

SENATE RULES COMMITTEE

SB 244

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 244
Author: Wolk (D), et al
Amended: 9/8/11
Vote: 21

SENATE GOVERNANCE & FINANCE COMMITTEE: 6-3, 4/27/11
AYES: Wolk, DeSaulnier, Hancock, Hernandez, Kehoe, Liu
NOES: Huff, Fuller, La Malfa

SENATE APPROPRIATIONS COMMITTEE: 6-3, 5/16/11
AYES: Kehoe, Alquist, Lieu, Pavley, Price, Steinberg
NOES: Walters, Emmerson, Runner

SENATE FLOOR: 25-14, 5/31/11
AYES: Alquist, Calderon, Corbett, Correa, De León, DeSaulnier, Evans,
Hancock, Hernandez, Kehoe, Leno, Lieu, Liu, Lowenthal, Negrete
McLeod, Padilla, Pavley, Price, Rubio, Simitian, Steinberg, Vargas,
Wolk, Wright, Yee
NOES: Anderson, Blakeslee, Cannella, Dutton, Emmerson, Fuller, Gaines,
Harman, Huff, La Malfa, Runner, Strickland, Walters, Wyland
NO VOTE RECORDED: Berryhill

ASSEMBLY FLOOR: 46-30, 09/08/11 - See last page for vote

SUBJECT: Local Summit: general plan: disadvantaged unincorporated
communities

SOURCE: California Rural Legal Assistance Foundation
Policy Link

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DIGEST: This bill requires local agencies to plan for specified disadvantaged communities through the Local Agency Formation Commission planning process and general plan updates.

Assembly Amendments (1) allow, subject to all applicable constitutional restrictions, a county, a city, or a special district that provides, or intends to provide, wastewater treatment facilities or services, to borrow money and incur indebtedness pursuant to provisions in the Water Code related to the State Water Pollution Control Revolving Fund; (2) make clarifying and technical changes to the Senate version; and (3) is double-jointed with AB 54 (Solorio).

ANALYSIS: The Cortese-Knox-Hertzberg Act creates a Local Agency Formation Commission (LAFCO) in each county to control the boundaries of cities and most special districts. To plan for the future boundaries and service areas of the cities and special districts, the LAFCO prepares a municipal service reviews for each entity and use the information to adopt a sphere of influence for each city and special district every five years. Boundary decisions by the LAFCOs must be consistent with the spheres of influence of the affected cities or districts. Many disadvantaged unincorporated communities, such as county islands, fringe communities, and isolated inhabited communities, lack many basic public services, such as domestic water, sanitary sewers, paved streets, storm drains, and street lights.

This bill:

1. Defines, for purposes of LAFCO law, the term “disadvantaged unincorporated community” to mean inhabited territory with 12 or more registered voters, or as determined by LAFCO policy, that constitutes all or a portion of a “disadvantaged community,” which is defined in the Water Code to be “a community with an annual median household income that is less than 80 percent of the statewide annual median household income.”
2. Prohibits, in specified circumstances, a LAFCO from approving an annexation to a city of any territory greater than 10 acres, or as determined by LAFCO policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged

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unincorporated community to the subject city has been filed with the executive officer.

3. Specifies that an application to annex a contiguous disadvantaged community is not required if either of the following apply:
 - A. A prior application for annexation of the same disadvantaged community has been made in the preceding five years.
 - B. The LAFCO finds, based upon written evidence, that a majority of the residents within the affected territory are opposed to annexation.
4. Requires the LAFCO, in determining the sphere of influence of each local agency, to additionally consider, for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence, beginning with the next sphere of influence update on or after July 1, 2012.
5. Allows the LAFCO, in determining a sphere of influence, to assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies when reorganization is found to be feasible and if reorganization will further the goals of orderly development and efficient and affordable service delivery.
6. Requires the LAFCO, in the written statement of its determinations for a municipal service review to additionally consider the following:
 - A. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence; and,
 - B. Present and planned capacity of public facilities and adequacy of public services, and deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the agency's proposed sphere of influence.

