



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

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

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**Agenda Item 6d (Discussion)**

**TO:** Local Agency Formation Commission  
**PREPARED BY:** Brendon Freeman, Executive Officer  
**MEETING DATE:** June 6, 2016  
**SUBJECT:** Legislative Report

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**RECOMMENDATION**

It is recommended the Commission receive the verbal report regarding Senate Bill 1318 and consider directing the Executive Officer to provide a position letter for the bill and/or receiving regular updates on the status of the bill.

**BACKGROUND**

The California Association of LAFCOs (CALAFCO) was established in 1971 to assist all 58 commissions in fulfilling their prescribed regulatory and planning duties. This includes serving as an advocacy resource in proposing and/or reviewing new legislation and facilitated through an appointed 16-member Legislative Committee. The Committee reviews, discusses, and offers recommendations to the CALAFCO Board of Directors with regard to new legislation that would have either a direct impact on LAFCO law or laws LAFCO helps to administer. Committee actions are guided by the Board's adopted policies, which are annually reviewed and amended to reflect current year priorities.

**SUMMARY**

This report provides discussion of one bill that may be of particular interest to the Commission. CALAFCO has taken an opposition position for the following bill and requested opposition from all LAFCOs.

***Senate Bill 1318 (Wolk)***

Senate Bill (SB) 1318 was introduced by Senator Lois Wolk on February 19<sup>th</sup> and was most recently amended on April 12<sup>th</sup> (Attachment One). The bill is sponsored by the Leadership Council for Justice and Accountability. The bill contains a number of changes to existing law that would impact LAFCOs throughout the State. SB 1318 would make changes pertaining to disadvantaged communities, LAFCO administration, municipal service reviews, spheres of influence, water service, and wastewater service.

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Greg Pitts, Vice Chair  
Councilmember, City of St. Helena

Juliana Inman, Commissioner  
Councilmember, City of Napa

Joan Bennett, Alternate Commissioner  
Councilmember, City of American Canyon

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

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

Keith Caldwell, Alternate Commissioner  
County of Napa Supervisor, 5th District

Brian J. Kelly, Commissioner  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Brendon Freeman  
Executive Officer

CALAFCO's letter of opposition is included as part of this report (Attachment Two) and states that the primary concern is that the outcome of SB 1318 would not address the root causes of the lack of adequate drinking water and wastewater facilities for DUCs. The causes of these service issues are typically related to infrastructure deficiencies as well as a lack of operational and maintenance funding. SB 1318 proposes solutions that would be problematic to implement. CALAFCO opposes SB 1318 for the following reasons.

SB 1318 would prohibit LAFCOs from approving an annexation to a city or "qualified special district" of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community (DUC) within or adjacent to the sphere of influence of a city or special district that lacks safe drinking water or wastewater infrastructure or services, unless the city or special district has entered into an enforceable agreement to extend those services to the DUC.<sup>1 2</sup>

SB 1318 would prohibit LAFCOs from approving a sphere of influence update that removes a DUC from a city's or special district's sphere unless LAFCO makes a finding that removal of the community will result in improved service delivery to the community. The bill would add Government Code (G.C.) Section 56425(k), which would prohibit LAFCOs from approving a sphere update that removes a "disadvantaged community" from a city's sphere unless a majority of the voters in the disadvantaged community approve of the proposed sphere.<sup>3</sup>

SB 1318 would add several requirements in G.C. Section 56430 relating to municipal service reviews. Specifically, the bill would change G.C. Section 56430(b) to mandate that LAFCO assess various alternatives relating to the efficiency and affordability of infrastructure and delivery of services. The bill would also change G.C. Section 56430(c) to mandate that LAFCO include a review whether the agency being reviewed is in compliance with the California Safe Drinking Water Act. Further, the bill would amend G.C. Section 56430 to add the following requirements for LAFCOs:

- On or before January 1, 2022 and every five years thereafter, LAFCO shall prepare municipal service reviews for the entire county territory (regardless of service provider);
- Create and electronically file a map that identifies DUCs that lack safe drinking water or wastewater with the Office of Planning and Research. Within two years of identifying such a DUC, LAFCO shall create a plan based on alternatives analyzed and adopt any actions necessary to implement the plan (regardless of whether the agencies involved are public or private);<sup>4</sup>

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<sup>1</sup> No DUCs have been identified anywhere in Napa County as of the date of this report.

<sup>2</sup> The bill would define "qualified special district" to mean a special district with more than 500 service connections.

<sup>3</sup> The bill does not define "disadvantaged community" and it is unclear if the intent is specific to DUCs.

<sup>4</sup> LAFCO will not be required to adopt a plan if there is no feasible way of connecting the DUC with an existing system.

- Creates an exemption for an election or any protest proceedings on the above action except protest proceedings are required for the residents of the DUC;
- LAFCO cannot change a sphere of influence or extend services if these requirements are not met;
- LAFCO cannot change a sphere of influence of an agency that was identified in a plan of action and they have not taken action within three years, unless there is an application to annex that territory or for an extension of services pursuant to G.C. Section 56133.

The proposed requirements found in G.C. Section 56430(e)(2) requiring LAFCOs to conduct service reviews sufficient to have reviewed the entire county means LAFCOs would be reviewing entities that do not have adopted spheres of influence and whose boundaries and service areas are established by the California Public Utilities Commission. While legislative statute allows LAFCO to request information from certain private entities providing drinking water and private utilities, there is no statutory requirement for the entities to respond. Further, there is no statutory authority for LAFCO to recommend or make adjustments to these entities' spheres.

