

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

August 12, 2020

To: LAFCo Commissioners
From: Martha Poyatos, Executive Officer
Subject: Legislative Report

CALAFCO Bill Tracker and SB 414

CALAFCO is now tracking 11 bills. On July 31, 2020, the Policy and Legislative Committee met to discuss a proposed oppose comment letter for SB 414. The bill would allow the State Water Resources Control Board (SWRCB) to form, dissolve, or consolidate failing water systems that have either less than 3,000 service connections or that serves less than 10,000 people. Senator Anna Caballero, the bill's author, is proposing amendments that would remove authority from LAFCo to dissolve public water suppliers as part of the formation of these new water authorities and place these responsibilities solely with the SWRCB.

CALAFCO submitted a letter opposing these proposed changes that outlines a number of concerns with the bill regarding LAFCo authority and fiscal impacts to LAFCos. CALAFCO also requested comment letters from LAFCos to be sent to Senator Caballero and the Assembly Appropriations Committee by August 14, 2020, prior to the Commission's next meeting. Per Commission policy, the Policy and Legislative Committee can approve legislative comment letters if the comment period is prior to the next Commission meeting.

The Committee reviewed a draft letter and provided feedback that focused on local concerns and recommend a more customized letter with the CALAFCO letter as an attachment. The letter was reviewed again on August 11, 2020 via email by the Committee members and approved to be sent to Senator Caballero and the Assembly Appropriations Committee. The letter is attached for information only.

As noted in the CALAFCO tracker, a number of bill sponsors have already stated that they will not be moving their bills forward in 2020.

Plan Bay Area Comment Letter

Plan Bay Area 2050, a long-range planning document that is being drafted by the Metropolitan Transportation Commission and the Association of Bay Area Governments. MTC recently

COMMISSIONERS: JOSHUA COSGROVE, CHAIR, SPECIAL DISTRICT ▪ WARREN SLOCUM, VICE CHAIR, COUNTY ▪ RICH GARBARINO, CITY ▪ DON HORSLEY, COUNTY ▪ MIKE O'NEILL, CITY ▪ RIC LOHMAN, SPECIAL DISTRICT ▪ ANN DRAPER, PUBLIC

ALTERNATES: KATI MARTIN, SPECIAL DISTRICT ▪ HARVEY RARBACK, CITY ▪ JAMES O'NEILL, PUBLIC ▪ DAVE PINE, COUNTY

STAFF: MARTHA POYATOS, EXECUTIVE OFFICER ▪ REBECCA ARCHER, LEGAL COUNSEL ▪ ROB BARTOLI, MANAGEMENT ANALYST ▪ ANGELA MONTES, CLERK

requested public comments on several strategies proposed in the Plan. These strategies focus on issues such as transportation, housing, the environment, and the economy.

The comment letter sent by staff focused on how LAFCOs in the Bay Area can play a role in the implementation of these strategies. The comment letter noted how the annexation of unincorporated islands in San Mateo County could assist in removing multi-agency coordination in planning for housing and streamlining ties to transit. The letter encourages MTC and ABAG to include grant funding for LAFCOs, counties and cities to create annexation plans for unincorporated areas near high priority areas and transit corridors. The letter also highlighted the role that special districts play in providing municipal services and requests that MTC and ABAG engage with districts in the Plan Bay 2050 process in particular regarding capacity to serve planned growth.

Recommended Action:

Receive the report.

Attachments

- A. Legislative Daily Report 8/7/2020
- B. San Mateo LAFCo Letters for SB 414
- C. San Mateo LAFCo Letter to MTC Regarding Plan Bay Area 2050

CALAFCO Daily Legislative Report as of Friday, August 07, 2020

1

AB 1751 (Chiu D) Water and sewer system corporations: consolidation of service.

Current Text: Amended: 7/5/2019 [html](#) [pdf](#)

Introduced: 2/22/2019

Last Amended: 7/5/2019

Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/12/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

The California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board related responsibilities and duties. Current law authorizes the state board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, as provided. This bill, the Consolidation for Safe Drinking Water Act of 2019, would authorize a water or sewer system corporation to file an application and obtain approval from the commission through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

Position: Watch

Subject: Water

CALAFCO Comments: This bill would authorize a water or sewer system corporation to file an application and obtain approval from the PUC through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system. The bill would require the commission to approve or deny the app. Unless the commission designates a different procedure because it determines a consolidation warrants a more comprehensive review, the bill would authorize a water or sewer system corporation to instead file an advice letter and obtain approval from the commission through a resolution authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

SB 414 (Caballero D) Small System Water Authority Act of 2019.

