



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

1030 Seminary Street, Suite B  
Napa, California 94559  
Phone: (707) 259-8645  
www.napa.lafco.ca.gov

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*We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture*

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**Agenda Item 7d (Action)**

**TO:** Local Agency Formation Commission

**PREPARED BY:** Brendon Freeman, Executive Officer  
Dawn Mittleman Longoria, Analyst II

**MEETING DATE:** August 3, 2020

**SUBJECT:** Legislative Report

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**RECOMMENDATION**

It is recommended the Commission authorize the Executive Officer to submit letters to the Assembly Appropriations Committee and Senator Anna Caballero opposing the proposed pending amendments to Senate Bill 414.

**BACKGROUND AND SUMMARY**

This report includes an update on legislative activities affecting LAFCOs, including a review of all bills tracked by CALAFCO.

The Commission's standing Legislative Committee (the "Committee") is comprised of Vice Chair Dillon and Commissioner Mohler along with the Executive Officer. The Committee met on March 9, 2020, and reviewed 30 bills that were being tracked by CALAFCO at the time. The Committee agreed to watch several bills and potentially return with recommended positions for the full Commission's consideration at a future meeting.

In response to the COVID-19 pandemic, the Legislature adjusted its priorities and many bills that affected LAFCOs were suspended or withdrawn including all bills being watched by the Committee. At this time, the Legislature's focus is on bills related to COVID-19, education, fire response and prevention, and public safety reform.

CALAFCO's Daily Legislative Report (dated July 27, 2020) is included as Attachment One and provides a summary and status update for each tracked bill affecting LAFCOs. Only one of the tracked bills, Senate Bill (SB) 414, is relevant to the Commission and was being watched by the Committee. CALAFCO recently released an urgent call for action requesting all individual LAFCOs take a formal position opposing the proposed pending amendments to SB 414 as described on the following page.

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Kenneth Leary, Chair  
Councilmember, City of American Canyon

Margie Mohler, Commissioner  
Councilmember, Town of Yountville

Scott Sedgley, Alternate Commissioner  
Councilmember, City of Napa

Diane Dillon, Vice Chair  
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner  
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner  
County of Napa Supervisor, 2nd District

Gregory Rodeno, Commissioner  
Representative of the General Public

Eve Kahn, Alternate Commissioner  
Representative of the General Public

Brendon Freeman  
Executive Officer

***Senate Bill 414 (Caballero) – Small System Water Authority Act***

SB 414 was introduced by Senator Anna Caballero on February 20, 2019. The bill would create the Small System Water Authority Act of 2020 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The intent is to give the State Water Resources Control Board (SWRCB) authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non-contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems, this will add the authority to mandate dissolution and formation of a new public agency. LAFCO will be responsible for dissolving any state mandated public agency dissolution, and the formation of the new water authority.

The bill was amended three times in 2019 and remains in Suspense in Assembly Appropriations. The bill text as last amended on June 25, 2019, is available online at: [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB414](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB414).

On July 23, 2020, the author introduced substantial amendments to the bill, which have not gone to print as of the date of this report and therefore cannot be included as an attachment. However, CALAFCO has reviewed the amendments and asserts they would have a substantive negative impact to LAFCOs and set a dangerous precedent by giving the SWRCB quasi-legislative authority to form a new water authority. The amendments would remove LAFCO's existing authority from the formation process of a public agency service provider while also imposing new unfunded mandates on LAFCO. In addition, LAFCO is excluded from several critical notification points throughout the process to form the new authority. The negative impacts of the amendments to SB 414 are further described in the draft letters of opposition, included as Attachments Two and Three.

The Commission has not taken a position on SB 414 to date. However, given the urgent nature and the bill's potential relevance to certain recommendations in the Commission's Countywide Water and Wastewater Municipal Service Review, staff believes it is imperative to take a position on the pending amendments. With this in mind, it is recommended the Commission authorize the Executive Officer to submit the draft letters with any desired changes to the Assembly Appropriations Committee (Attachment Two) and Senator Anna Caballero (Attachment Three) opposing the pending amendments.