The requirement for LAFCO to adopt a plan regarding all identified DUCs in the County that lack safe drinking water or adequate wastewater services under proposed G.C. Section 56340(g) places expectations on LAFCO that exceed its legislative and legal authority. Specifically, the requirement in proposed G.C. Section 56340(g)(1) that, within two years of the plan's adoption, LAFCO is to "take any actions necessary to implement the plan, including sphere of influence updates, extensions of service, or changes of organization," could only currently apply to public agencies subject to LAFCO's legislative authority. In many cases, inadequate services are provided by private companies or mutual water companies, which are not overseen by LAFCO. Further, LAFCO lacks the authority to direct cities, counties, and special districts to implement a plan created by LAFCO. Additionally, this requirement presumes LAFCOs have the expertise to create plans for infrastructure design, buildout, and cost.

CALAFCO continues to work with Senator Wolk's office to suggest additional amendments that would ensure implementation of SB 1318 is both effective and feasible. The Commission is invited to discuss the bill and consider providing direction to staff to submit a position letter as desired. Absent direction to submit a position letter, the Commission may provide direction to staff to continue monitoring the bill and provide updates to the Commission at future meetings.

## **ATTACHMENTS**

- 1) SB 1318 (Most Recently Amended on April 12, 2016)
- 2) CALAFCO Letter of Opposition for SB 1318

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL****No. 1318**

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**Introduced by Senator Wolk**

February 19, 2016

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An act to amend Sections ~~56133, 56133.5, 56375, 56425, and 56430~~ of the Government Code, relating to local government.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1318, as amended, Wolk. Local government: drinking water infrastructure or services: wastewater infrastructure or services.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation and change of organization of cities and special districts.

~~Existing law authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries only if the city or district requests and receives permission to do so from the local agency formation commission in the affected county. Under existing law, the commission may authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.~~

~~This bill would prohibit the commission from authorizing a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services until it has entered into an enforceable agreement to extend the same services to all disadvantaged communities within its sphere of influence or adjacent to its jurisdictional boundaries, unless specified conditions are met. The bill would prohibit the commission from approving a sphere of influence update where there exists a disadvantaged unincorporated community within the city's or~~

~~special district's sphere of influence or contiguous with a city's or qualifying special district's jurisdictional boundaries that lacks safe drinking water infrastructure or services or adequate wastewater infrastructure or services unless specified conditions are met.~~

~~Existing law establishes a pilot program for the Napa and San Bernardino local agency formation commissions that permits those commissions to authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.~~

~~This bill would prohibit those commissions from authorizing a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services until it has entered into an enforceable agreement to extend those services to all disadvantaged communities within its sphere of influence or contiguous with a city's or district's jurisdictional boundaries that lack safe drinking water or adequate wastewater infrastructure or services unless specified conditions are met.~~

~~Existing law, except as otherwise provided, prohibits a local agency formation commission from approving an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community, as specified, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.~~

~~This bill would extend that prohibition to an annexation to a qualified special district. The bill would additionally prohibit a commission from approving an annexation to a city or qualified special district of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community within the sphere of influence of a city or qualified special district or contiguous to the city's or qualified special district's jurisdictional boundaries that lacks safe drinking water infrastructure or services or adequate wastewater infrastructure or services, unless, among other things, the city or qualified special district has entered into an enforceable agreement to extend those services into the disadvantaged community or communities. The bill would define "qualified special district" to mean a special district with more than 500 service connections that provides drinking water or wastewater services.~~

~~Existing law requires a local agency formation commission to develop and determine the sphere of influence of each city and each special~~

district within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere. Existing law authorizes the commission, in determining a sphere of influence, to assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies, as provided.

~~This bill would instead require the commission to assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies.~~ The bill would prohibit a commission from approving a sphere of influence update that removes a disadvantaged community from a city's or special district's sphere of influence unless the commission makes a finding that removal of the community will result in improved service delivery to the community.

Existing law requires a commission, in preparing and updating spheres of influence, to conduct a service review of the municipal services provided in the county or other area designated by the commission. Existing law authorizes the commission, in conducting the review, to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery, as specified, and to include a review of whether the agencies under review are in compliance with the California Safe Drinking Water Act.

Where there exists a disadvantaged unincorporated community that lacks adequate drinking water and wastewater services and infrastructure within or contiguous with the subject sphere, this bill would instead require the commission to make the assessment of alternatives and to include the safe drinking water review described above if the information is readily available from the State Water Resources Control Board or other sources. *This bill would, on or before January 1, 2022, and every 5 years thereafter, require the commission to conduct service reviews sufficient to have reviewed the entire territory of the county. The bill would require the commission to file a map of the county that identifies disadvantaged unincorporated communities that lack safe drinking water or adequate wastewater with the Office of Planning and Research, and would require the Office of Planning and Research to post the map on its Internet Web site. The bill would additionally require the commission, within 2 years of identifying a disadvantaged unincorporated community that lacks safe drinking water or adequate wastewater services, to recommend a plan based on the alternatives analyzed and adopt any actions necessary to implement the plan, as specified.*

By imposing new duties on local government officials, this 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 these statutory provisions.