Current Text: Amended: 6/25/2019 [html](#) [pdf](#)

Introduced: 2/20/2019

Last Amended: 6/25/2019

Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/21/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would create the Small System Water Authority Act of 2019 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified.

Attachments:

[LAFCO Template Oppose Pending Amendment to Author CALAFCO Oppose Pending Amendments to AESTM](#)

- [CAIAFCO Oppose Pending Amendments to Author](#)
- [CALAFCO Oppose Pending Amendments to SGFC](#)
- [CALAFCO Oppose Pending Amendments to SEQ](#)
- [LAFCO Template Oppose Pending Amendments to Assm Appropriations](#)
- [CALAFCO Oppose Pending Amendments to ALGC](#)
- [CALAFCO Oppose Pending Amendments to Assm Appropriations](#)

Position: Oppose Pending Amendments

Subject: Water

CALAFCO Comments: UPDATE AS OF 07/23/20. There are currently proposed pending amendments not yet in print being negotiated by the author and sponsors with Assm. Appropriations that remove LAFCo authority in the formation of the new water authority and give that quasi-legislative authority to the SWRCB. Further LAFCO will no longer have any authority in the dissolution of a public water supplier as part of the formation of the new authority, and all LAFCo funding for what is required to be done by LAFCo is being eliminated. There are numerous other issues with the pending amendments, all of which are detailed in our opposition letter.

This bill is very similar to AB 2050 (Caballero) from 2018. Several changes have been made. This bill is sponsored by Eastern Municipal Water District and the CA Municipal Utilities Assoc. The intent is to give the State Water Resources Control Board (SWRCB) authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems, this will add the authority to mandate dissolution and formation of a new public agency.

LAFCo will be responsible for dissolving any state mandated public agency dissolution, and the formation of the new water authority. The SWRCB's appointed Administrator will act as the applicant on behalf of the state. LAFCo will have ability to approve with modifications the application, and the new agency will have to report to the LAFCo annually for the first 3 years.

[SB 928](#) (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/5/2020 [html](#) [pdf](#)

Introduced: 2/5/2020

Status: 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar:

8/11/2020 9:30 a.m. - State Capitol, Room 4202 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

Summary:

This bill would enact the First Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Position: Support

CALAFCO Comments: This is the first of three annual validating acts.

[SB 929](#) (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/5/2020 [html](#) [pdf](#)

Introduced: 2/5/2020

Status: 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar:

8/11/2020 9:30 a.m. - State Capitol, Room 4202 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

Summary:

This bill would enact the Second Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Position: Support

CALAFCO Comments: This is the second of three annual validating acts.

SB 930 (Committee on Governance and Finance) Validations.**Current Text:** Introduced: 2/5/2020 [html](#) [pdf](#)**Introduced:** 2/5/2020**Status:** 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar:

8/11/2020 9:30 a.m. - State Capitol, Room 4202 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

Summary:

This bill would enact the Third Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Position: Support**CALAFCO Comments:** This is the third of three annual validating acts.

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AB 213 (Reyes D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.**Current Text:** Introduced: 1/15/2019 [html](#) [pdf](#)**Introduced:** 1/15/2019**Status:** 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/19/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would, for the 2019–20 fiscal year, require the vehicle license fee adjustment amount to be the sum of the vehicle license fee adjustment amount in the 2018–19 fiscal year, the product of that sum and the percentage change in gross taxable assessed valuation within the jurisdiction of that entity between the 2018–19 fiscal year to the 2018–19 fiscal year, and the product of the amount of specified motor vehicle license fee revenues that the Controller allocated to the applicable city in July 2010 and 1.17.

Attachments:[CALAFCO Support Letter](#)**Position:** Support**Subject:** Tax Allocation**CALAFCO Comments:** Sponsored by the League, this bill will reinstate ERAF funding for inhabited annexations. This bill is the same as AB 2268 (Reyes) from 2018.

