

# EL DORADO LAFCO

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## LOCAL AGENCY FORMATION COMMISSION

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May 27, 2015

Senator Robert Hertzberg  
California State Senate  
State Capitol, Room 4038  
Sacramento, CA 95814

Subject: SB 239 (Hertzberg) – Local Services: Contracts: Fire Protection Services  
Letter of Opposition

Dear Senator Hertzberg,

On behalf of the El Dorado Local Agency Formation Commission (LAFCO), I am writing to express our opposition to Senate Bill 239. As you know, SB 239 seeks to establish a new LAFCO process related to the extension of fire protection services, by contract or agreement, outside of a public agency's current boundaries. Based on our review of SB 239, we must respectfully oppose the bill at this time, based on the following concerns:

Among several concerning provisions of SB 239 is language that would require the consent and written agreement of recognized employee organizations that represent firefighters of the existing and proposed service providers to the proposed "change of organization," as newly defined by SB 239. SB 239 would, in effect, allow a "recognized employee organization" to veto a locally elected governing board's decision to contract for fire services. It is the responsibility of duly elected public officials to determine the means necessary to protect the communities they represent – not a labor organization. El Dorado LAFCO is concerned about the precedent that would be set should SB 239 become law.

SB 239 would increase local agency costs by requiring extensive new LAFCO proceedings relating solely to fire protection services. SB 239 would require the adoption of a resolution of application that includes the previously referenced "permission" of the employee organization(s), a public hearing, a detailed plan for services and a comprehensive fiscal analysis, among other things. Specifically, SB 239 unnecessarily categorizes the provision of extraterritorial fire protection services under contract or agreement as a "change of organization" under the Cortese-Knox-Hertzberg Act (CKH), thereby triggering the following processes: 1) property tax negotiations under Revenue and Taxation Code Section 99, 2) compliance with, and full

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review under, the California Environmental Quality Act (CEQA), and 3) LAFCO preparation of a comprehensive fiscal analysis – an analysis currently reserved only for incorporation proposals to analyze whether the creation of an entirely new city is fiscally feasible.

SB 239 also proposes to add an entirely new section to amend Government Code Section 56133, in CKH, related to the extension of fire services, by contract or agreement, outside a public agency's boundaries. However, §56133, in CKH, already fully addresses the provision of all types of out of area service extensions by local public agencies and empowers LAFCOs to independently consider all relevant factors associated with such requests prior to rendering a decision. More importantly, §56133(e) specifically exempts, "contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider." This exemption expressly allows two service providers (such as fire protection agencies) to contract with one another for like services, independent of LAFCO review. It is unnecessary to require a different level of review for the provision of fire protection services than other types of equally vital services.

As you are aware, California Legislature created LAFCOs to be, among other things, an independent third party that would review the provision and extension of services. LAFCOs were purposely created to strike a balance of the agencies it oversees by having representatives from cities, counties and special districts sit on its board. As such, LAFCOs have no vested interest in the outcome of proposals except to protect vital public resources. SB 239 would upend that balance by inserting an unelected group that has a vested interest in the outcome into the review process and requiring its approval before a fire suppression agency could apply to LAFCO.

In conclusion, El Dorado LAFCO believes that SB 239 would circumvent local authority, create an unreasonably complex LAFCO process, set a negative precedent for other essential municipal services, and unnecessarily increase costs on small, rural local agencies already under significant financial pressure. For these reasons, El Dorado LAFCO opposes SB 239. Thank you for your consideration of our comments. Please feel free to contact me or our LAFCO staff at (530) 295-2707 if I can provide additional information.

Sincerely,

Ken Humphreys  
Chair

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Cc: Pamela Miller, Executive Director, California Association of LAFCOs  
Committee Members, Senate Local Governance and Finance Committee  
Brian Weinberger, Consultant, Senate Local Governance and Finance  
Committee  
Ryan Eisberg, Consultant, Senate Republican Caucus  
Christy Bouma, California Professional Firefighters Association