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 56133 of the Government Code is~~  
2     ~~amended to read:~~  
3     ~~56133. (a) A city or district may provide new or extended~~  
4     ~~services by contract or agreement outside its jurisdictional~~  
5     ~~boundary only if it first requests and receives written approval~~  
6     ~~from the commission.~~  
7     ~~(b) The commission may authorize a city or district to provide~~  
8     ~~new or extended services outside its jurisdictional boundary but~~  
9     ~~within its sphere of influence in anticipation of a later change of~~  
10    ~~organization.~~  
11    ~~(c) If consistent with adopted policy, the commission may~~  
12    ~~authorize a city or district to provide new or extended services~~  
13    ~~outside its jurisdictional boundary and outside its sphere of~~  
14    ~~influence to respond to an existing or impending threat to the health~~  
15    ~~or safety of the public or the residents of the affected territory, if~~  
16    ~~both of the following requirements are met:~~  
17    ~~(1) The entity applying for approval has provided the~~  
18    ~~commission with documentation of a threat to the health and safety~~  
19    ~~of the public or the affected residents.~~  
20    ~~(2) The commission has notified any alternate service provider,~~  
21    ~~including any water corporation as defined in Section 241 of the~~  
22    ~~Public Utilities Code, that has filed a map and a statement of its~~  
23    ~~service capabilities with the commission.~~  
24    ~~(d) The commission shall not authorize a city or a district to~~  
25    ~~extend drinking water infrastructure or services or wastewater~~  
26    ~~infrastructure or services pursuant to this section until it has entered~~

1 into an enforceable agreement to extend the same services to all  
2 disadvantaged communities within its sphere of influence or  
3 adjacent to its jurisdictional boundaries that lack safe drinking  
4 water or adequate wastewater services or infrastructure as soon as  
5 feasible to do so but within a period no longer than five years,  
6 unless either of the following conditions are met:

7 (1) The commission finds, based upon written evidence, that a  
8 majority of the residents of the affected disadvantaged community  
9 or communities are opposed to receiving the identified service or  
10 services. These findings shall not interfere with or inform other  
11 programs or policies designed to expand basic services to  
12 disadvantaged unincorporated communities, including, but not  
13 limited to, Sections 116680 to 116684, inclusive, of the Health  
14 and Safety Code.

15 (2) The extension of services is authorized pursuant to  
16 subdivision (c) or the extension of services is to a disadvantaged  
17 community.

18 (e)

19 The executive officer, within 30 days of receipt of a request  
20 for approval by a city or district to extend services outside its  
21 jurisdictional boundary, shall determine whether the request is  
22 complete and acceptable for filing or whether the request is  
23 incomplete. If a request is determined not to be complete, the  
24 executive officer shall immediately transmit that determination to  
25 the requester, specifying those parts of the request that are  
26 incomplete and the manner in which they can be made complete.  
27 When the request is deemed complete, the executive officer shall  
28 place the request on the agenda of the next commission meeting  
29 for which adequate notice can be given but not more than 90 days  
30 from the date that the request is deemed complete, unless the  
31 commission has delegated approval of requests made pursuant to  
32 this section to the executive officer. The commission or executive  
33 officer shall approve, disapprove, or approve with conditions the  
34 extended services. If the new or extended services are disapproved  
35 or approved with conditions, the applicant may request  
36 reconsideration, citing the reasons for reconsideration.

37 (f)

38 This section does not apply to any of the following:

39 (1) Two or more public agencies where the public service to be  
40 provided is an alternative to, or substitute for, public services



- 1 already being provided by an existing public service provider and  
2 where the level of service to be provided is consistent with the  
3 level of service contemplated by the existing service provider.
- 4 ~~(2) The transfer of nonpotable or nontreated water.~~
- 5 ~~(3) The provision of surplus water to agricultural lands and~~  
6 ~~facilities, including, but not limited to, incidental residential~~  
7 ~~structures, for projects that serve conservation purposes or that~~  
8 ~~directly support agricultural industries. However, prior to extending~~  
9 ~~surplus water service to any project that will support or induce~~  
10 ~~development, the city or district shall first request and receive~~  
11 ~~written approval from the commission in the affected county.~~
- 12 ~~(4) An extended service that a city or district was providing on~~  
13 ~~or before January 1, 2001.~~
- 14 ~~(5) A local publicly owned electric utility, as defined by Section~~  
15 ~~9604 of the Public Utilities Code, providing electric services that~~  
16 ~~do not involve the acquisition, construction, or installation of~~  
17 ~~electric distribution facilities by the local publicly owned electric~~  
18 ~~utility, outside of the utility's jurisdictional boundary.~~
- 19 ~~(6) A fire protection contract, as defined in subdivision (a) of~~  
20 ~~Section 56134.~~
- 21 ~~(g) This section applies only to the commission of the county~~  
22 ~~in which the extension of service is proposed.~~
- 23 ~~(h) The commission shall not approve a sphere of influence~~  
24 ~~update where there exists a disadvantaged unincorporated~~  
25 ~~community within the city's or special district's sphere of influence~~  
26 ~~or contiguous with a city's or qualifying special district's~~  
27 ~~jurisdictional boundaries that lacks safe drinking water~~  
28 ~~infrastructure or services or adequate wastewater infrastructure or~~  
29 ~~services unless the city or special district or qualified special district~~  
30 ~~has entered into an enforceable agreement to extend those services~~  
31 ~~into the disadvantaged community or communities as soon as~~  
32 ~~feasible to do so but within a period no longer than five years of~~  
33 ~~the approval of the sphere of influence change or the commission~~  
34 ~~finds, based upon written evidence, that a majority of the residents~~  
35 ~~of the affected disadvantaged community or communities are~~  
36 ~~opposed to receiving the identified service or services.~~
- 37 ~~(1) These findings shall not interfere with or inform other~~  
38 ~~programs or policies designed to expand basic services to~~  
39 ~~disadvantaged unincorporated communities, including, but not~~

1 limited to, Sections ~~116680 to 116684, inclusive,~~ of the Health  
2 and Safety Code.