**ATTACHMENTS**

- 1) CALAFCO Daily Legislative Report (July 27, 2020)
- 2) Draft Letter to Assembly Appropriations Committee
- 3) Draft Letter to Senator Anna Caballero

## CALAFCO Daily Legislative Report as of Monday, July 27, 2020

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**1**


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**AB 1253 (Rivas, Robert D) Local agency formation commissions: grant program.**
**Current Text:** Introduced: 2/21/2019 [html](#) [pdf](#)
**Introduced:** 2/21/2019

**Status:** 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was GOV. & F. on 6/6/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

This bill would require the Strategic Growth Council, until July 31, 2025, to establish and administer a local agency formation commissions grant program for the payment of costs associated with initiating and completing the dissolution of districts listed as inactive, the payment of costs associated with a study of the services provided within a county by a public agency to a disadvantaged community, as defined, and for other specified purposes, including the initiation of an action, as defined, that is limited to service providers serving a disadvantaged community and is based on determinations found in the study, as approved by the commission. The bill would specify application submission, reimbursement, and reporting requirements for a local agency formation commission to receive grants pursuant to the bill. The bill would require the council, after consulting with the California Association of Local Agency Formation Commissions, to develop and adopt guidelines, timelines, and application and reporting criteria for development and implementation of the program, as specified, and would exempt these guidelines, timelines, and criteria from the rulemaking provisions of the Administrative Procedure Act. The bill would make the grant program subject to an appropriation for the program in the annual Budget Act, and would repeal these provisions on January 1, 2026. This bill contains other existing laws.

**Attachments:**
[LAFCo Support Letter Template](#)
[CALAFCO Support letter Feb 2016](#)
**Position:** Sponsor

**Subject:** Disadvantaged Communities, LAFCo Administration, Municipal Services, Special District Consolidations

**CALAFCO Comments:** UPDATE AS OF 07/08/2020 - CALAFCO learned today that the author does not plan to move this bill forward and will be giving the bill up to another Legislator for their use as a gut-and-amend.

This is a CALAFCO sponsored bill following up on the recommendation of the Little Hoover Commission report of 2017 for the Legislature to provide LAFCos one-time grant funding for in-depth studies of potential reorganization of local service providers. Last year, the Governor vetoed AB 2258 - this is the same bill. The Strategic Growth Council (SGC) will administer the grant program. Grant funds will be used specifically for conducting special studies to identify and support opportunities to create greater efficiencies in the provision of municipal services; to potentially initiate actions based on those studies that remove or reduce local costs thus incentivizing local agencies to work with the LAFCo in developing and implementing reorganization plans; and the dissolution of inactive districts (pursuant to SB 448, Wieckowski, 2017). The grant program would sunset on July 31, 2024.

The bill also changes the protest threshold for LAFCo initiated actions, solely for the purposes of actions funded pursuant to this new section. It allows LAFCo to order the dissolution of a district (outside of the ones identified by the SCO) pursuant to Section 11221 of the Elections code, which is a tiered approach based on registered voters in the affected territory (from 30% down to 10% depending).

The focus is on service providers serving disadvantaged communities. The bill also requires LAFCo pay back grant funds in their entirety if the study is not completed within two years and requires the SGC to give preference to LAFCos whose decisions have been aligned with the goals of sustainable communities strategies.

We were unsuccessful in getting the \$1.5 M into the budget so the author has decided to make this a 2-year bill and try again in the next budget in a budget trailer bill.

UPDATE: It is not likely the Assemblymember will move the bill forward as there will be no money for the grant program.

