



Local Agency Formation Commission of Napa County
Subdivision of the State of California

1754 Second Street, Suite C
Napa, California 94559
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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 5d (Consent/Information)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: August 5, 2024

SUBJECT: Legislative Report

BACKGROUND AND SUMMARY

This is a consent item for information purposes only. Accordingly, if interested, the Commission is invited to pull this item for additional discussion with the concurrence of the Chair. No formal action will be taken as part of this item.

On April 8, 2024, the Commission directed staff to submit letters to the Legislature supporting Assembly Bill (AB) 817 and Senate Bill (SB) 1209. The Commission also discussed AB 3277 and agreed to watch the bill. Staff submitted letters in support of AB 817 and SB 1209 to the Legislature. Staff recently submitted a second letter supporting SB 1209 as amended, included as Attachment 1.

AB 3277, included as Attachment 2, relates to LAFCO's role in performing ad valorem property tax financial analysis. The Governor signed AB 3277 into law on July 2, 2024.

On June 3, 2024, the Commission discussed Ballot Initiative 1935 and requested staff return with any pertinent updates. In the case *Legislature v. Weber*, a unanimous California Supreme Court ordered the Secretary of State not to place Initiative 1935 on the November 2024 statewide ballot because, rather than a lawful initiative amendment of the California Constitution, it is an improper revision. A revision can only be proposed by the Legislature or a constitutional convention.

ATTACHMENTS

- 1) SB 1209 Support as Amended Letter to Legislature
- 2) AB 3277 Signed by Governor

Margie Mohler, Commissioner
Councilmember, Town of Yountville

Beth Painter, Commissioner
Councilmember, City of Napa

Mariam Aboudamous, Alternate Commissioner
Councilmember, City of American Canyon

Anne Cottrell, Chair
County of Napa Supervisor, 3rd District

Belia Ramos, Commissioner
County of Napa Supervisor, 5th District

Joelle Gallagher, Alternate Commissioner
County of Napa Supervisor, 1st District

Kenneth Leary, Vice Chair
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer



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June 12, 2024

Honorable Juan Carrillo, Chair
 Assembly Local Government Committee
 1020 N St., Rm. 157
 Sacramento, CA 95814

RE: **SUPPORT, AS AMENDED - SB 1209 (Cortese): Local agency formation commission: indemnification**

Dear Chair Carrillo and Committee Members:

The Napa Local Agency Formation Commission (LAFCO) is pleased to **Support Senate Bill 1209**, sponsored by the California Association of Local Agency Formation Commissions (CALAFCO). **SB 1209** would add a new section into Government Code authorizing LAFCOs to enter into an indemnification agreement with an applicant, which would hold harmless the LAFCO or its agents from any action attacking a LAFCO approval. Counties and cities are already empowered to enter into, and require indemnification, and routinely do so with respect to discretionary land-use approvals. SB 1209 would provide LAFCOs with a similar authority in this situation.

This bill is in response to a 2022 decision of the Second District Court of Appeals, which found that existing State law does not provide explicit authority to LAFCOs to require indemnification in any situation. Absent indemnification authority - and because LAFCO funding is statutorily required in a specified ratio from the county, cities, and special districts within a county - the costs to defend litigation must be absorbed by all of LAFCO's funding agencies.

Consequently, **SB 1209** will provide LAFCOs with the ability to use a tool already in use by counties and cities, and prevent some costs to defend litigation from being shifted to a county, its cities, and its special districts.

Thus, for the above reasons, Napa LAFCO is in strong **Support of SB 1209** and respectfully requests your AYE vote.

Sincerely,

Brendon Freeman
 Executive Officer

cc: Members and All Consultants, Assembly Local Government Committee
 The Honorable Dave Cortese, California State Senate
 René LaRoche, Executive Director, CALAFCO

Margie Mohler, Commissioner
 Councilmember, Town of Yountville

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Assembly Bill No. 3277

CHAPTER 70

An act to amend Section 56810 of the Government Code, relating to local government.

[Approved by Governor July 2, 2024. Filed with Secretary of State July 2, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3277, Committee on Local Government. Local agency formation commission: districts: property tax.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes the sole and exclusive authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. Existing law requires proceedings for the formation of a district to be conducted as authorized by the principal act of the proposed district, and authorizes the local agency formation commission in each county to serve as the conducting authority, as specified. Existing law requires a commission to determine the amount of property tax revenue to be exchanged by an affected local agency, as specified, if the proposal includes the formation of a district, as defined.

This bill would, instead, require a commission to determine the amount of property tax revenue to be exchanged by an affected local agency if the proposal includes the formation of a district and the applicant is seeking a share of the 1% ad valorem property taxes. By adding to the duties of a local agency formation commission, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 56810 of the Government Code is amended to read:

56810. (a) (1) If the proposal includes the incorporation of a city, as defined in Section 56043, the commission shall determine the amount of

property tax revenue to be exchanged by the affected local agency pursuant to this section and Section 56815.

(2) If the proposal includes the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, and if the applicant is seeking a share of the 1 percent ad valorem property taxes, the commission shall determine the amount of property tax to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs that were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost that was funded by any revenues of that agency that are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount described in the previous sentence by the annual tax increment according to the procedures set forth in Chapter 6

(commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the new city or district receives its initial allocation of property taxes.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.

(d) If the proposal would transfer all of an affected agency's service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985–86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, "prior fiscal year" means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available preceding the issuance of the certificate of filing.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant

to this section shall be commenced within three years of the effective date of the city's incorporation or the district's formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.

(j) The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56815.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.