3

AB 134 (Bloom D) Safe Drinking Water Restoration.**Current Text:** Amended: 5/20/2019 [html](#) [pdf](#)**Introduced:** 12/5/2018**Last Amended:** 5/20/2019**Status:** 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was E.Q. on 6/12/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would require the State Water Resources Control Board to report to the Legislature by July 1, 2025, on its progress in restoring safe drinking water to all California communities and to create an internet website that provides data transparency for all of the board's activities described in this measure. The bill would require the board to develop metrics to measure the efficacy of the fund in ensuring safe and affordable drinking water for all Californians.

Position: Watch

Subject: Water

AB 2370 (Limón D) Ventura Port District: aquaculture plots: federal waters.

Current Text: Amended: 3/16/2020 [html](#) [pdf](#)

Introduced: 2/18/2020

Last Amended: 3/16/2020

Status: 3/17/2020-Re-referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, a city or district may only provide new or extended services by contract or agreement outside of its jurisdictional boundary if it requests and receives written approval, as provided, from the local agency formation commission in the county in which the extension of service is proposed. This bill would, notwithstanding the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, authorize the Ventura Port District, to the extent permitted by federal law, to construct, maintain, operate, lease, and grant permits to others for the installation, maintenance, and operation of aquaculture plots in federal waters off the coast of California the County of Ventura, as prescribed, in order to aid in the development or improvement of navigation or commerce to the port district.

Position: Watch

Subject: Special District Powers

CALAFCO Comments: This is a local bill authorizing Ventura Port District to extend operations into federal waters. CALAFCO will work with Ventura LAFCo.

UPDATE: CALAFCO learned that the author has pulled the bill for 2020.

AB 3312 (Gray D) Local agency formation: annexation: City of Merced.

Current Text: Amended: 7/31/2020 [html](#) [pdf](#)

Introduced: 2/21/2020

Last Amended: 7/31/2020

Status: 7/31/2020-Read second time and amended. Ordered to third reading.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Calendar:

8/10/2020 #39 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary:

Would authorize the annexation of territory comprising the main campus of the University of California, Merced, as specified, and any road strip, as defined, to the City of Merced, notwithstanding the requirement that the territory be contiguous with the city, if other conditions are met, including that the territory is within the city's sphere of influence. The bill would prohibit the commission from approving a subsequent annexation of a road strip pursuant to these provisions unless the territory proposed to be annexed is contiguous to the property comprising the main campus of the University of California, Merced or the boundaries of the City of Merced as it existed on January 1, 2021.

Attachments:

[CALAFCO Oppose as amended](#)

Position: Oppose

Subject: Annexation Proceedings

CALAFCO Comments: UPDATE: The amendments of 7/23/20 change the bill so that all territory adjacent to the road strip (rather than just tot he campus) are eligible for annexation. This will create a wide swath of checkerboard annexations and sets a precedent. Further, the City has been working on an annexation feasibility study for 2 years that is supposed to be presented to the City Council within the next month or two, so this legislation is premature to that study. CALAFCO is now opposed to the bill as amended.

This is a local bill for Merced. It allows a defined section of the UC Merced campus and access road to be annexed if certain conditions are met and keeps the LAFCo process intact. CALAFCO will watch the bill to ensure the LAFCo process remains protected and work with Merced LAFCo.

SB 625 (Bradford D) Central Basin Municipal Water District: receivership.

Current Text: Amended: 6/8/2020 [html](#) [pdf](#)

Introduced: 2/22/2019**Last Amended:** 6/8/2020**Status:** 6/18/2020-Re-referred to Com. on RLS. pursuant to Senate Rule 29.10(d).

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would dissolve the board of directors of the Central Basin Municipal Water District (CBMWD) and would provide that the November 3, 2020, election for directors of CBMWD shall not occur. The bill would require the Water Replenishment District of Southern California (WRD) to act as the receiver for CBMWD, would vest WRD with all necessary powers under the Municipal Water District Law of 1911 to take control of CBMWD, and would transfer all powers vested in the board of directors of CBMWD to the board of directors of WRD, except as specified. The bill would require CBMWD's board of directors to surrender all control of CBMWD and its resources to WRD.