**AB 1751 (Chiu D) Water and sewer system corporations: consolidation of service.**

**Current Text:** Amended: 7/5/2019 [html](#) [pdf](#)

**Introduced:** 2/22/2019

**Last Amended:** 7/5/2019

**Status:** 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/12/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

The California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board related responsibilities and duties. Current law authorizes the state board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, as provided. This bill, the Consolidation for Safe Drinking Water Act of 2019, would authorize a water or sewer system corporation to file an application and obtain approval from the commission through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

**Position:** Watch

**Subject:** Water

**CALAFCO Comments:** This bill would authorize a water or sewer system corporation to file an application and obtain approval from the PUC through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system. The bill would require the commission to approve or deny the app. Unless the commission designates a different procedure because it determines a consolidation warrants a more comprehensive review, the bill would authorize a water or sewer system corporation to instead file an advice letter and obtain approval from the commission through a resolution authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

**SB 414 (Caballero D) Small System Water Authority Act of 2019.**

**Current Text:** Amended: 6/25/2019 [html](#) [pdf](#)

**Introduced:** 2/20/2019

**Last Amended:** 6/25/2019

**Status:** 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/21/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would create the Small System Water Authority Act of 2019 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified.

**Attachments:**

- [LAFCO Template Oppose Pending Amendment to Author](#)
- [CALAFCO Oppose Pending Amendments to AESTM](#)
- [CALAFCO Oppose Pending Amendments to Author](#)
- [CALAFCO Oppose Pending Amendments to SGFC](#)
- [CALAFCO Oppose Pending Amendments to SEQ](#)

[LAFCO Template Oppose Pending Amendments to Assm Appropriations](#)

[CALAFCO Oppose Pending Amendments to ALGC](#)

[CALAFCO Oppose Pending Amendments to Assm Appropriations](#)

**Position:** Oppose Pending Amendments

**Subject:** Water

**CALAFCO Comments:** UPDATE AS OF 07/23/20. There are currently proposed pending amendments not yet in print being negotiated by the author and sponsors with Assm. Appropriations that remove LAFCo authority in the formation of the new water authority and give that quasi-legislative authority to the SWRCB. Further LAFCO will no longer have any authority in the dissolution of a public water supplier as part of the formation of the new authority, and all LAFCo funding for what is required to be done by LAFCo is being eliminated. There are numerous other issues with the pending amendments, all of which are detailed in our opposition letter.

This bill is very similar to AB 2050 (Caballero) from 2018. Several changes have been made. This bill is sponsored by Eastern Municipal Water District and the CA Municipal Utilities Assoc. The intent is to give the State Water Resources Control Board (SWRCB) authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems, this will add the authority to mandate dissolution and formation of a new public agency.

LAFCo will be responsible for dissolving any state mandated public agency dissolution, and the formation of the new water authority. The SWRCB's appointed Administrator will act as the applicant on behalf of the state. LAFCo will have ability to approve with modifications the application, and the new agency will have to report to the LAFCo annually for the first 3 years.

**[SB 928](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/5/2020 [html](#) [pdf](#)

**Introduced:** 2/5/2020

**Status:** 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

This bill would enact the First Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position:** Support

**CALAFCO Comments:** This is the first of three annual validating acts.

**[SB 929](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/5/2020 [html](#) [pdf](#)

**Introduced:** 2/5/2020

**Status:** 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

This bill would enact the Second Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position:** Support

**CALAFCO Comments:** This is the second of three annual validating acts.

**[SB 930](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/5/2020 [html](#) [pdf](#)

**Introduced:** 2/5/2020

**Status:** 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

This bill would enact the Third Validating Act of 2020, which would validate the organization,

boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position:** Support

**CALAFCO Comments:** This is the third of three annual validating acts.

**2**

**AB 213 (Reyes D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.**

**Current Text:** Introduced: 1/15/2019 [html](#) [pdf](#)

**Introduced:** 1/15/2019

**Status:** 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/19/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would, for the 2019–20 fiscal year, require the vehicle license fee adjustment amount to be the sum of the vehicle license fee adjustment amount in the 2018–19 fiscal year, the product of that sum and the percentage change in gross taxable assessed valuation within the jurisdiction of that entity between the 2018–19 fiscal year to the 2018–19 fiscal year, and the product of the amount of specified motor vehicle license fee revenues that the Controller allocated to the applicable city in July 2010 and 1.17.