7. Allows the LAFCO, in conducting a municipal service review, to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery within and contiguous to the sphere of influence, including, but not limited to, the consolidation of governmental agencies.
8. Requires, on or before the due date for the next adoption of its housing element, each city or county to review and update the land use element of its general plan to include all of the following:
 - A. In the case of a city, an identification of each unincorporated island or fringe community, within the city's sphere of influence.
 - B. In the case of a county, an identification of each legacy community within the boundaries of the county, but not including any area within the sphere of influence of any city.
 - C. Requires that the identification include a description of the community and a map designating its location.
 - D. For each identified community, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies.
 - E. An analysis, based on then existing available data, of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible.
9. Requires, on or before the due date for each subsequent revision of its housing element, each city or county to review, and if necessary amend, its general plan to update the analysis, as specified.
10. Defines, for purposes of general plan law, the following terms:
 - A. "Community" to mean an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another.

- B. “Disadvantaged unincorporated community” to mean a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income;
 - C. “Unincorporated fringe community” to mean any inhabited and unincorporated territory that is within a city’s sphere of influence; and,
 - D. “Unincorporated island community” to mean any inhabited and unincorporated territory that is surrounded or substantially surrounded by one or more cities or by one or more cities and a county boundary of the Pacific Ocean.
11. Allows, subject to all applicable constitutional restrictions, a county, a city, or a special district that provides, or intends to provide, wastewater treatment facilities or services, to borrow money and incur indebtedness pursuant to provisions in the Water Code related to the State Water Pollution Control Revolving Fund.
 12. Makes legislative findings and declarations.
 13. Contains chaptering out provisions in order to avoid conflicts with AB 54 (Solorio).

The most recent amendments to the bill add in provisions that provide explicit statutory authority for cities, counties, and special districts to borrow money and incur indebtedness pursuant to statutes in the Water Code relating to the Clean Water State Revolving Fund Loan Program, for wastewater treatment facilities or services. This enabled disadvantaged communities, like those in the bill, to gain financial assistance for planning costs. The author’s office notes that often these are the same communities that are unable to obtain funding necessary to conduct planning for wastewater infrastructure projects.

Comments

The U.S. Census Bureau identifies a “census designated place” (CDP) as the statistical counterpart of a city in that it is a named place with a concentration of residents, housing, and commercial activity, but located in a county’s unincorporated territory. The 2000 Census identified 583 census designated places in California. The Department of Finance says that 159 of

those CDPs had 2005-09 household median incomes that were less than 80 percent of the statewide household median income. The 2010 Census identified 1,043 CDPs in California and when fresh income data become available in late 2011, many of them will be considered disadvantaged. Some of these disadvantaged unincorporated communities are county islands (mostly surrounded by cities), some are fringe communities (at or near the edge of cities), and others are legacy communities (geographically isolated).

Proposition 84 (2006) authorized \$5.4 billion in state bonds and specifically set aside \$90 million for “planning grants and planning incentives.” The Strategic Growth Council manages these programs (SB 732 [Steinberg], Chapter 729, Statutes of 2008). The Council has awarded \$26 million in planning grants. Concerned about the inequities faced by disadvantaged communities, the Council will prioritize 20 percent of each year’s planning grants for work that benefits economically disadvantaged communities.

Many disadvantaged unincorporated communities lack public services and even public facilities like domestic water, sanitary sewers, paved streets, storm drains, and street lights. Some cities and special districts are reluctant to annex these areas. Advocates want legislators to require local officials to include disadvantaged communities in their long-range planning for land use and public facilities.

Prior Legislation

SB 1174 (Wolk), of 2010, concentrated on local general plans; the bill died on the Assembly Appropriations Committee’s suspense file.

AB 853 (Arambula), of 2010, focused on the LAFCOs’ municipal service reviews, spheres of influence, and city annexation procedures; Governor Schwarzenegger vetoed the bill as “unnecessary.”

SB 194 (Florez), of 2010, looked at disadvantaged communities’ needs for public works funding; Governor Schwarzenegger vetoed the bill as “unnecessary.”