Attachments:[LAFCo Support letter template](#)[CALAFCO Support June 12, 2020](#)**Position:** Support**Subject:** Municipal Services**SB 806 (Grove R) Worker status: employees: independent contractors.****Current Text:** Amended: 4/29/2020 [html](#) [pdf](#)**Introduced:** 1/9/2020**Last Amended:** 4/29/2020**Status:** 5/18/2020-May 14 set for first hearing. Failed passage in committee. (Ayes 1. Noes 4.) Reconsideration granted.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would establish a new test that, for purposes of specific provisions of the Labor Code governing the relationship of employer and employees, a person providing labor or services for remuneration is considered an employee rather than an independent contractor, unless the hiring entity demonstrates that the person is (1) free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact, determined by a preponderance of factors, with no single factor of control being determinative, and either that (2) the person performs work that is outside the usual course of the hiring entity's business, or the work performed is outside the place of business of the hiring entity, or the worker is responsible for the costs of the place of the business where the work is performed, or that (3) the person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Position: Watch**Subject:** Other**CALAFCO Comments:** This bill proposes amendments to AB 5 in terms of the exemption tests which may impact the contractual/employee relationship of CALAFCO and its two primary contractors.

Total Measures: 11

Total Tracking Forms: 11

8/7/2020 10:23:02 AM



August 13, 2020

The Honorable Anna Caballero
 California State Senate
 State Capitol, Room 5052
 Sacramento, CA 95814

RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS

Dear Senator Caballero:

It is our understanding that there are planned amendments to **SB 414** to be done in Assembly Appropriations where the bill is currently being held in Suspense. The San Mateo Local Agency Formation Commission (LAFCO) joins the California Association of Local Agency Formation Commissions (CALAFCO) in opposing the proposed pending amendments for your bill **SB 414**. Please see attached letter from Pamela Miller, Executive Director of CALAFCO.

One area that San Mateo LAFCo would like to highlight is the removal of a Plan for Service for the new or expanded water district. A Plan for Service is key to informing members of the public and other agencies how the new agency will function, what level of service will be provided, and how this service will be financed. It also ensures that the new agency will be able to sustain service, in particular such a critical service such as water. The review of the Plan for Service at a local and public LAFCo meeting enhances transparency and responsiveness to those impacted by the new or expanded agency including residents and other entities.

While we support efforts to ensure all Californians have safe, affordable drinking water, we oppose the proposed amendments because they would eliminate LAFCos from the important process of local government reorganization. The Legislature created LAFCos to provide for efficient service delivery patterns at the local level based on local conditions. San Mateo LAFCo performs municipal service reviews and sphere of influence updates on cities, independent special districts and County-governed districts including water districts and county service areas that provide municipal water. In doing so, we are the agency most familiar with the strengths and weaknesses of these districts and local land use plans including the County's Local Coastal Plan that guide where water service can be provided. Lastly, San Mateo LAFCo has adopted policies that specifically address the important issues of environmental justice and sustainable water supplies and we are the agency best able to engage at the local level with the voters, rate payers and tax payers potentially affected by special district reorganization.

COMMISSIONERS: JOSHUA COSGROVE, CHAIR, SPECIAL DISTRICT ▪ WARREN SLOCUM, VICE CHAIR, COUNTY ▪ RICH GARBARINO, CITY ▪ DON HORSLEY, COUNTY ▪ MIKE O'NEILL, CITY ▪ RIC LOHMAN, SPECIAL DISTRICT ▪ ANN DRAPER, PUBLIC

ALTERNATES: KATI MARTIN, SPECIAL DISTRICT ▪ HARVEY RARBACK, CITY ▪ JAMES O'NEILL, PUBLIC ▪ DAVE PINE, COUNTY

STAFF: MARTHA POYATOS, EXECUTIVE OFFICER ▪ REBECCA ARCHER, LEGAL COUNSEL ▪ ROB BARTOLI, MANAGEMENT ANALYST ▪ ANGELA MONTES, CLERK

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CALAFCO has identified several additional concerns which are addressed in detail in the attached letter from CALAFCO Executive Director Pamela Miller.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Yours Sincerely,