3 ~~(2) A qualifying special district is a special district with more~~  
4 ~~than 500 service connections that provides drinking water or~~  
5 ~~wastewater services.~~

6 SEC. 2.— Section 56133.5 of the Government Code is amended  
7 to read:

8 56133.5.— (a) A pilot program is hereby established for the  
9 Napa and San Bernardino commissions. If consistent with adopted  
10 policy, the Napa and San Bernardino commissions may authorize  
11 a city or district to provide new or extended services outside its  
12 jurisdictional boundary and outside its sphere of influence to  
13 support existing or planned uses involving public or private  
14 properties, subject to approval at a noticed public hearing in which  
15 the commission makes all of the following determinations:

16 (1) The extension of service or services deficiency was identified  
17 and evaluated in a review of municipal services prepared pursuant  
18 to Section 56430.

19 (2) The extension of service will not result in either (1) adverse  
20 impacts on open space or agricultural lands or (2) growth inducing  
21 impacts.

22 (3) A sphere of influence change involving the subject territory  
23 and its affected agency is not feasible under this division or  
24 desirable based on the adopted policies of the commission.

25 (b) Subdivision (d) of Section 56133 shall apply to any request  
26 for new or extended services pursuant to this section.

27 (c) The commissions shall not authorize a city or a district to  
28 extend drinking water infrastructure or services or wastewater  
29 infrastructure or services pursuant to this section until it has entered  
30 into an enforceable agreement to extend those services to all  
31 disadvantaged communities within its sphere of influence or  
32 contiguous with a city's or district's jurisdictional boundaries that  
33 lack safe drinking water or adequate wastewater infrastructure or  
34 services as soon as feasible to do so but within a period no longer  
35 than five years of the approval of the underlying extension, unless  
36 either of the following conditions are met:

37 (1) The commission finds, based upon written evidence, that a  
38 majority of the residents of the affected disadvantaged community  
39 or communities are opposed to receiving the identified service or  
40 services. These findings shall not interfere with or inform other

1 ~~programs or policies designed to expand basic services to~~  
2 ~~disadvantaged unincorporated communities, including, but not~~  
3 ~~limited to, Sections 116680 to 116684, inclusive, of the Health~~  
4 ~~and Safety Code.~~

5 ~~(2) The extension of services is to a disadvantaged community.~~

6 ~~(d) For purposes of this section, “planned use” means any project~~  
7 ~~that is included in an approved specific plan as of July 1, 2015.~~

8 ~~(e) The Napa and San Bernardino commissions shall submit a~~  
9 ~~report before January 1, 2020, to the Legislature on their~~  
10 ~~participation in the pilot program, including how many requests~~  
11 ~~for extension of services were received pursuant to this section~~  
12 ~~and the action by the commission to approve, disapprove, or~~  
13 ~~approve with conditions. The report required to be submitted~~  
14 ~~pursuant to this subdivision shall be submitted in compliance with~~  
15 ~~Section 9795 of the Government Code.~~

16 ~~(f) The pilot program established pursuant to this section shall~~  
17 ~~be consistent with Chapter 8.5 (commencing with Section 1501)~~  
18 ~~of the Public Utilities Code.~~

19 ~~(g) This section shall remain in effect only until January 1, 2021,~~  
20 ~~and as of that date is repealed.~~

21 ~~SEC. 3. Section 56375 of the Government Code is amended~~  
22 ~~to read:~~

23 ~~56375. The commission shall have all of the following powers~~  
24 ~~and duties subject to any limitations upon its jurisdiction set forth~~  
25 ~~in this part:~~

26 ~~(a) (1) To review and approve with or without amendment,~~  
27 ~~wholly, partially, or conditionally, or disapprove proposals for~~  
28 ~~changes of organization or reorganization, consistent with written~~  
29 ~~policies, procedures, and guidelines adopted by the commission.~~

30 ~~(2) The commission may initiate proposals by resolution of~~  
31 ~~application for any of the following:~~

32 ~~(A) The consolidation of a district, as defined in Section 56036.~~

33 ~~(B) The dissolution of a district.~~

34 ~~(C) A merger.~~

35 ~~(D) The establishment of a subsidiary district.~~

36 ~~(E) The formation of a new district or districts.~~

37 ~~(F) A reorganization that includes any of the changes specified~~  
38 ~~in subparagraph (A), (B), (C), (D), or (E).~~

39 ~~(3) A commission may initiate a proposal described in paragraph~~  
40 ~~(2) only if that change of organization or reorganization is~~

1 consistent with a recommendation or conclusion of a study  
2 prepared pursuant to Section 56378, 56425, or 56430, and the  
3 commission makes the determinations specified in subdivision (b)  
4 of Section 56881.

5 (4) A commission shall not disapprove an annexation to a city,  
6 initiated by resolution, of contiguous territory that the commission  
7 finds is any of the following:

8 (A) Surrounded or substantially surrounded by the city to which  
9 the annexation is proposed or by that city and a county boundary  
10 or the Pacific Ocean if the territory to be annexed is substantially  
11 developed or developing, is not prime agricultural land as defined  
12 in Section 56064, is designated for urban growth by the general  
13 plan of the annexing city, and is not within the sphere of influence  
14 of another city.

15 (B) Located within an urban service area that has been delineated  
16 and adopted by a commission, which is not prime agricultural land,  
17 as defined by Section 56064, and is designated for urban growth  
18 by the general plan of the annexing city.

19 (C) An annexation or reorganization of unincorporated islands  
20 meeting the requirements of Section 56375.3.

21 (5) As a condition to the annexation of an area that is  
22 surrounded, or substantially surrounded, by the city to which the  
23 annexation is proposed, the commission may require, where  
24 consistent with the purposes of this division, that the annexation  
25 include the entire island of surrounded, or substantially surrounded,  
26 territory.

27 (6) A commission shall not impose any conditions that would  
28 directly regulate land use density or intensity, property  
29 development, or subdivision requirements.

