



LOCAL AGENCY FORMATION COMMISSION
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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 El Dorado Local Agency Formation Commission (LAFCO), joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose 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 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,

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which represents only 11.5% of the total cost estimate of \$89.15 million. 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; (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. Our budget only covers the normal operative costs of the agency. The budget assumes that the applicant bears 100% of the cost of a proposal; to do otherwise is an improper subsidy by our funding agencies to the benefit of the applicant. If this bill becomes law, in order to cover the costs associated with these proposals should the state not cover the costs, we will have to increase fees to the local government agencies that pay into LAFCO annually (cities, counties, and special districts), in so doing improperly subsidizing the state.

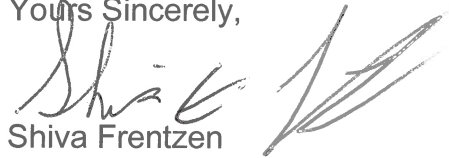
LAFCOs need to be added to the language in Section 78115 (a)(1). All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved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

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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 LAFCO staff at 530-295-2707 if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Shiva Frentzen', written over a light blue horizontal line.

Shiva Frentzen

Chair, El Dorado LAFCO

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