

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 448 (Wieckowski) – As Amended July 3, 2017

**SENATE VOTE:** 39-0

**SUBJECT:** Local government: organization: districts.

**SUMMARY:** Requires the State Controller to publish a list of inactive special districts and establishes a process for local agency formation commissions (LAFCO) to dissolve inactive special districts. Specifically, **this bill:**

- 1) Requires the Controller, on or before November 1, 2018, and every year thereafter, to create a list of special districts that are inactive, based upon the financial reports received by the Controller, pursuant to existing law. Requires the Controller to publish the list of inactive districts on its Internet Website.
- 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;
  - d) The special district has no fund equity; and,
  - e) The special district has no outstanding debts, judgments, litigation, contracts, liens, claims, or postemployment liabilities.
- 3) Requires the Controller to notify the LAFCO in the county or counties in which the inactive district is located, if the Controller has included the district on the list.
- 4) Requires LAFCO to initiate dissolution of inactive districts by resolution within 90 days of receiving notification from the Controller, unless LAFCO determines that the district does not meet the criteria, pursuant to 2), above.
- 5) Requires LAFCO to notify the Controller, if the LAFCO determines that a district does not meet the criteria for an inactive district.
- 6) Requires LAFCO to dissolve inactive districts. Requires LAFCO to hold one public hearing 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 LAFCO.
- 8) Requires the Controller to remove a district from the inactive list, if the Controller receives substantial evidence that a district does not meet the criteria for an inactive district. Requires the Controller to notify the LAFCO in the county or counties in which the district is located, if the Controller's removes the district from the inactive list.
- 9) 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.
- 10) Requires the Controller, on or before July 1, 2019, to publish on its Internet Web site a comprehensive list of independent special districts. Requires the Controller to update the list every year thereafter.
- 11) Requires special districts to file annual audits with the LAFCO in the county or counties in which the district is located.
- 12) Adds the dissolution of an inactive district to the list of powers and duties granted to LAFCOs.
- 13) Provides that no reimbursement is required by this bill because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, for the prior version of this bill:

- 1) Likely minor costs for the State Controller's Office (SCO) to compile and post lists of independent special districts on its website each year. (General Fund)
- 2) Unknown local costs for LAFCOs to initiate and conduct curtailed dissolution proceedings for inactive independent special districts. Costs incurred by LAFCOs are not likely to be considered state-reimbursable by the Commission on State Mandates.

**COMMENTS:**

- 1) **Bill Summary.** This bill contains several provisions relating to special districts. This bill only applies to independent special districts and the provisions regarding dissolution do not apply to a special district formed by special legislation during the period of time in which the district is authorized to obtain funding. This bill is author-sponsored.
  - a) **Dissolution of Inactive Districts.** This bill requires the Controller, by November 1, 2018, to create a list annually of special districts that are inactive based on financial reports the Controller receives. The bill establishes the criteria for an inactive special district which must be an independent special district that has no financial transactions in the previous year, assets, fund equity, outstanding debts, judgments, litigation, contracts, liens, claims, or postemployment liabilities. Once the Controller notifies LAFCO of a

district's inclusion on the inactive list, the LAFCO must initiate the dissolution of the district. This bill establishes an expedited dissolution process, unless LAFCO determines that the district does not meet the criteria of an inactive district.

Under this bill, LAFCO must hold one public hearing and the dissolution cannot be subject to several steps of the usual dissolution process under LAFCO law, including protest and determinations. Further, this bill requires the Controller to remove a district from the inactive list upon receipt of substantial evidence that the district does not meet the criteria for an inactive district.

- b) **Audits.** This bill requires special districts to file annual audits with the LAFCO in the county or counties in which the district is located.
  - c) **List of Special Districts.** This bill requires the Controller, on or before July 1, 2019, to annually publish on its Internet Web site a comprehensive list of all independent special districts.
- 2) **Author's Statement.** According to the author, "The State Controller Office's (SCO) annual auditing reports reveal approximately 5,000 special districts in California; however, it is entirely unclear whether this is the accurate number of special districts. There is no accurate comprehensive list of districts in the state, making it impossible to hold districts accountable to their promised service, fair fees, or basic auditing requirements. This complete lack of transparency regarding the existence of special districts and the taxes they charge has created issues of inefficiency and unfair fees. Several special districts serving similar or identical purposes can overlap with each other or with city or county services, resulting in duplicative fees for duplicative services. This is not only expensive, but also makes it difficult for residents to contact their servicer, since there is not one primary provider. In California, these districts are largely invisible because neither the average taxpayer nor the State of California knows how many of these districts exist. SB 448 seeks to create transparency for special districts by mandating the creation of a comprehensive list of existing special districts in California. Additionally, the bill will create a streamlined process for [LAFCOs] to dissolve districts that demonstrate they are no longer performing through their regular audits. SB 448 is important to finally determine the size of the universe of special districts and to assist LAFCOs in dissolving districts that are no longer serving their purpose."
- 3) **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 special district dissolution. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals for these procedures.