30 (7) The decision of the commission with regard to a proposal  
31 to annex territory to a city shall be based upon the general plan  
32 and rezoning of the city. When the development purposes are not  
33 made known to the annexing city, the annexation shall be reviewed  
34 on the basis of the adopted plans and policies of the annexing city  
35 or county. A commission shall require, as a condition to  
36 annexation, that a city rezone the territory to be annexed or present  
37 evidence satisfactory to the commission that the existing  
38 development entitlements on the territory are vested or are already  
39 at build-out, and are consistent with the city's general plan.

1 However, the commission shall not specify how, or in what  
2 manner, the territory shall be rezoned.

3 (8) (A) Except for those changes of organization or  
4 reorganization authorized under Section 56375.3, and except as  
5 provided by subparagraph (B), a commission shall not approve an  
6 annexation to a city or to a qualified special district of any territory  
7 greater than 10 acres, or as determined by commission policy,  
8 where either of the following exists:

9 (i) (I) A disadvantaged unincorporated community that is  
10 contiguous to the area of proposed annexation, unless an  
11 application to annex the disadvantaged unincorporated community  
12 to the subject city has been filed with the executive officer.

13 (II) An application to annex a contiguous disadvantaged  
14 community shall not be required if either of the following apply:

15 (ia) A prior application for annexation of the same disadvantaged  
16 community has been made in the preceding five years.

17 (ib) The commission finds, based upon written evidence, that  
18 a majority of the registered voters within the affected disadvantaged  
19 community are opposed to annexation.

20 (ii) A disadvantaged unincorporated community within the  
21 sphere of influence of a city or qualified special district or  
22 contiguous to the city's or qualified special district's jurisdictional  
23 boundaries that lacks safe drinking water infrastructure or services  
24 or adequate wastewater infrastructure or services unless any of the  
25 following conditions are met:

26 (I) The city or qualified special district has entered into an  
27 enforceable agreement to extend those services into the  
28 disadvantaged community or communities as soon as feasible to  
29 do so but within a period no longer than five years of the approval  
30 of the annexation.

31 (II) The commission finds, based upon written evidence, that a  
32 majority of the residents of the affected disadvantaged community  
33 or communities are opposed to receiving the identified service or  
34 services. These findings shall not interfere with or inform other  
35 programs or policies designed to expand basic services to  
36 disadvantaged unincorporated communities, including, but not  
37 limited to, Sections 116680 to 116684, inclusive, of the Health  
38 and Safety Code.

39 (III) The annexation is an annexation of a disadvantaged  
40 community.

1 (B) For purposes of this paragraph, “a qualified special district”  
2 means a special district with more than 500 service connections  
3 that provides drinking water or wastewater services.

4 (b) With regard to a proposal for annexation or detachment of  
5 territory to, or from, a city or district or with regard to a proposal  
6 for reorganization that includes annexation or detachment, to  
7 determine whether territory proposed for annexation or detachment,  
8 as described in its resolution approving the annexation, detachment,  
9 or reorganization, is inhabited or uninhabited.

10 (c) With regard to a proposal for consolidation of two or more  
11 cities or districts, to determine which city or district shall be the  
12 consolidated successor city or district.

13 (d) To approve the annexation of unincorporated, noncontiguous  
14 territory, subject to the limitations of Section 56742, located in the  
15 same county as that in which the city is located, and that is owned  
16 by a city and used for municipal purposes and to authorize the  
17 annexation of the territory without notice and hearing.

18 (e) To approve the annexation of unincorporated territory  
19 consistent with the planned and probable use of the property based  
20 upon the review of general plan and rezoning designations. No  
21 subsequent change may be made to the general plan for the annexed  
22 territory or zoning that is not in conformance to the rezoning  
23 designations for a period of two years after the completion of the  
24 annexation, unless the legislative body for the city makes a finding  
25 at a public hearing that a substantial change has occurred in  
26 circumstances that necessitate a departure from the rezoning in  
27 the application to the commission.

28 (f) With respect to the incorporation of a new city or the  
29 formation of a new special district, to determine the number of  
30 registered voters residing within the proposed city or special district  
31 or, for a landowner-voter special district, the number of owners  
32 of land and the assessed value of their land within the territory  
33 proposed to be included in the new special district. The number  
34 of registered voters shall be calculated as of the time of the last  
35 report of voter registration by the county elections official to the  
36 Secretary of State prior to the date the first signature was affixed  
37 to the petition. The executive officer shall notify the petitioners of  
38 the number of registered voters resulting from this calculation.  
39 The assessed value of the land within the territory proposed to be

1 included in a new landowner-voter special district shall be  
2 calculated as shown on the last equalized assessment roll.

3 (g) To adopt written procedures for the evaluation of proposals,  
4 including written definitions consistent with existing state law.  
5 The commission may adopt standards for any of the factors  
6 enumerated in Section 56668. Any standards adopted by the  
7 commission shall be written.

8 (h) To adopt standards and procedures for the evaluation of  
9 service plans submitted pursuant to Section 56653 and the initiation  
10 of a change of organization or reorganization pursuant to  
11 subdivision (a).

12 (i) To make and enforce regulations for the orderly and fair  
13 conduct of hearings by the commission.

14 (j) To incur usual and necessary expenses for the  
15 accomplishment of its functions.

16 (k) To appoint and assign staff personnel and to employ or  
17 contract for professional or consulting services to carry out and  
18 effect the functions of the commission.

19 (l) To review the boundaries of the territory involved in any  
20 proposal with respect to the definiteness and certainty of those  
21 boundaries, the nonconformance of proposed boundaries with lines  
22 of assessment or ownership, and other similar matters affecting  
23 the proposed boundaries.

24 (m) To waive the restrictions of Section 56744 if it finds that  
25 the application of the restrictions would be detrimental to the  
26 orderly development of the community and that the area that would  
27 be enclosed by the annexation or incorporation is so located that  
28 it cannot reasonably be annexed to another city or incorporated as  
29 a new city.