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

Fiscal Impact (in thousands)

<u>Major Provisions</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>Fund</u>
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Local planning mandate significant local costs, not reimbursable Local

SUPPORT: (Verified 9/8/11)

California Rural Legal Assistance Foundation (co-source)

Policy Link (co-source)

California Coalition for Rural Housing

California Pan-Ethnic Health Network

Catholic Charities Diocese of Stockton

Clean Water Action California

Committee for a Better Seville

Community Water Center

Environmental Justice Coalition for Water

Food and Water Watch

Green California

Having Our Say

Natural Resources Defense Council

Planning and Conservation League

Sierra Club

Southern California Watershed Alliance

Unitarian Universalist Legislative Ministry California

United for Change in Tooleville

Urban Habitat

Urban Semillas

Winnemem Winti Tribe – Middle River People

OPPOSITION: (Verified 9/8/11)

City of Fresno, Gilroy, Merced, Sacramento, Santa Rosa, Vacaville, Visalia,
Vista, Wasco, Waterford, West Covina, Whittier

County of Los Angeles

Cucamonga Valley Water District

League of CA Cities

Orange County Local Agency Formation Commission

Riverside Local Agency Formation Commission

San Bernardino County Local Agency Formation Commission

San Diego Local Agency Formation Commission

ARGUMENTS IN SUPPORT: According to the author's office, many disadvantaged unincorporated communities lack public services and even

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public facilities like domestic water, sanitary sewers, paved streets, storm drains, and street lights. Some cities and special districts are reluctant to annex these areas. The intent of this bill is to require local officials to include disadvantaged communities in their long-range planning for land use and public facilities.

Additionally, this bill provides authority for local governments to access the Clean Water State Revolving Fund (CWSRF) Loan Program for planning costs to implement infrastructure projects. This would give disadvantaged communities with limited access to capital markets the ability to undertake planning for capital wastewater projects and level the playing field for various classes of local government.

The sponsor of the bill, the California Rural Legal Assistance Foundation, argues that “these communities are systematically underserved in the overall allocation of public resources and are frequently left out of local planning processes...this neglect and deprivation prevents these neighborhoods from realizing their potential as livable and economically viable communities.”

Supporters argue that few local government land use plans focus on the existence of disadvantaged unincorporated communities, much less how to solve their many challenges. This bill will result in greater awareness of these communities and their needs in local government planning documents.

ARGUMENTS IN OPPOSITION: The League of California Cities (League), in opposition, believes that local agencies do not have the legal authority to impose fees to recover the costs of the new duties mandated in the bill. The bill’s provisions right now include a fee disclaimer that says that “no reimbursement is required by this act...because a local agency has the authority to levy service charges, fees or assessments sufficient to pay for the program or level of service mandated by this act.” The League is concerned that cities, under the new rules dictated by Proposition 26, cannot charge current residents of the city for the costs associated with the considerable analysis required by the bill’s provisions since the residents of the city are not being provided a service.

The County of Los Angeles opposes this bill because the County believes it to be both costly and burdensome. They argue they already have a long term plan for all unincorporated areas and that the bill does not adequately address the fiscal strains the bill would place on already distressed counties, cities, communities and taxpayers.

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ASSEMBLY FLOOR: 46-30, 09/08/11

AYES: Alejo, Allen, Ammiano, Atkins, Beall, Block, Blumenfield, Bradford, Butler, Charles Calderon, Campos, Carter, Cedillo, Chesbro, Davis, Dickinson, Eng, Feuer, Fong, Fuentes, Furutani, Galgiani, Gatto, Gordon, Hayashi, Roger Hernández, Hill, Huber, Hueso, Huffman, Lara, Bonnie Lowenthal, Ma, Mendoza, Monning, Perea, V. Manuel Pérez, Portantino, Skinner, Solorio, Swanson, Torres, Wieckowski, Williams, Yamada, John A. Pérez

NOES: Achadjian, Bill Berryhill, Bonilla, Brownley, Buchanan, Conway, Cook, Donnelly, Fletcher, Beth Gaines, Garrick, Grove, Hagman, Halderman, Harkey, Jeffries, Jones, Knight, Logue, Mansoor, Miller, Mitchell, Morrell, Nestande, Nielsen, Norby, Silva, Smyth, Valadao, Wagner

NO VOTE RECORDED: Gorell, Hall, Olsen, Pan

AGB:DLW:do 9/9/11 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

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