

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

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May 23, 2018

Assembly Member Cecilia Aguiar-Curry
California State Assembly
State Capital Room 5144
Sacramento, CA 95814

Subject: SUPPORT of Assembly Bill 2238 (as amended April 3, 2018)

Dear Assembly Member Aguiar-Curry:

The El Dorado Local Agency Formation Commission (LAFCO) is pleased to join the California Association of Local Agency Formation Commissions (CALAFCO) in support **Assembly Bill AB 2238 as amended April 3, 2018**. Specifically of interest to LAFCOs is the provision requiring the commission to consider information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone or land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

When reviewing proposals for changes of organization or reorganizations, it's important for LAFCOs to consider whether or not the proposal is consistent with a city or county general plan and other types of growth plans. Further, considering the impact of specific potential fire hazard threats is an important part of smart growth and development planning. As we collectively work to adapt and evolve the way we respond to the impacts of climate change, these kinds of considerations are important in balancing orderly growth and climate adaptation efforts.

Because **AB 2238** is aligned with CALAFCO's policy to use LAFCO resources to review growth plans to ensure reliable services, orderly growth and sustainable communities, El Dorado LAFCO is pleased to support this bill.

Thank you for authoring this important piece of legislation. Please feel free to contact me or José Henríquez, El Dorado LAFCO's Executive Officer, should you have any questions about El Dorado LAFCO's position.

Respectfully,

Shiva Frentzen, Chair
El Dorado LAFCO

Cc: Debbie Michel, Chief Consultant, Assembly Local Government Committee
Anton Favorini-Csorba, Consultant, Senate Governance & Finance Committee
Ryan Eisberg, Consultant, Senate Republican Caucus
Pamela Miller, Executive Director, CALAFCO

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AMENDED IN ASSEMBLY APRIL 3, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2238

Introduced by Assembly Member Aguiar-Curry

February 13, 2018

An act to amend ~~Section 56668~~ *Sections 56668, 65584.01, 65584.04, and 66474.02* of the Government Code, and to amend *Section 101080 of the Health and Safety Code*, relating to ~~local agency formation~~: *local hazard management*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2238, as amended, Aguiar-Curry. ~~Change of organization or reorganization: local agency formation commission review: hazard mitigation plan: safety element.~~ *Local agency formation: regional housing need allocation: fire hazards: local health emergencies: hazardous and medical waste.*

~~Existing~~

(1) ~~Existing~~ law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization of cities and districts. The act specifies the factors that a local agency formation commission is required to consider in the review of a proposal for a change of organization or reorganization, including, among other things, the proposal's consistency with city or county general and specific plans.

This bill would additionally require the commission to consider ~~any relevant hazard mitigation plan or safety element of a general plan, and the extent to which the proposal will affect any land identified as a very high fire hazard severity zone or land determined to be in a state~~

~~responsibility area, as provided.~~ information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone or maps that identify land determined to be in a state responsibility area if it is determined that such information is relevant to the area that is the subject of the proposal. By adding to the duties of local agency formation commissions in reviewing a change of organization or reorganization, this bill would impose a state-mandated local program.

(2) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and certain land outside its boundaries, that includes, among other specified mandatory elements, a housing element. That law, for the 4th and subsequent revisions of the housing element, requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as provided, and requires the appropriate council of governments or for cities and counties without a council of governments, the department, to adopt a final regional housing need plan allocating a share of the regional housing need to each city, county, or city and county. Existing law requires the department to meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs and requires the council of governments to provide data assumptions, including specified information regarding housing availability within the region.

This bill would require that the information provided by the council of governments include the loss of units during a state of emergency, as defined, declared by the Governor pursuant to the California Emergency Services Act that have not been rebuilt or replaced at the time of the data request.

Existing law requires the council of governments, or delegate subregion as applicable, to develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or subregion, as applicable, that is consistent with specified objectives. Existing law, to the extent that sufficient data is available as provided, requires each council of governments, or delegate subregion as applicable, to include specified factors to develop the methodology that allocates regional housing needs.

This bill would require that these factors include the loss of units during a state of emergency, as defined, declared by the Governor pursuant to the California Emergency Services Act that have yet to be rebuilt or replaced at the time of the analysis.

By adding to the duties of councils of governments and delegate subregions in determining the regional housing need allocation, this bill would impose a state-mandated local program.

(3) Existing law, the Subdivision Map Act, requires, among other things, that the legislative body of a county make 3 specified findings before approving a tentative map, or a parcel map for which a tentative map was not required, for an area located in a state responsibility area or a very high fire hazard severity zone, as defined, except as provided. Existing law requires that one of these findings be that the design and location of each lot in the subdivision, and the subdivision as a whole, are consistent with specified regulations by the State Board of Forestry and Fire Protection establishing certain minimum fire safety standards applicable to state responsibility area lands and implementing specified fire safety standards applicable to specified lands.

This bill would instead require that this finding be that the subdivision is consistent with the board's regulations, but would delete the requirement that the subdivision be consistent with the above-described regulations relating to fire safety standards applicable to state responsibility area lands. The bill, upon approving a tentative map, or a parcel map for which a tentative map was not required, for an area located in a state responsibility area or a very high fire hazard severity zone would require a legislative body of a county to transmit a copy of these findings and accompanying maps to the State Board of Forestry and Fire Protection. By adding to the duties of counties in approving tentative maps and parcel maps, this bill would impose a state-mandated local program.

(4) Under existing law, whenever a release, spill, escape, or entry of waste occurs, as specified, and the Director of Health Care Services or the local health officer makes specified determinations as to that waste, the director is authorized to declare a health emergency and the local health officer is authorized to declare a local health emergency in the jurisdiction or any area thereof affected by the threat to the public health. Existing law prohibits a local health emergency declared by a local health officer in excess of 7 days unless the board of supervisors or city council, as applicable, ratifies the local health emergency. Existing law requires the board of supervisors or city council, as

applicable, to review the need for continuing the local health emergency at least every 14 days and requires the board of supervisors or city council to terminate the local health emergency at the earliest possible date that conditions warrant.

This bill would extend the periodic review of a local health emergency by a board of supervisors or city council from every 14 days to every 30 days.

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(5) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56668 of the Government Code is
2 amended to read:

3 56668. Factors to be considered in the review of a proposal
4 shall include, but not be limited to, all of the following:

5 (a) Population and population density; land area and land use;
6 per capita assessed valuation; topography, natural boundaries, and
7 drainage basins; proximity to other populated areas; the likelihood
8 of significant growth in the area, and in adjacent incorporated and
9 unincorporated areas, during the next 10 years.

10 (b) ~~(1)~~—The need for organized community services; the present
11 cost and adequacy of governmental services and controls in the
12 area; probable future needs for those services and controls; probable
13 effect of the proposed incorporation, formation, annexation, or
14 exclusion and of alternative courses of action on the cost and
15 adequacy of services and controls in the area and adjacent areas.

16 ~~(2)~~—“Services,”

17 “Services,” as used in this subdivision, refers to governmental
18 services whether or not the services are services which would be
19 provided by local agencies subject to this division, and includes
20 the public facilities necessary to provide those services.