30 (n) To waive the application of Section 22613 of the Streets and  
31 Highways Code if it finds the application would deprive an area  
32 of a service needed to ensure the health, safety, or welfare of the  
33 residents of the area and if it finds that the waiver would not affect  
34 the ability of a city to provide any service. However, within 60  
35 days of the inclusion of the territory within the city, the legislative  
36 body may adopt a resolution nullifying the waiver.

37 (o) If the proposal includes the incorporation of a city, as defined  
38 in Section 56043, or the formation of a district, as defined in  
39 Section 2215 of the Revenue and Taxation Code, the commission

1 shall determine the property tax revenue to be exchanged by the  
2 affected local agencies pursuant to Section 56810.

3 ~~(p) To authorize a city or district to provide new or extended  
4 services outside its jurisdictional boundaries pursuant to Section  
5 56133.~~

6 ~~(q) To enter into an agreement with the commission for an  
7 adjoining county for the purpose of determining procedures for  
8 the consideration of proposals that may affect the adjoining county  
9 or where the jurisdiction of an affected agency crosses the boundary  
10 of the adjoining county.~~

11 ~~(r) To approve with or without amendment, wholly, partially,  
12 or conditionally, or disapprove pursuant to this section the  
13 annexation of territory served by a mutual water company formed  
14 pursuant to Part 7 (commencing with Section 14300) of Division  
15 3 of Title 1 of the Corporations Code that operates a public water  
16 system to a city or special district. Any annexation approved in  
17 accordance with this subdivision shall be subject to the state and  
18 federal constitutional prohibitions against the taking of private  
19 property without the payment of just compensation. This  
20 subdivision shall not impair the authority of a public agency or  
21 public utility to exercise eminent domain authority.~~

22 *SECTION 1. Section 56375 of the Government Code is*  
23 *amended to read:*

24 56375. The commission shall have all of the following powers  
25 and duties subject to any limitations upon its jurisdiction set forth  
26 in this part:

27 (a) (1) To review and approve with or without amendment,  
28 wholly, partially, or conditionally, or disapprove proposals for  
29 changes of organization or reorganization, consistent with written  
30 policies, procedures, and guidelines adopted by the commission.

31 (2) The commission may initiate proposals by resolution of  
32 application for any of the following:

33 (A) The consolidation of a district, as defined in Section 56036.

34 (B) The dissolution of a district.

35 (C) A merger.

36 (D) The establishment of a subsidiary district.

37 (E) The formation of a new district or districts.

38 (F) A reorganization that includes any of the changes specified  
39 in subparagraph (A), (B), (C), (D), or (E).



1 (3) A commission may initiate a proposal described in paragraph  
2 (2) only if that change of organization or reorganization is  
3 consistent with a recommendation or conclusion of a study  
4 prepared pursuant to Section 56378, 56425, or 56430, and the  
5 commission makes the determinations specified in subdivision (b)  
6 of Section 56881.

7 (4) A commission shall not disapprove an annexation to a city,  
8 initiated by resolution, of contiguous territory that the commission  
9 finds is any of the following:

10 (A) Surrounded or substantially surrounded by the city to which  
11 the annexation is proposed or by that city and a county boundary  
12 or the Pacific Ocean if the territory to be annexed is substantially  
13 developed or developing, is not prime agricultural land as defined  
14 in Section 56064, is designated for urban growth by the general  
15 plan of the annexing city, and is not within the sphere of influence  
16 of another city.

17 (B) Located within an urban service area that has been delineated  
18 and adopted by a commission, which is not prime agricultural land,  
19 as defined by Section 56064, and is designated for urban growth  
20 by the general plan of the annexing city.

21 (C) An annexation or reorganization of unincorporated islands  
22 meeting the requirements of Section 56375.3.

23 (5) As a condition to the annexation of an area that is  
24 surrounded, or substantially surrounded, by the city to which the  
25 annexation is proposed, the commission may require, where  
26 consistent with the purposes of this division, that the annexation  
27 include the entire island of surrounded, or substantially surrounded,  
28 territory.

29 (6) A commission shall not impose any conditions that would  
30 directly regulate land use density or intensity, property  
31 development, or subdivision requirements.

32 (7) The decision of the commission with regard to a proposal  
33 to annex territory to a city shall be based upon the general plan  
34 and rezoning of the city. When the development purposes are not  
35 made known to the annexing city, the annexation shall be reviewed  
36 on the basis of the adopted plans and policies of the annexing city  
37 or county. A commission shall require, as a condition to  
38 annexation, that a city rezone the territory to be annexed or present  
39 evidence satisfactory to the commission that the existing  
40 development entitlements on the territory are vested or are already

1 at build-out, and are consistent with the city’s general plan.  
2 However, the commission shall not specify how, or in what  
3 manner, the territory shall be rezoned.

4 (8) (A) Except for those changes of organization or  
5 reorganization authorized under Section 56375.3, and except as  
6 provided by subparagraph (B), a commission shall not approve an  
7 annexation to a city *or to a qualified special district* of any territory  
8 greater than 10 acres, or as determined by commission policy,  
9 where there exists a disadvantaged unincorporated community that  
10 is contiguous to the area of proposed annexation, unless an  
11 application to annex the disadvantaged unincorporated community  
12 to the subject city has been filed with the executive officer.

13 (B) An application to annex a contiguous disadvantaged  
14 community shall not be required if either of the following apply:

15 (i) A prior application for annexation of the same disadvantaged  
16 community has been made in the preceding five years.

17 (ii) The commission finds, based upon written evidence, that a  
18 majority of the registered voters within the affected ~~territory~~  
19 *disadvantaged unincorporated community* are opposed to  
20 annexation.

