

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF JULY 27, 2022

REGULAR MEETING

TO: John Hidahl, Chair, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: Erica Sanchez, Interim Executive Officer

AGENDA ITEM #11A: OTHER BUSINESS – LEGISLATION

RECOMMENDATION

Staff recommends that the Commission receive the following update on recently chaptered Senate Bill 938 (Hertzberg) and letter from the Chair requesting the Governor's signature on SB 938.

REASON FOR RECOMMENDED ACTION AND BACKGROUND

SB 938 (Hertzberg) – The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: protest proceedings: procedural consolidation.

Senate Bill 938 was signed by the Governor on July 1, 2022. SB 938 creates a new voter protest threshold for LAFCO-initiated dissolutions of special districts that meet specified criteria, changing the protest threshold for a LAFCO-initiated dissolution of a special district from 10% to 25%. SB 938 represents a collaborative three-year effort led by CALAFCO in response to a 2017 recommendation by the Little Hoover Commission which found the 10% threshold made addressing necessary and appropriate special district consolidations and dissolutions considerably more difficult when initiated by LAFCO, deterring LAFCOs from initiating action.

Special districts that may be included in this process include those that:

- have or more documented chronic service provision deficiencies;
- spent public funds in an unlawful or reckless manner;
- have shown willful neglect by failing to consistently adhere to the California Public Records Act and other public disclosure laws;
- have failed to meet the minimum number of times required in its principal act in the prior calendar year;
- have consistently failed to perform timely audits in the prior three years, or failed to meet minimum financial requirements under California Government Code; or
- have recent annual audits showing chronic issues with the district's fiscal controls.

Determinations for the proposed dissolution must be documented in a municipal service review (MSR) and presented at a public hearing. The affected special district will then have a one-year period to resolve the documented deficiency or face dissolution.

SB 938 also reorganizes and consolidates the statutes related to the conducting authority for LAFCOs to implement reorganizations of special districts, significantly reducing the number of cross-referenced statutes.

El Dorado LAFCO Support

CALAFCO reached out to its members LAFCOs on June 24 with an urgent call for action for letters to the Governor in support of SB 938. In response to this time-sensitive request, staff consulted with the Chair to send an expedited letter (Attachment A) in advance of the July 27 meeting, pursuant to LAFCO's legislative policies. This letter is consistent with El Dorado LAFCO's previous support of CALAFCO's efforts to increase protest thresholds for LAFCO-initiated dissolutions and to clean up, consolidate, and clarify existing statutory provisions associated with consolidations and dissolutions.

LAFCO Policy 3.11.1 authorizes the Executive Officer to consult with the Chair to review legislation within the context of our legislative policies and provide written correspondence regarding the Commission's position in situations when proposed legislation cannot be considered by the full Commission due to timing. In these instances, position letters are placed on the next meeting agenda as either informational or for discussion purposes.

As stated above, Governor Newsom signed Senate Bill 938 into law on July 1, 2022, effective January 1, 2023. The full text of SB 938 is included as Attachment B.

Attachments

Attachment A: Signed Letter Requesting the Governor's Signature on SB 938

Attachment B: Senate Bill 938 (Hertzberg), Chaptered

Attachment C: CALAFCO Legislative Report as of July 15, 2022