Martha Poyatos
Executive Officer

Cc: Assembly Local Government Committee
Assembly Environmental Safety & Toxic Materials Committee
Senate Governance and Finance Committee
Senate Environmental Quality Committee
Pamela Miller, Executive Director, CALAFCO
Members, Formation Commission

Attachment: CALAFCO Oppose Letter

July 23, 2020

The Honorable Anna Caballero
California State Senate
State Capitol, Room 5052
Sacramento, CA 95814

RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS

Dear Senator Caballero:

The California Association of Local Agency Formation Commissions (CALAFCO), representing all 58 local agency formation commissions (LAFCo) in the state, is opposed to the proposed pending amendments for your bill **SB 414**. It is our understanding you are planning amendments to be done in Assembly Appropriations where the bill is currently being held in Suspense.

We appreciate you, your staff and the sponsors working with us over the past several years on this bill (and the prior version, AB 2050, 2018, vetoed by Governor Brown, which we supported), and we support efforts to ensure all Californians have safe, affordable drinking water. However, the proposed amendments have such a substantive negative impact to local agency formation commission (LAFCo) that we must now oppose them.

It is our understanding these changes are an effort to reduce the cost of the bill, and to closer align processes and State Water Resources Control Board (SWRCB) authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

The proposed amendments strip LAFCos of their part and authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCo. Additionally, they remove LAFCos' authority to dissolve a public water system as authorized by the SWRCB and as part of the formation process of the new authority. As you know, formation of a new, local public agency has been the authority of LAFCo since 1963 when the Legislature created them. To now turn that authority over to the SWRCB in an effort to “save money” or “streamline the process”, we believe, creates a false perception that the cost will be reduced and sets a dangerous precedent.

SECTION 1 of the bill is being completely stricken and therefore divests LAFCo of all involvement in the formation process and it removes LAFCo from the process of dissolving any public water system identified by the SWRCB as mandated for dissolution and inclusion into the new authority except for holding a public hearing on the matter. Not only does this removal divest LAFCo of their authority and give it to the SWRCB, it eliminates the Plan for Service requirements to be included in the draft conceptual formation plan. All other public agencies are subject to submit a comprehensive Plan for Service when applying to provide services and exempting the authority from doing so sets a precedent.

Code Section 78038(b) proposes to give quasi-legislative authority to the SWRCB in the action to form the new authority. The Legislature created LAFCo as a quasi-legislative body decades ago to do this very thing. While the Legislature has exercised its authority to create new service providers in the past, until now there has been no state agency with that authority. We fail to understand the need to create an

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entity at the state level to do something LAFCoS have been effectively doing for 57 years – forming new districts – that happen at the local level.

LAFCo is being excluded from several critical notification points:

- Code Section 78033(a)(1) excludes LAFCo from the list of entities the SWRCB is to notify of their intent to form the authority. *LAFCo needs to be included in the list of other local agencies receiving such notification* (such as cities, county, water districts, etc.). Further, this section allows the SWRCB to invite other public water suppliers to consider dissolving and join the authority. Without including LAFCo on the notification under this section, LAFCo would be in the dark regarding those local districts (both independent and dependent) that may consider dissolving.
- Code Section 78033(a)(2)(A) excludes LAFCo notification from an entity wishing to consolidate into a proposed authority. *LAFCo needs to be included in this notification*.
- Code Section 78033(a)(2)(B) provides that customers of an entity wishing to join a proposed authority petition the SWRCB directly. Not only does this keep LAFCo in the dark, it is a run-around of the current service provider as there appears to be no notification to them.
- Code Section 78033(b) allows the governing board of a county or city dependent special district to notify the formation coordinator they wish to opt into the new authority. Here again, without LAFCo receiving this notification there is no way for them to know of the pending dissolution.

In addition to removing LAFCoS' existing authority from the formation process of a public agency service provider, we are concerned about Code Section 78037(a)(3) which requires the LAFCo to hold a public hearing to allow for public comment on the dissolution of the public water system mandated for dissolution by the SWRCB and requires the LAFCo to provide all comments back to the SWRCB for consideration (without the funding to do either). The section also states the dissolution shall be ordered upon completion of the public hearing. We question the purpose of reporting back the public comments to the SWRCB for consideration if the dissolution is ordered immediately upon closure of the public hearing.