21 (C) *For purposes of this paragraph, “a qualified special*  
22 *district” means a special district with more than 500 service*  
23 *connections that provides drinking water or wastewater services.*

24 (b) With regard to a proposal for annexation or detachment of  
25 territory to, or from, a city or district or with regard to a proposal  
26 for reorganization that includes annexation or detachment, to  
27 determine whether territory proposed for annexation or detachment,  
28 as described in its resolution approving the annexation, detachment,  
29 or reorganization, is inhabited or uninhabited.

30 (c) With regard to a proposal for consolidation of two or more  
31 cities or districts, to determine which city or district shall be the  
32 consolidated successor city or district.

33 (d) To approve the annexation of unincorporated, noncontiguous  
34 territory, subject to the limitations of Section 56742, located in the  
35 same county as that in which the city is located, and that is owned  
36 by a city and used for municipal purposes and to authorize the  
37 annexation of the territory without notice and hearing.

38 (e) To approve the annexation of unincorporated territory  
39 consistent with the planned and probable use of the property based  
40 upon the review of general plan and rezoning designations. No

1 subsequent change may be made to the general plan for the annexed  
2 territory or zoning that is not in conformance to the rezoning  
3 designations for a period of two years after the completion of the  
4 annexation, unless the legislative body for the city makes a finding  
5 at a public hearing that a substantial change has occurred in  
6 circumstances that necessitate a departure from the rezoning in  
7 the application to the commission.

8 (f) With respect to the incorporation of a new city or the  
9 formation of a new special district, to determine the number of  
10 registered voters residing within the proposed city or special district  
11 or, for a landowner-voter special district, the number of owners  
12 of land and the assessed value of their land within the territory  
13 proposed to be included in the new special district. The number  
14 of registered voters shall be calculated as of the time of the last  
15 report of voter registration by the county elections official to the  
16 Secretary of State prior to the date the first signature was affixed  
17 to the petition. The executive officer shall notify the petitioners of  
18 the number of registered voters resulting from this calculation.  
19 The assessed value of the land within the territory proposed to be  
20 included in a new landowner-voter special district shall be  
21 calculated as shown on the last equalized assessment roll.

22 (g) To adopt written procedures for the evaluation of proposals,  
23 including written definitions consistent with existing state law.  
24 The commission may adopt standards for any of the factors  
25 enumerated in Section 56668. Any standards adopted by the  
26 commission shall be written.

27 (h) To adopt standards and procedures for the evaluation of  
28 service plans submitted pursuant to Section 56653 and the initiation  
29 of a change of organization or reorganization pursuant to  
30 subdivision (a).

31 (i) To make and enforce regulations for the orderly and fair  
32 conduct of hearings by the commission.

33 (j) To incur usual and necessary expenses for the  
34 accomplishment of its functions.

35 (k) To appoint and assign staff personnel and to employ or  
36 contract for professional or consulting services to carry out and  
37 effect the functions of the commission.

38 (l) To review the boundaries of the territory involved in any  
39 proposal with respect to the definiteness and certainty of those  
40 boundaries, the nonconformance of proposed boundaries with lines

1 of assessment or ownership, and other similar matters affecting  
2 the proposed boundaries.

3 (m) To waive the restrictions of Section 56744 if it finds that  
4 the application of the restrictions would be detrimental to the  
5 orderly development of the community and that the area that would  
6 be enclosed by the annexation or incorporation is so located that  
7 it cannot reasonably be annexed to another city or incorporated as  
8 a new city.

9 (n) To waive the application of Section 22613 of the Streets and  
10 Highways Code if it finds the application would deprive an area  
11 of a service needed to ensure the health, safety, or welfare of the  
12 residents of the area and if it finds that the waiver would not affect  
13 the ability of a city to provide any service. However, within 60  
14 days of the inclusion of the territory within the city, the legislative  
15 body may adopt a resolution nullifying the waiver.

16 (o) If the proposal includes the incorporation of a city, as defined  
17 in Section 56043, or the formation of a district, as defined in  
18 Section 2215 of the Revenue and Taxation Code, the commission  
19 shall determine the property tax revenue to be exchanged by the  
20 affected local agencies pursuant to Section 56810.

21 (p) To authorize a city or district to provide new or extended  
22 services outside its jurisdictional boundaries pursuant to Section  
23 56133.

24 (q) To enter into an agreement with the commission for an  
25 adjoining county for the purpose of determining procedures for  
26 the consideration of proposals that may affect the adjoining county  
27 or where the jurisdiction of an affected agency crosses the boundary  
28 of the adjoining county.

29 (r) To approve with or without amendment, wholly, partially,  
30 or conditionally, or disapprove pursuant to this section the  
31 annexation of territory served by a mutual water company formed  
32 pursuant to Part 7 (commencing with Section 14300) of Division  
33 3 of Title 1 of the Corporations Code that operates a public water  
34 system to a city or special district. Any annexation approved in  
35 accordance with this subdivision shall be subject to the state and  
36 federal constitutional prohibitions against the taking of private  
37 property without the payment of just compensation. This  
38 subdivision shall not impair the authority of a public agency or  
39 public utility to exercise eminent domain authority.

1     ~~SEC. 4.~~

2     *SEC. 2.* Section 56425 of the Government Code is amended  
3 to read:

4     56425. (a) In order to carry out its purposes and responsibilities  
5 for planning and shaping the logical and orderly development and  
6 coordination of local governmental agencies subject to the  
7 jurisdiction of the commission to advantageously provide for the  
8 present and future needs of the county and its communities, the  
9 commission shall develop and determine the sphere of influence  
10 of each city and each special district, as defined by Section 56036,  
11 within the county and enact policies designed to promote the logical  
12 and orderly development of areas within or adjacent to the sphere.