**Attachments:**

[CALAFCO Support Letter](#)

**Position:** Support

**Subject:** Tax Allocation

**CALAFCO Comments:** Sponsored by the League, this bill will reinstate ERAF funding for inhabited annexations. This bill is the same as AB 2268 (Reyes) from 2018.

**3**

**AB 134 (Bloom D) Safe Drinking Water Restoration.**

**Current Text:** Amended: 5/20/2019 [html](#) [pdf](#)

**Introduced:** 12/5/2018

**Last Amended:** 5/20/2019

**Status:** 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was E.Q. on 6/12/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would require the State Water Resources Control Board to report to the Legislature by July 1, 2025, on its progress in restoring safe drinking water to all California communities and to create an internet website that provides data transparency for all of the board’s activities described in this measure. The bill would require the board to develop metrics to measure the efficacy of the fund in ensuring safe and affordable drinking water for all Californians.

**Position:** Watch

**Subject:** Water

**AB 2370 (Limón D) Ventura Port District: aquaculture plots: federal waters.**

**Current Text:** Amended: 3/16/2020 [html](#) [pdf](#)

**Introduced:** 2/18/2020

**Last Amended:** 3/16/2020

**Status:** 3/17/2020-Re-referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, a city or district may only provide new or extended services by contract or agreement outside of its jurisdictional

boundary if it requests and receives written approval, as provided, from the local agency formation commission in the county in which the extension of service is proposed. This bill would, notwithstanding the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, authorize the Ventura Port District, to the extent permitted by federal law, to construct, maintain, operate, lease, and grant permits to others for the installation, maintenance, and operation of aquaculture plots in federal waters off the coast of California the County of Ventura, as prescribed, in order to aid in the development or improvement of navigation or commerce to the port district.

**Position:** Watch

**Subject:** Special District Powers

**CALAFCO Comments:** This is a local bill authorizing Ventura Port District to extend operations into federal waters. CALAFCO will work with Ventura LAFCo.

UPDATE: CALAFCO learned that the author has pulled the bill for 2020.

**AB 3312 (Gray D) Local agency formation: annexation: City of Merced.**

**Current Text:** Amended: 7/23/2020 [html](#) [pdf](#)

**Introduced:** 2/21/2020

**Last Amended:** 7/23/2020

**Status:** 7/23/2020-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on GOV. & F.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapters
1st House				2nd House							

**Calendar:**

7/29/2020 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE GOVERNANCE AND FINANCE, MCGUIRE, Chair

**Summary:**

Would authorize the annexation of territory comprising the main campus of the University of California, Merced, as specified, and any road strip, as defined, to the City of Merced, notwithstanding the requirement that the territory be contiguous with the city, if other conditions are met, including that the territory is within the city's sphere of influence. The bill would provide that a subsequent annexation to the affected territory specified in the bill shall be contiguous to the property comprising the main campus of the University of California, Merced.

**Position:** Watch

**Subject:** Annexation Proceedings

**CALAFCO Comments:** This is a local bill for Merced. It allows a defined section of the UC Merced campus and access road to be annexed if certain conditions are met and keeps the LAFCo process intact. CALAFCO will watch the bill to ensure the LAFCo process remains protected and work with Merced LAFCo.

**SB 625 (Bradford D) Central Basin Municipal Water District: receivership.**

**Current Text:** Amended: 6/8/2020 [html](#) [pdf](#)

**Introduced:** 2/22/2019

**Last Amended:** 6/8/2020

**Status:** 6/18/2020-Re-referred to Com. on RLS. pursuant to Senate Rule 29.10(d).

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapters
1st House				2nd House							

**Summary:**

Would dissolve the board of directors of the Central Basin Municipal Water District (CBMWD) and would provide that the November 3, 2020, election for directors of CBMWD shall not occur. The bill would require the Water Replenishment District of Southern California (WRD) to act as the receiver for CBMWD, would vest WRD with all necessary powers under the Municipal Water District Law of 1911 to take control of CBMWD, and would transfer all powers vested in the board of directors of CBMWD to the board of directors of WRD, except as specified. The bill would require CBMWD's board of directors to surrender all control of CBMWD and its resources to WRD.