The Act prescribes a process for the dissolution of special districts, which is similar to most boundary changes that require numerous steps: a) Initiation of LAFCO process, by petition of property owners or registered voters in the district or resolution of an affected agency; b) Noticed public hearing, testimony, and approval or disapproval by LAFCO; c) Additional public hearing for protests, and in specified cases, LAFCO must order an election on the

proposed dissolution; d) Dissolution election, if required, among district's voters, which requires a majority vote approval; and, e) LAFCO staff files documents to complete the dissolution.

AB 912 (Gordon), Chapter 109, Statutes of 2011, created an expedited process for the dissolution of special districts. Under this expedited process, if the proposed dissolution is initiated by the special district's board and dissolution is consistent with a prior action of LAFCO regarding a special study, sphere of influence, or municipal service review, LAFCO can order dissolution without protest or election. If the dissolution was initiated by an affected local agency, LAFCO, or petition, LAFCO must hold a public hearing to consider protest, and if there is no majority protest, LAFCO must order the dissolution without an election. Existing law also requires that a resolution adopted by LAFCO ordering the dissolution of a healthcare district to be subject to confirmation by the voters. Due to this provision and the expedited dissolution process put in place by AB 912, there is some ambiguity in existing law about a LAFCO's ability to order the dissolution of a healthcare district without an election.

- 4) **Audits.** Pursuant to existing law, special districts are required to submit an annual Financial Transactions Report, a Compensation Report, and an annual audit to the Controller. County auditors are required to annually audit each special district or contract with a certified public accountant or public accountant for this work. Existing law requires that the audit conforms to standards established by the Controller and to generally accepted auditing standards.
- 5) **Policy Considerations and Committee Amendments.** The Committee may wish to consider the following and to ask the author to accept the following amendments:
  - a) **Who is making the determination?** This bill assigns the Controller with the role of creating the inactive district list and therefore determining, based on the criteria established by this bill, which independent special districts belong on that list. This bill also authorizes LAFCOs to notify the Controller if they determine that a district does not meet the criteria as an inactive district. Additionally, this bill requires the Controller to remove a district from the inactive list if they receive substantial evidence that a district does not meet the inactive district criteria. The Committee may wish to consider if this creates a confusing process, and if the initial requirement for the Controller to establish the list and for the LAFCO to determine that a district meets the inactive district criteria prior to dissolution should suffice. In light of this consideration, the Committee may wish to ask the author to accept a committee amendment to delete subdivision (d) in Section 56879.
  - b) **Let's get technical.** The Committee may wish to ask the author to accept amendments to address the following procedural and technical issues:
    - i) **Special legislation.** This bill seeks to protect special districts formed by special legislation during the period of time in which the district is authorized to obtain funding. The Committee may wish to ask the author to amend this language to ensure special act special districts that were authorized to utilize several financing tools with no sunset date, will still be subject to the provisions regarding dissolution.

ii) **LAFCO provisions.** LAFCO law contains prescriptive steps for changes of organization, including for district dissolutions. The Committee may wish to ask the author to accept committee amendments to refine the portions of LAFCO law that are exempted to ensure the expedited dissolution process this bill creates for inactive districts can be achieved. Additionally, the Committee may wish to ask the author to accept amendments that provide additional clarity to the LAFCO process to ensure the public hearing regarding the dissolution of an inactive district occurs no more than 90 days following the adoption of the resolution initiating dissolution.

iii) **Defining an Inactive District.** The Committee may wish to consider asking the author to accept amendments to simplify some of the terms listed in the definition for an inactive district, per the request of the Controller's Office for whom this bill tasks with creating the list. These simplifications include striking out fund equity and postemployment liabilities and inserting liabilities.

c) **Who Pays?** 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. Mandating LAFCOs to initiate and fund the cost of dissolution of inactive districts would place significant strain on their budgets. The Committee may wish to consider how LAFCOs will be able to budget for this requirement.

6) **Arguments in Support.** None on file.

7) **Arguments in Opposition.** Opposition argues that there should be a process to ensure that a dissolution discussion at LAFCO is well-informed and vetted with community stakeholders.

**REGISTERED SUPPORT / OPPOSITION:** (Includes opposition letters received by the Committee's deadline which address a prior version of the bill.)

### **Support**

None on file

### **Opposition**

Association of California Healthcare Districts

California Association of Local Agency Formation Commissions (unless amended)

California Special Districts Association (unless amended)

Local Agency Formation Commission for San Bernardino County (unless amended)

**Analysis Prepared by:** Misa Lennox / L. GOV. / (916) 319-3958