



June 24, 2022

Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

Subject: **REQUEST FOR SIGNATURE**

SB 938 (Hertzberg): The Cortese-Know-Hertzberg Local Government Reorganization Act of 2000: Protest proceedings: procedural consolidation.

Dear Governor Newsom:

The El Dorado Local Agency Formation Commission (LAFCO), respectfully **requests your signature on Senate Bill 938** by Senate Majority Leader Emeritus Hertzberg. The California Association of Local Agency Formation Commissions (CALAFCO) is the sponsor of this important measure, which unanimously passed both the Senate and Assembly and has broad stakeholder support. **SB 938** represents a collaborative three-year effort to clean up, consolidate, and clarify existing statutory provisions associated with consolidations and dissolutions, as well as codify the conditions under which a Local Agency Formation Commission (LAFCO) may initiate dissolution of a district at the 25% protest threshold.

The statutes related to protest provisions and the disparate protest thresholds established for LAFCO-initiated actions (10%) and all other initiated actions (25%) make addressing necessary and appropriate special district consolidations and dissolutions considerably more difficult when initiated by a LAFCO. Further, they serve as a deterrent for LAFCO to initiate action, even if meaningful efficiencies in the provision of public services could be achieved or if a district is failing to meet its statutory requirements. A statewide study conducted by CALAFCO in 2018 found that the 10% protest threshold was the second-most common deterrent for LAFCOs initiating action (the first being the lack of funding).

In response to a recommendation made in the 2017 Little Hoover Commission report after a year-long study (*Special Districts: Improving Oversight and Transparency*), CALAFCO initiated a working group of stakeholders in early 2019 to examine the protest process for consolidations and dissolutions of special districts. After three years of work (delayed due to the pandemic), the working group came to consensus on the redraft of existing protest statutes and a new process that allows LAFCOs to initiate dissolution of a district at the 25% protest threshold under specific circumstances.

S:\Legislation\2021-2022\2022 Position Letters\SB 938 (Hertzberg) Protest Proceedings_Request Governor Signature.docx

COMMISSIONERS

Public Member: Bill Wilde • Alternate Public Member: Dawn Hodson

City Members: Cody Bass, Jackie Neau • Alternate City Member: Patricia "Patty" Borelli

County Members: John Hidahl, George Turnboo • Alternate County Member: Wendy Thomas

Special District Members: Brian Veerkamp, Timothy J. White • Alternate Special District Member: Michael Saunders

STAFF

Erica Sanchez, Interim Executive Officer • Shiva Frentzen, Assistant Policy Analyst • Kelly Witt, Administrative Assistant
Malathy Subramanian, Commission Counsel


The overarching goal of these changes is to ensure that LAFCOs have the tools they need to carry out their statutory obligations to ensure orderly and functioning local government services and to create greater consistency in the statute. The specific circumstances under which a dissolution may be initiated are more than reasonable and the subsequent process includes three noticed public hearings, a minimum 12-month remediation period, and a 60-day protest period, all of which are extremely practical. Additionally, the proposed process for LAFCO-initiated actions at the 25% protest threshold applies only to dissolutions, making the scope of use exceptionally narrow.

The 18-member working group consisted of a broad group of stakeholder representatives from CALAFCO (including Executive Officers and legal counsel), the California Special Districts Association (CSDA) (including board members and staff from water, resource conservation and fire protection districts, as well as legal counsel), a shared CALAFCO-CSDA Board member, and representatives from the League of California Cities, California State Association of Counties (CSAC), and the Senate Governance and Finance and Assembly Local Government Committees. CALAFCO greatly appreciates the working group participants for their hard work and dedication to this endeavor.

SB 938 makes much needed and long-awaited improvements to The Act through the restructure and clarification of existing protest provisions, and addition of a fair and appropriate process that offers LAFCOs additional tools necessary to effectively fulfill their statutory obligations.

El Dorado LAFCO appreciates your most positive consideration of **SB 938** when it comes before you for action.

Sincerely,



John Hidahl, Chair
El Dorado LAFCO

cc: The Honorable Robert Hertzberg, California State Senate
Ms. Ronda Paschal, Deputy Legislative Secretary to the Governor
Ms. René LaRoche, Executive Director, CALAFCO