



LOCAL AGENCY FORMATION COMMISSION
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April 17, 2019

The Honorable Kansen Chu
California State Assembly
State Capital Room 3126
Sacramento, CA 95814

Subject: **OPPOSE Assembly Bill 600 (as amended April 11, 2019)**

Dear Assembly Member Chu:

The El Dorado Local Agency Formation Commission (LAFCO) joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose your bill, **Assembly Bill 600**. Like other LAFCOs, we are aware of and concerned about the disparity of local public services, especially for residents and properties located within disadvantaged unincorporated communities (DUCs). All Californians deserve adequate and safe drinking water and wastewater facilities and LAFCOs have been working diligently with our partners to accomplish that goal. We support your efforts to address these problems, which persist in many counties; however, **AB 600**, in its current version, is not representative of a solution derived from widespread, collective stakeholder dialogue.

Annexations concerns. Changes proposed to Government Code Section 56375 pose several problems. First, the proposed changes in §56375(a)(8)(A) and (B) seem to confuse the annexation of territory into an incorporated city and the annexation of territory into a special district. Ever since the Legislature created LAFCOs in 1963, one of LAFCOs' primary missions is to ensure orderly growth and development. This is done in a variety of ways, including the authority to adopt spheres of influence for local agencies and approve annexations. To ensure orderly growth, when the LAFCO approves a service extension outside the jurisdictional boundary but within the sphere of influence, they do so in anticipation of a later change of organization (annexation), pursuant to §56133(b). Changes to §56375(a)(8)(A) add the exclusion of annexation into a qualified special district.

Further, changes to §56375(a)(8)(B) create an inconsistent exception for protest proceedings which takes away rights that have been long-established in governmental reorganizations in California. The residents of the DUC are afforded the right to file protests for boundary changes, but that right is not extended to other residents living within a larger annexation boundary that are not part of the DUC.

Removes LAFCO discretion. When considering a change of organization pursuant to §56133, LAFCO has the discretion to consider the unique local circumstances and conditions that exist. This is an important and basic construct within the legislatively stated purpose of LAFCOs. This bill removes that discretion and authority through proposed changes to §56375(a)(9), §56425(k)(1) and (2), and §56425 (l).

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Lack of clarity. The bill proposes changes to §56301 by adding “considerations of equity” as an additional basis upon which LAFCOs fulfill their purposes. Yet the bill does not define “considerations of equity,” which leads to a wide-open interpretation. Each LAFCO will create their own local policies related to “considerations of equity.”

Accessibility plans. The bill requires LAFCO, within five years of the approval of an accessibility plan (pursuant to §56440), to hold a noticed public hearing for the purposes of reviewing the status of every DUC that is subject to an accessibility plan. This has the potential of being a vast number of public hearings and comprehensive reviews without the necessary resources to execute such a requirement.

Additionally, the bill requires LAFCO to initiate a change of organization, reorganization or service extension should the commission determine the needs of the DUC remain unaddressed. LAFCO-initiated actions are costly to LAFCOs (as there is no funding source to support the action) and like all other changes of organization or reorganization, are subject to protest proceedings. The latter proceeding can be costly if the number of protests submitted are at a sufficient number to trigger an election. Further, a service extension without annexation would not be a likely LAFCO-initiated action.

The required contents of the accessibility plan are confusing. First, §56440(a)(5)(A) states: *“Any actions and alternatives necessary to be taken by the commission, if any, to enable the entity determined pursuant to paragraph (2) to provide services to the affected territory.”* How is a county, city or special district best positioned and informed to prescribe to the LAFCO commission what actions the LAFCO should be taking?

Second, §56440(a)(6)(B) requires the commission to approve or approve with conditions the accessibility plan. Once again there is a divestiture in LAFCO authority. Further, we fail to see LAFCOs’ authority to enforce any conditions that may be applied to the accessibility plan. A LAFCO’s main charter is to change the political boundaries of an agency. This is particularly ineffective power if the local agency is uninterested in expanding its service area or has low levels of annexation activity.

Third, §56440(a)(2) requires the commission to determine which entity is best positioned to provide adequate water or wastewater services to the affected territory. Without a thorough study of surrounding service providers, this may be difficult to determine.

One size does not fit all. We are concerned that the bill has unintended consequences in the ability to provide necessary services to an existing DUC. For example, if it is reasonable to extend services to a particular DUC but not to others, this bill prevents the extension of services to the area that can reasonably be serviced. The same is true for those areas currently contained within a city’s sphere, where it may make better sense to have another service provider providing the service. These changes are complicated by the fact the bill interchangeably uses the term “disadvantaged community” and “disadvantaged unincorporated community”.

Who pays? The bill does not address the issue of the costs associated with the extension of services. Who will pay for the extension of infrastructure to a disadvantaged community? By law, new development can only pay for the costs of water and wastewater piping associated by that development. Will this bill force the existing residents of the city or special district extending services to pay for the infrastructure through higher water and wastewater rates? Or will the residents of the disadvantaged community, who by definition are of limited financial means, be responsible for this cost?

Creates a significant unfunded mandate to LAFCO and local agencies. The studies, analysis, preparation of recommendations regarding underserved disadvantaged communities and public hearings on all accessibility plans and potential subsequent actions initiated by LAFCO that would be required, all impose unfunded mandates on counties, cities, qualified special districts and LAFCOs. By law, LAFCO is forced to pass their costs on to cities, counties – and in 30 counties – special districts which fund the commissions.

We support workable and sustainable policy solutions to the disparities in service delivery to disadvantaged communities. However, a major obstacle remains the infrastructure and operational funding for these services. We believe that addressing the needs of disadvantaged communities through the planning process and finding tools to support the infrastructure deficiencies and implementation actions remain a very important part of the solution.

For all of the reasons noted above, the El Dorado LAFCO is opposed to **AB 600**. Please contact me should you have any questions.

Respectfully,



José C. Henríquez
Executive Officer

Cc: Members, Assembly Local Government Committee
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