

SAN MATEO



# LOCAL AGENCY FORMATION COMMISSION

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**October 14, 2020**

**To:** LAFCo Commissioners  
**From:** Martha Poyatos, Executive Officer  
 Rob Bartoli, Management Analyst  
**Subject:** Legislative Report

## **CALAFCO Bill Tracker and SB 414**

CALAFCO is now tracking 11 bills, most of which did not move forward at the end of the legislative year on August 31. One such bill was 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 and San Mateo LAFCo sent letters opposing the bill to Senator Caballero and the Assembly Appropriations Committee. SB 414 did not move out of the committee, however CALAFCO anticipates that a similar bill will be introduced in the next legislative year.

Reports from the Senate and Assembly of legislation that was signed into law are anticipated to be completed by the end of the year and will be shared with the Commission.

## **Recommended Action:**

Receive the report.

## **Attachments**

- A. Legislative Daily Report 10/8/2020

**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 ▪ TIM FOX, LEGAL COUNSEL ▪ ROB BARTOLI, MANAGEMENT ANALYST ▪ ANGELA MONTES, CLERK

## CALAFCO Daily Legislative Report as of Thursday, October 08, 2020

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### [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:** 8/21/2020-Failed Deadline pursuant to Rule 61(b)(15). (Last location was S. 2 YEAR on 8/30/2019)

Desk	Policy	Fiscal	Floor	Desk	Dead	Fiscal	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:** 8/21/2020-Failed Deadline pursuant to Rule 61(b)(15). (Last location was A. APPR. SUSPENSE FILE on 8/18/2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	Dead	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](#)

- [CALAFCO 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 8/10/20. After discussions with the author's staff and sponsors regarding CALAFCO's concerns, additional amendments are expected that address some but not all of our concerns. The primary concerns of LAFCo exclusion from the formation process, LAFCo exclusion from the dissolution process, and unclear funding language are still cause for great concern and CALAFCO will retain an OPPOSE position. Further, CALAFCO has not yet reviewed the pending amendments to ensure they are as stated by the sponsors. Changes specific to LAFCo are to be as follows:

- o Added language clarifying that LAFCos are on the list of notified entities under Section 78033(a) (1) when the State Board intends to form a SSWA;
- o Added language in 78033(a)(2)(A) to make sure the LAFCo is notified when an entity wishes to voluntarily join a SSWA;
- o Added language in 78033(a)(2)(B) to notify a LAFCo when the public issues a petition to join a SSWA;
- o Added language in 78033(b) to notify a LAFCo when a dependent special district wishes to opt-in to an authority;
- o Added language identifying the "interim operator" in 78037 (a)(4) as the entity to whom the service, assets and liabilities should be transferred;
- o Added language in 78035(c) requiring comments received by the LAFCo be considered by the SWRCB and formation coordinator on the draft conceptual formation plan prior to the document being made public;
- o Added language in Section 78038 requiring the State board to respond to the contents of the report; and
- o Removed reference to "extraordinary" costs to all allow all LAFCo costs to be funded by the SWRCB and added language in the Safe Drinking Water Fund Expenditure Plan clarifying that these costs are an eligible expense.

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:** Chaptered: 9/24/2020 [html](#) [pdf](#)

**Introduced:** 2/5/2020

**Status:** 9/24/2020-Approved by the Governor. Chaptered by Secretary of State. Chapter 132, Statutes of 2020.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	<b>Chaptered</b>
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1st House	2nd House				
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**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:** Chaptered: 9/24/2020 [html](#) [pdf](#)

**Introduced:** 2/5/2020

**Status:** 9/24/2020-Approved by the Governor. Chaptered by Secretary of State. Chapter 133, Statutes of 2020.

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

**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:** Chaptered: 9/24/2020 [html](#) [pdf](#)

**Introduced:** 2/5/2020

**Status:** 9/24/2020-Approved by the Governor. Chaptered by Secretary of State. Chapter 134, Statutes of 2020.

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

**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:** 8/21/2020-Failed Deadline pursuant to Rule 61(b)(15). (Last location was S. 2 YEAR on 8/30/2019)

Desk	Policy	Fiscal	Floor	Desk	Dead	Fiscal	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.

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**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:** 8/18/2020-Failed Deadline pursuant to Rule 61(b)(13). (Last location was E.Q. on 6/12/2019)

Desk	Policy	Fiscal	Floor	Desk	Dead	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:** 8/31/2020-Failed Deadline pursuant to Rule 61(b)(18). (Last location was A. L. GOV. on 3/12/2020)

Desk	Dead	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:** Chaptered: 9/10/2020 [html](#) [pdf](#)

**Introduced:** 2/21/2020

**Last Amended:** 8/13/2020

**Status:** 9/9/2020-Approved by the Governor. Chaptered by Secretary of State - Chapter 56, Statutes of 2020.

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

**Summary:**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 generally requires that a territory to be annexed be contiguous to the city at the time the proposal is initiated. The act also requires each commission to develop and determine the sphere of influence of each city and special district within the county. The act defines sphere of influence, for purposes of these provisions, as a

plan for the probable physical boundaries and service area of the local agency, as determined by the commission. This bill would authorize the annexation of territory comprising the main campus of the University of California, Merced, as specified, and the 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 to the 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 Removal of Opposition](#)
- [CALAFCO Oppose as amended](#)

**Position:** Watch

**Subject:** Annexation Proceedings

**CALAFCO Comments:** UPDATE AS OF AUGUST 14, 2020 - As amended on 8/13, the bill addressed the necessary technical correction and CALAFCO has removed our opposition and moved back to Watch.

UPDATE AS OF AUGUST 1, 2020. The bill was amended on the Senate floor, however there was an error in the language. The amendments prohibited annexations of road strips subsequent to the original annexation allowed in this bill. However, this provision was intended to prohibit subsequent annexations to the road strip to prevent so-called checkerboard annexations that undermine orderly growth and development patterns. With this correction, we will remove our opposition.

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:** 8/31/2020-Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. RLS. on 6/18/2020)

Desk	Dead	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptured
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:** 8/31/2020-Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. L., P.E. & R. on 5/14/2020)

Desk	Dead	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

10/8/2020 4:02:53 PM