequent legislation, including a major revision of the LAFCO statutes in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (AB 2838, Hertzberg). The courts often refer to LAFCOs as the Legislature’s watchdog over boundary changes.

Local governments can only exercise their powers and provide services where LAFCO allows them to. 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 MSRs which analyze population growth, public facilities, and service demands. LAFCOs may also conduct special studies of local governments.

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. Boundary changes require four (sometimes five) steps:

- a) First, there must be a completed application to LAFCO, including a petition or resolution, an environmental review document, an agreement on how property taxes will be transferred, and a plan for services that describes what services will be provided at what level and how those services will be financed.
 - b) Second, LAFCO must hold a noticed public hearing, take testimony, and may approve the proposed reorganization. The LAFCO may impose terms and conditions that spell out what happens to the assets and liabilities of affected local agencies. If LAFCO disapproves, the proposed reorganization stops.
 - c) Third, LAFCO must hold another public hearing to count written protests in order to determine whether an election is needed. Although there are many exceptions, in most cases an election is required if 25% of the voters in a district, or voters representing 25% of the assessed value of land, submit written protests. In nearly all cases, if a majority of voters or landowners protest, the reorganization also stops.
 - d) Fourth, if an election is required, it occurs among the affected voters, requiring majority voter approval.
 - e) Finally, LAFCO's staff files formal documents to complete the reorganization.
- 4) **Pioneers Memorial Healthcare District.** According to the Imperial LAFCO, PMHD was formed on July 8, 1974 and serves an estimated population of 181,000, as of this year, in the County. PMHD has a five member board of directors and operates a 107-bed hospital located in Brawley, California. According to PMHD, "Pioneers was developed in the 1940s by community leaders with a vision for expanded health services in the northern part of Imperial County. Through their foresight and devotion to this worthy cause Pioneers Memorial Hospital and the Pioneers Memorial Healthcare District were created. PMHD was originally formed under the governance of a board of directors that was appointed by the Imperial County Board of Supervisors. Subsequent boards have been elected by the residents of the district. The doors to PMH were first opened on October 29, 1950..." PMHD currently employs approximately 851 individuals and provides such services as an intensive care unit, labor and delivery, pediatric services, and an emergency room wing that opened in May 1998.
- 5) **Heffernan Memorial Healthcare District.** According to the Executive Officer's report to the Imperial LAFCO in 2021, HMHD was formed as a hospital district in 1947 and is located in Calexico, serving a population of approximately 40,000. HMHD filed for bankruptcy in 1995 and HMHD's hospital closed in 1998. The board consists of five members, who are elected by HMHD's residents. HMHD's business plan update from April, 2021, states it is "focused on implementing and sponsoring programs that increase awareness to healthcare services and education for the Calexico community by practicing the following tenets: 1) partnering successfully with other healthcare providers to enhance the quality and breadth of health care services available to district residents. 2) Promoting, supporting, and providing healthcare services related primarily to disease prevention, health education, and wellness. 3) Selectively providing financial support for healthcare initiatives that are consistent with the District's vision and mission. 4) Maximizing the value derived from each taxpayer dollar spent through the careful planning and implementation of all Board approved activities and; conservatively managing its assets and resources to ensure long-term financial viability of the

organization.” The business plan proclaims that HMHD has a strong financial position, which gets supplemented each year with \$975,000 from property tax revenues.

- 6) **Application to LAFCO.** On January 24, 2023, PMHD adopted a resolution approving a preliminary application to the Imperial LAFCO for the potential expansion of PMHD. The resolution of application states that “Imperial County Citizens are better served by a single Healthcare District System, by delivering efficiencies of scale, by elimination of service duplication, and by maximizing reimbursements for an estimated 45% Medi-Cal patient population.” The application seeks the expansion of the PMHD boundaries to include all areas of the County and to prepare a governance structure of all areas within the new district boundaries. According to the Imperial LAFCO, this application is currently being reviewed.
- 7) **Policy Consideration.** The Legislature has delegated the power to control local boundaries to the 58 LAFCOs. The dissolution of and annexation to 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 Imperial LAFCO are often in the best position to evaluate the local conditions and circumstances that should determine the services provided within the County. This bill places several requirements on LAFCO, but does not allow for the usual annexation and dissolution process to occur. This Committee has seen an increasing number of bills seeking to bypass the LAFCO process. Therefore, the Committee may wish to consider if prohibiting LAFCO from disapproving the full application is taking away one of the fundamental powers the Legislature has tasked LAFCOs with.
- 8) **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 (Quirk) 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 2414 (Garcia), Chapter 416, Statutes of 2016, established a similar annexation process for the Desert Healthcare District.

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 257, Statutes of 2018, required set-asides for affordable units when a healthcare district uses design-build to construct housing, required healthcare districts to post additional information online, expanded what healthcare districts must include in their grant policies, and required 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.

AB 903 (Frazier) of 2021 would have dissolved the Los Medanos Community Healthcare District and designated the County of Contra Costa as the successor agency to the district. This bill failed passage in the Senate Governance and Finance Committee.

SB 418 (Laird), Chapter 1, Statutes of 2022, created the Pajaro Valley Health Care District.

- 9) **Arguments in Support.** In response to the April 17 version of this bill, The City of El Centro states, “Imperial County faces a significant challenge regarding inadequate access to healthcare providers and services. Various stakeholders have identified several obstacles, such as a shortage of primary care providers, limited medical and surgical specialties, lengthy wait times for medical care, insufficient urgent care services, and a lack of transportation. These challenges pose a significant threat to the health and well-being of our community.

“The legislative creation of a new healthcare district is the most effective solution to address these persistent issues. Creating a new healthcare district provides a significant opportunity to improve access to necessary medical care for the residents of Imperial County.

“By supporting this bill, we can help improve healthcare access in our community, which is essential for the well-being of all residents in Imperial County.”

- 10) **Arguments in Opposition.** In response to the March 23 version of this bill, the California Association of LAFCOs states, “First, AB 918 sets up a special procedure for an individual agency that circumvents a full LAFCo consideration and process. In so doing, it sets up procedural inequities among other applicants who will not enjoy the same treatment, while also setting a precedent for minimizing LAFCo consideration.

“Further, by mandating that the Imperial County LAFCo cannot disapprove the application from ICHD, AB 918 effectively negates sound, data-driven analysis which might conclude that a different course of action is better. While a seemingly innocuous consequence, it undermines the careful regional planning that is the intent behind the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH). While we recognize that the State has many serious policy issues that it is seeking to address expeditiously, minimizing the process that allows for the in-depth analysis needed to plan for sustainable infrastructure merely repeats the mistakes of a post-World War II/pre-LAFCo California.

“Lastly, given that the Imperial County LAFCo received a resolution of application from the Pioneers Memorial Healthcare District on January 24, 2023, seeking to expand the district to include the entire County of Imperial, AB 918 introduces a conflict with an ongoing LAFCo application in the subject county that has already been started in compliance with CKH.”

REGISTERED SUPPORT / OPPOSITION:

Support

Best S.T.E.P Forward (4/17/23 version)

City of El Centro (4/17/23 version)

Imperial County Medical Society (4/17/23 version)

Imperial Valley Equity and Justice Coalition (4/17/23 version)

Preston Hollow Community Capital (4/17/23 version)

University of California (4/17/23 version)

Opposition

California Association of LAFCOs (4/17/23 version)

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