**Attachments:**

[LAFCo Support letter template](#)

[CALAFCO Support June 12, 2020](#)

**Position:** Support

**Subject:** Municipal Services

**SB 806 (Grove R) Worker status: employees: independent contractors.**

**Current Text:** Amended: 4/29/2020 [html](#) [pdf](#)

**Introduced:** 1/9/2020

**Last Amended:** 4/29/2020

**Status:** 5/18/2020-May 14 set for first hearing. Failed passage in committee. (Ayes 1. Noes 4.)  
Reconsideration granted.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would establish a new test that, for purposes of specific provisions of the Labor Code governing the relationship of employer and employees, a person providing labor or services for remuneration is considered an employee rather than an independent contractor, unless the hiring entity demonstrates that the person is (1) free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact, determined by a preponderance of factors, with no single factor of control being determinative, and either that (2) the person performs work that is outside the usual course of the hiring entity's business, or the work performed is outside the place of business of the hiring entity, or the worker is responsible for the costs of the place of the business where the work is performed, or that (3) the person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

**Position:** Watch

**Subject:** Other

**CALAFCO Comments:** This bill proposes amendments to AB 5 in terms of the exemption tests which may impact the contractual/employee relationship of CALAFCO and its two primary contractors.

Total Measures: 12

Total Tracking Forms: 12

7/27/2020 9:25:02 AM





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

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[www.napa.lafco.ca.gov](http://www.napa.lafco.ca.gov)

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August 3, 2020

The Honorable Lorena Gonzalez  
 Chair, Appropriations Committee  
 California State Assembly  
 State Capitol, Room 2114  
 Sacramento, CA 95814

**Subject: *Senate Bill 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS***

Dear Chair Gonzalez:

The Local Agency Formation Commission (LAFCO) of Napa County (“Napa LAFCO”) joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose the proposed pending amendments for Senate Bill (SB) 414 (Caballero). The bill is currently being held in your committee. While there are vast policy issues with the proposed amendments, this letter will focus our concerns to you and your committee on the fiscal issues of the proposed amendments.

According to the sponsors, in an effort to reduce costs associated with the bill, the role of LAFCOs that exist in the current version of the bill (dated June 25, 2019) is being drastically reduced. The proposed amendments strip LAFCOs of their authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCO. Additionally, they remove LAFCOs’ authority to dissolve a public water system as authorized by the State Water Resources Control Board (SWRCB) and as part of the formation process of the new authority.

The sponsors have also indicated the proposed amendments that change numerous processes in SB 414 are intended to reflect closer alignment with processes and SWRCB authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

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Kenneth Leary, Chair  
 Councilmember, City of American Canyon

Margie Mohler, Commissioner  
 Councilmember, Town of Yountville

Scott Sedgley, Alternate Commissioner  
 Councilmember, City of Napa

Diane Dillon, Vice Chair  
 County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner  
 County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner  
 County of Napa Supervisor, 2nd District

Gregory Rodeno, Commissioner  
 Representative of the General Public

Eve Kahn, Alternate Commissioner  
 Representative of the General Public

Brendon Freeman  
 Executive Officer

The current version of the bill, as noted in last fiscal analysis on August 21, 2019 in your committee, reflects a cost of up to \$10.65 million to LAFCOs for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using the fiscal projections in the current bill, the costs associated with LAFCO are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCOs to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCO from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCO level.

Finally, the proposed pending amendments require LAFCOs to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCO for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCO) “incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board”. All of the LAFCO expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, it is likely we will have to increase fees to the local government agencies that pay into the LAFCO annually (cities, counties, and special districts).