If one of the goals of these amendments is to closer align processes with SB 88, then it would stand to reason the SWRCB would be the entity conducting the public hearing (pursuant to Code Section 116682 of the Health and Safety Code), especially given the fact that with these amendments, the LAFCo no longer has any other part in the actual dissolution.

Further, as we've discussed with the sponsors previously, ordering a dissolution for a service provider who is currently providing service requires a successor agency to assume the delivery of service as well as all the assets and liabilities of the entity being dissolved. Code Section 78037(a)(4) requires the order of dissolution to make appropriate equitable arrangements for the interim operation of the public water system until the formation of the authority is complete, and they are prepared to take over service delivery. While that "interim" service provider may be identified in the draft conceptual formation plan, 78037(a)(4) does not explicitly state to whom the service, assets and liabilities should be transferred. We suggest language be added to explicitly state the interim operator as identified in the approved conceptual formation plan.

Proposed amendments to the draft conceptual plan

We have a few concerns relating to the draft conceptual plan as noted below.

- Code Section 78035(c) requires the formation coordinator to submit the draft conceptual formation plan to the SWRCB and any applicable LAFCo for comments within 60 days of its receipt. Further, the formation coordinator shall finalize the plan for public comment no later

July 23, 2020

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- than 30 days after receiving comments from the SWRCB. What is left out of this section are the comments on the plan from the LAFCo. Undoubtedly, as the local agency who is responsible for the formation of public agencies, LAFCOs know what to look for and consider when reviewing formation plans. *Their comments need to be considered by the SWRCB and the formation coordinator before the document is available for public comment.*
- Code Section 78038 requires LAFCo to hold two public hearings on the draft conceptual formation plan and to subsequently submit a report to the SWRCB summarizing public comment and any recommendations the LAFCo may have for the SWRCB on the plan. *We would like to see amendments requiring the SWRCB to specifically adopt or reject each of LAFCOs recommendation on the draft plan and explain their response for those decisions.*

Removing funding for LAFCo mandates

We appreciate you, your staff and the sponsors working with us over the past several years to ensure LAFCo costs are covered. The current version of the bill reflects a cost of up to \$10.65 million to LAFCOs for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. We believe the cost for LAFCOs to do the work as outlined in the June 25, 2019 version of the bill is far below the \$10.65 estimate (depending upon the number of authorities formed).

Even using the fiscal projections in the current bill, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCOs to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCOs to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; and (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCo for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCo) *“incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board”*. All of the LAFCo expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, the LAFCo will have to increase their fees to the local government agencies that pay into the LAFCo annually (cities, counties, and special districts).

July 23, 2020

SB 414 – OPPOSE PENDING AMENDMENTS

Page 4 of 4

We strongly believe LAFcos need to be added to the language in Section 78115 (a)(1). All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved puts the collection of that funding on the backs of local government.

We want you to know we appreciate your efforts and those of your staff and the sponsors in working with us over the past several years on this very important issue. We have very few concerns with the bill as currently written but strongly oppose the proposed amendments for all the reasons stated above. We are happy to continue to have conversations on the bill to find solutions that work for everyone.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Pamela Miller".

Pamela Miller
Executive Director



August 13, 2020

The Honorable Lorena Gonzalez
 Chair, Appropriations Committee
 California State Assembly
 State Capitol, Room 2114
 Sacramento, CA 95814

RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS

Dear Chair Gonzalez:

The San Mateo Local Agency Formation Commission (LAFCo), joins the California Association of Local Agency Formation Commissions (CALAFCO) in opposing the proposed pending amendments for **SB 414** (Caballero). The bill is currently being held in your committee. Please see attached letter from Pamela Miller, Executive Director of CALAFCO.

One area that San Mateo LAFCo would like to highlight is the removal of a Plan for Service for the new or expanded water district. A Plan for Service is key to informing members of the public and other agencies how the new agency will function, what level of service will be provided, and how this service will be financed. It also ensures that the new agency will be able to sustain service, in particular such a critical service such as water. The review of the Plan for Service at a local and public LAFCo meeting enhances transparency and responsiveness to those impacted by the new or expanded agency including residents and other entities.