LAFCOs need to be added to the language in Section 78115 (a)(1). All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved is inappropriate and puts the collection of that funding on the backs of local government.

For these fiscal reasons, we oppose the proposed pending amendments to SB 414 and strongly urge your committee to reject the amendments and hold the bill.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on SB 414.

Sincerely yours,



Brendon Freeman

Executive Officer

(707) 259-8645

[bfreeman@napa.lafco.ca.gov](mailto:bfreeman@napa.lafco.ca.gov)

cc: Members, Assembly Appropriations Committee  
Honorable Senator Caballero  
Jennifer Galehouse, Assembly Appropriations Committee Deputy Chief Consultant  
Suzanne Sutton, Consultant, Senate Republican Caucus  
Pamela Miller, Executive Director, CALAFCO  
Kenneth Leary, Napa LAFCO Chair

DRAFT



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August 3, 2020

The Honorable Anna Caballero  
 California State Senate  
 State Capitol, Room 5052  
 Sacramento, CA 95814

**Subject: *Senate Bill 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS***

Dear Senator Caballero:

The Local Agency Formation Commission (LAFCO) of Napa County (“Napa LAFCO”) joins the California Association of Local Agency Formation Commissions (CALAFCO) in opposing the proposed pending amendments for your bill, Senate Bill (SB) 414. It is our understanding you are planning amendments to be done in Assembly Appropriations where the bill is currently being held in Suspense.

We support efforts to ensure all Californians have safe, affordable drinking water. However, the proposed amendments have such a substantive negative impact to local agency formation commission (LAFCOs) that we must now oppose them.

It is our understanding these changes are an effort to reduce the cost of the bill, and to closer align processes and State Water Resources Control Board (SWRCB) authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

The proposed amendments strip LAFCOs of their part and authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCO. Additionally, they remove LAFCOs’ authority to dissolve a public water system as authorized by the SWRCB and as part of the formation process of the new authority. As you know, formation of a new, local public agency has been the authority of LAFCO since 1963 when the Legislature created them. To now turn that authority over to the SWRCB in an effort to “save money” or “streamline the process”, we believe, creates a false perception that the cost will be reduced and sets a dangerous precedent.

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Kenneth Leary, Chair  
 Councilmember, City of American Canyon

Margie Mohler, Commissioner  
 Councilmember, Town of Yountville

Scott Sedgley, Alternate Commissioner  
 Councilmember, City of Napa

Diane Dillon, Vice Chair  
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Brad Wagenknecht, Commissioner  
 County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner  
 County of Napa Supervisor, 2nd District

Gregory Rodeno, Commissioner  
 Representative of the General Public

Eve Kahn, Alternate Commissioner  
 Representative of the General Public

Brendon Freeman  
 Executive Officer

SECTION 1 of the bill is being completely stricken and therefore divests LAFCO of all involvement in the formation process and it removes LAFCO from the process of dissolving any public water system identified by the SWRCB as mandated for dissolution and inclusion into the new authority except for holding a public hearing on the matter. Not only does this removal divest LAFCO of their authority and give it to the SWRCB, it eliminates the Plan for Service requirements to be included in the draft conceptual formation plan. All other public agencies are subject to submit a comprehensive Plan for Service when applying to provide services and exempting the authority from doing so sets a precedent.

Code Section 78038(b) proposes to give quasi-legislative authority to the SWRCB in the action to form the new authority. The Legislature created LAFCO as a quasi-legislative body decades ago to do this very thing. While the Legislature has exercised its authority to create new service providers in the past, until now there has been no state agency with that authority. We fail to understand the need to create an entity at the state level to do something LAFCOs have been effectively doing for 57 years – forming new districts – that happen at the local level.