While we support efforts to ensure all Californians have safe, affordable drinking water, we oppose the proposed amendments because they would eliminate LAFCos from the important process of local government reorganization. The Legislature created LAFCos to provide for efficient service delivery patterns at the local level based on local conditions. San Mateo LAFCo performs municipal service reviews and sphere of influence updates on cities, independent special districts and County-governed districts including water districts and county service areas that provide municipal water. In doing so, we are the agency most familiar with the strengths and weaknesses of these districts and local land use plans including the County's Local Coastal Plan that guide where water service can be provided. Lastly, San Mateo LAFCo has adopted policies that specifically address the important issues of environmental justice and sustainable water supplies and we are the agency best able to engage at the local level with the voters, rate payers and tax payers potentially affected by special district reorganization.

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ALTERNATES: KATI MARTIN, SPECIAL DISTRICT ▪ HARVEY RARBACK, CITY ▪ JAMES O'NEILL, PUBLIC ▪ DAVE PINE, COUNTY

STAFF: MARTHA POYATOS, EXECUTIVE OFFICER ▪ REBECCA ARCHER, LEGAL COUNSEL ▪ ROB BARTOLI, MANAGEMENT ANALYST ▪ ANGELA MONTES, CLERK

August 13, 2020

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CALAFCO has identified several additional concerns which are addressed in detail in the attached letter from CALAFCO Executive Director Pamela Miller.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Yours Sincerely,

Martha Poyatos
Executive Officer

Cc: Members, Assembly Appropriations Committee
Honorable Senator Caballero
Jennifer Galehouse, Assembly Appropriations Committee Deputy Chief Consultant
Suzanne Sutton, Consultant, Senate Republican Caucus
Pamela Miller, Executive Director, CALAFCO

Attachment: CALAFCO Oppose Letter

July 23, 2020

The Honorable Lorena Gonzalez
Chair, Appropriations Committee
California State Assembly
State Capitol, Room 2114
Sacramento, CA 95814

RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS

Dear Chair Gonzalez:

The California Association of Local Agency Formation Commissions (CALAFCO), representing all 58 local agency formation commissions (LAFCo) in the state, is opposed to the proposed pending amendments for **SB 414** (Caballero). The bill is currently being held in your committee. While there are vast policy issues with the proposed amendments, this letter will focus our concerns to you and your committee on the fiscal issues of the proposed amendments.

According to the sponsors, in an effort to reduce costs associated with the bill, the role of LAFCos that exist in the current version of the bill (dated June 25, 2019) is being drastically reduced. The proposed amendments strip LAFCos of their part and authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCo. Additionally, they remove LAFCos' authority to dissolve a public water system as authorized by the State Water Resources Control Board (SWRCB) and as part of the formation process of the new authority.

The sponsors have also indicated the proposed amendments that change numerous processes in SB 414 are intended to reflect closer alignment with processes and SWRCB authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

The current version of the bill, as noted in last fiscal analysis on August 21, 2019 in your committee, reflects a cost of up to \$10.65 million to LAFCos for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. We appreciate the author and sponsors working with us over the past several years to ensure LAFCo costs are covered. We believe the cost for LAFCos to do the work as outlined in the June 25, 2019 version of the bill is far below the \$10.65 estimate (depending upon the number of authorities formed).

Even using the fiscal projections in the current bill, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCos to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

July 23, 2020

SB 414 – OPPOSE PENDING AMENDMENTS

Page 2 of 2

Finally, the proposed pending amendments require LAFcos to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFco for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFco) “incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board”. All of the LAFco expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, the LAFco will have to increase their fees to the local government agencies that pay into the LAFco annually (cities, counties, and special districts).

LAFcos need to be added to the language in Section 78115 (a)(1). All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved is inappropriate and puts the collection of that funding on the backs of local government.