LAFCO is being excluded from several critical notification points:

- Code Section 78033(a)(1) excludes LAFCO from the list of entities the SWRCB is to notify of their intent to form the authority. *LAFCO needs to be included in the list of other local agencies receiving such notification (such as cities, county, water districts, etc.).* Further, this section allows the SWRCB to invite other public water suppliers to consider dissolving and join the authority. Without including LAFCO on the notification under this section, we would be in the dark regarding those local districts (both independent and dependent) that may consider dissolving.
- Code Section 78033(a)(2)(A) excludes LAFCO notification from an entity wishing to consolidate into a proposed authority. *LAFCO needs to be included in this notification.*
- Code Section 78033(a)(2)(B) provides that customers of an entity wishing to join a proposed authority petition the SWRCB directly. Not only does this keep LAFCO in the dark, it is a run-around of the current service provider as there appears to be no notification to them.
- Code Section 78033(b) allows the governing board of a county or city dependent special district to notify the formation coordinator they wish to opt into the new authority. Here again, without LAFCO receiving this notification there is no way for us to know of the pending dissolution.

In addition to removing LAFCOs' existing authority from the formation process of a public agency service provider, we are concerned about Code Section 78037(a)(3) which requires the LAFCO to hold a public hearing to allow for public comment on the dissolution of the public water system mandated for dissolution by the SWRCB and requires the LAFCO to provide all comments back to the SWRCB for consideration (without the funding to do either). The section also states the dissolution shall be ordered upon completion of the public hearing. We question the purpose of reporting back the public comments to the SWRCB for consideration if the dissolution is ordered immediately upon closure of the public hearing.

If one of the goals of these amendments is to closer align processes with SB 88, then it would stand to reason the SWRCB would be the entity conducting the public hearing (pursuant to Code Section 116682 of the Health and Safety Code), especially given the fact that with these amendments, the LAFCO no longer has any other part in the actual dissolution.

Ordering a dissolution for a service provider who is currently providing service requires a successor agency to assume the delivery of service as well as all the assets and liabilities of the entity being dissolved. Code Section 78037(a)(4) requires the order of dissolution to make appropriate equitable arrangements for the interim operation of the public water system until the formation of the authority is complete, and they are prepared to take over service delivery. While that “interim” service provider may be identified in the draft conceptual formation plan, 78037(a)(4) does not explicitly state to whom the service, assets and liabilities should be transferred. We suggest language be added to explicitly state the interim operator as identified in the approved conceptual formation plan.

#### Proposed amendments to the draft conceptual plan

We have a few concerns relating to the draft conceptual plan as noted below.

- Code Section 78035(c) requires the formation coordinator to submit the draft conceptual formation plan to the SWRCB and any applicable LAFCO for comments within 60 days of its receipt. Further, the formation coordinator shall finalize the plan for public comment no later than 30 days after receiving comments from the SWRCB. What is left out of this section are the comments on the plan from the LAFCO. Undoubtedly, as the local agency who is responsible for the formation of public agencies, LAFCOs know what to look for and consider when reviewing formation plans. *The LAFCO comments need to be considered by the SWRCB and the formation coordinator before the document is available for public comment.*
- Code Section 78038 requires LAFCO to hold two public hearings on the draft conceptual formation plan and to subsequently submit a report to the SWRCB summarizing public comment and any recommendations the LAFCO may have for the SWRCB on the plan. *We would like to see amendments requiring the SWRCB to specifically adopt or reject each of our recommendation on the draft plan and explain their response for those decisions.*

#### Removing funding for LAFCO mandates

The current version of the bill reflects a cost of up to \$10.65 million to LAFCOs for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using these projections, the costs associated with LAFCO are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCOs to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCO from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCO level.

Finally, the proposed pending amendments require LAFCOs to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; and (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCO for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCO) “*incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board*”. All of the LAFCO expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, it is highly likely we will have to increase fees to the local government agencies that pay into the LAFCO annually (cities, counties, and special districts).

*We strongly believe LAFCOs need to be added to the language in Section 78115 (a)(1). All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved puts the collection of that funding on the backs of local government.*

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on SB 414.

Sincerely yours,



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