For these fiscal reasons, we oppose the proposed pending amendments to **SB 414** and strongly urge your committee to reject the amendments and hold the bill.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Yours Sincerely,



Pamela Miller
Executive Director

cc: Members, Assembly Appropriations Committee
Honorable Senator Caballero
Jennifer Galehouse, Assembly Appropriations Committee Deputy Chief Consultant
Suzanne Sutton, Consultant, Senate Republican Caucus



LOCAL AGENCY FORMATION COMMISSION

455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

August 7, 2020

Sent Via Email
 Mr. Dave Vautin
 Metropolitan Transportation Commission
 375 Beale Street
 San Francisco, CA 94105

Subject: Comments on Plan Bay 2050 Blueprint Strategies

Dear Mr. Vautin,

Thank you for you for the opportunity to comment on the Plan Bay 2050 Blueprint Strategies. The Plan identifies five Guiding Principles and four Strategies that address the topics of transportation, the regional economy, housing, and the environment. Several of the actions identified by the Plan focus on the construction of housing that is both affordable and near transit, developing infrastructure to provide greater mobility, protecting communities from the impacts of climate change, and providing economic opportunities for all Bay Area residents.

The Local Agency Formation Commission (LAFCo) is a state mandated local agency established in every county to regulate the boundaries of cities and special districts. The development patterns identified in the Plan align with the goals of LAFCos to discourage urban sprawl, encourage orderly growth, and protect agricultural and open space lands. As part of this focus on reducing sprawl, San Mateo LAFCo encourages cities to annex the many unincorporated islands that are scattered through the 20 cities in the county. These islands are wholly or substantially surrounded by a city and are developed with or zoned for single-family homes and commercial and industrial uses. LAFCo adopted spheres of influence place these areas in the sphere of the city that can most efficiently provide municipal services. Supporting annexation of these developed areas consistent with the LAFCo designated sphere of influence will vest land use authority in the agency best able to provide municipal service, remove multi-agency coordination in planning for housing, and streamline facilitating ties to transit. It should also be noted that San Mateo County's General Plan Policies encourage annexation of urban areas within city spheres of influence.

In San Mateo County, several unincorporated islands in City spheres of influence are near existing transit hubs and are identified as or are near Priority Development Areas. Allowing development in these areas to occur in cities would allow for greater cohesion of both transit and land use plans under a single jurisdiction and afford regional and local agencies better opportunities to allocate

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finite resources in a more efficient manner. Additionally, cities as water and sewer agencies can better coordinate supply and capacity in determining density and location of affordable housing in order to meet the City's RHNA allocation.

In other Bay Area Counties, there are Disadvantaged Unincorporated Areas (DUCs) located within PDAs. DUCs are defined as inhabited territory that constitutes all or a portion of an unincorporated community with an annual median household income that is less than 80 percent of the statewide annual household income. State law requires that LAFcos identify and analyze water, sewer and fire service issues within DUCs as part of municipal service reviews, and sphere of influence reviews. State law also places restrictions on annexations to cities if the proposed annexation is adjacent to a DUC.

We would encourage the MTC and ABAG to consider including strategies that support the annexation of the developed, unincorporated areas including DUCs to cities in order to further the goals of Plan Bay Area 2050. One strategy could be grant funding as part of Plan Bay Area 2050 to LAFcos and cities. Many of the LAFcos within the Bay Area have limited budgets and staff, with an average of two full time employees. With grant funding made available to LAFcos and cities for annexation plans for unincorporated areas in or near PDAs, LAFco and cities could coordinate the annexation process, creating service plans, and outreach to residents about the benefits of annexation. The grants to support these annexations would have long lasting benefits for residents, cities, and counties.

Another issue that should be considered in the Blueprint is the role that special districts play in providing municipal service. LAFco also regulates the boundaries and services provided by the 22 independent and 44 county governed special districts. Many of these special districts provide public services, such as water, sewer, and fire protection that are essential to the continued growth and protection of the Bay Area. We encourage MTC and ABAG to engage special districts throughout the Plan Bay 2050 process and to take into consideration the impacts of the Plan's policies on special districts. Each Bay Area LAFco can assist MTC/ABAG in reaching out to the special districts in our respective counties.

San Mateo LAFco looks forward to reviewing all future documents related to Plan Bay 2050 and on behalf of the Commission, thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Martha Poyatos". The signature is written in a cursive style with a large, prominent initial "M".

Martha Poyatos
Executive Officer