13     (b) Prior to a city submitting an application to the commission  
14 to update its sphere of influence, representatives from the city and  
15 representatives from the county shall meet to discuss the proposed  
16 new boundaries of the sphere and explore methods to reach  
17 agreement on development standards and planning and zoning  
18 requirements within the sphere to ensure that development within  
19 the sphere occurs in a manner that reflects the concerns of the  
20 affected city and is accomplished in a manner that promotes the  
21 logical and orderly development of areas within the sphere. If an  
22 agreement is reached between the city and county, the city shall  
23 forward the agreement in writing to the commission, along with  
24 the application to update the sphere of influence. The commission  
25 shall consider and adopt a sphere of influence for the city consistent  
26 with the policies adopted by the commission pursuant to this  
27 section, and the commission shall give great weight to the  
28 agreement to the extent that it is consistent with commission  
29 policies in its final determination of the city sphere.

30     (c) If the commission's final determination is consistent with  
31 the agreement reached between the city and county pursuant to  
32 subdivision (b), the agreement shall be adopted by both the city  
33 and county after a noticed public hearing. Once the agreement has  
34 been adopted by the affected local agencies and their respective  
35 general plans reflect that agreement, then any development  
36 approved by the county within the sphere shall be consistent with  
37 the terms of that agreement.

38     (d) If no agreement is reached pursuant to subdivision (b), the  
39 application may be submitted to the commission and the  
40 commission shall consider a sphere of influence for the city

1 consistent with the policies adopted by the commission pursuant  
2 to this section.

3 (e) In determining the sphere of influence of each local agency,  
4 the commission shall consider and prepare a written statement of  
5 its determinations with respect to each of the following:

6 (1) The present and planned land uses in the area, including  
7 agricultural and open-space lands.

8 (2) The present and probable need for public facilities and  
9 services in the area.

10 (3) The present capacity of public facilities and adequacy of  
11 public services that the agency provides or is authorized to provide.

12 (4) The existence of any social or economic communities of  
13 interest in the area if the commission determines that they are  
14 relevant to the agency.

15 (5) For an update of a sphere of influence of a city or special  
16 district that provides public facilities or services related to sewers,  
17 municipal and industrial water, or structural fire protection, that  
18 occurs pursuant to subdivision (g) on or after July 1, 2012, the  
19 present and probable need for those public facilities and services  
20 of any disadvantaged unincorporated communities within or  
21 adjacent to the existing sphere of influence.

22 (f) Upon determination of a sphere of influence, the commission  
23 shall adopt that sphere.

24 (g) On or before January 1, 2008, and every five years thereafter,  
25 the commission shall, as necessary, review and update each sphere  
26 of influence.

27 (h) In determining a sphere of influence, the commission ~~shall~~  
28 *may* assess the feasibility of governmental reorganization of  
29 particular agencies and recommend reorganization of those  
30 agencies when reorganization is found to be feasible and if  
31 reorganization will further the goals of orderly development and  
32 efficient and affordable service delivery. The commission shall  
33 make all reasonable efforts to ensure wide public dissemination  
34 of the recommendations.

35 (i) When adopting, amending, or updating a sphere of influence  
36 for a special district, the commission shall establish the nature,  
37 location, and extent of any functions or classes of services provided  
38 by existing districts.

39 (j) When adopting, amending, or updating a sphere of influence  
40 for a special district, the commission may require existing districts

1 to file written statements with the commission specifying the  
2 functions or classes of services provided by those districts.

3 (k) The commission shall not approve a sphere of influence  
4 update that removes a disadvantaged community from a city or a  
5 special district unless the commission makes a finding, based on  
6 written evidence, that the removal of the disadvantaged community  
7 will result in improved service delivery to the community.

8 ~~SEC. 5.~~

9 *SEC. 3.* Section 56430 of the Government Code is amended  
10 to read:

11 56430. (a) In order to prepare and to update spheres of  
12 influence in accordance with Section 56425, the commission shall  
13 conduct a service review of the municipal services provided in the  
14 county or other appropriate area designated by the commission.  
15 The commission shall include in the area designated for service  
16 review the county, the region, the subregion, or any other  
17 geographic area as is appropriate for an analysis of the service or  
18 services to be reviewed, and shall prepare a written statement of  
19 its determinations with respect to each of the following:

20 (1) Growth and population projections for the affected area.

21 (2) The location and characteristics of any disadvantaged  
22 unincorporated communities within or contiguous to the sphere  
23 of influence.

24 (3) Present and planned capacity of public facilities, adequacy  
25 of public services, and infrastructure needs or deficiencies including  
26 needs or deficiencies related to sewers, municipal and industrial  
27 water, and structural fire protection in any disadvantaged,  
28 unincorporated communities within or contiguous to the sphere  
29 of influence.

30 (4) Financial ability of agencies to provide services.

31 (5) Status of, and opportunities for, shared facilities.

32 (6) Accountability for community service needs, including  
33 governmental structure and operational efficiencies.

34 (7) Any other matter related to effective or efficient service  
35 delivery, as required by commission policy.

36 (b) In conducting a service review, the commission shall  
37 comprehensively review all of the agencies that provide the  
38 identified service or services within the designated geographic  
39 area. Where there exists a disadvantaged unincorporated  
40 community that lacks adequate drinking water and wastewater

1 services and infrastructure within or contiguous with the subject  
2 sphere, the commission shall assess various alternatives for  
3 improving efficiency and affordability of *drinking water or*  
4 *wastewater* infrastructure and service delivery within and  
5 contiguous to the sphere of influence, including, but not limited  
6 to, the consolidation of governmental agencies or the extension of  
7 services, or both.

8 (c) In conducting a service review, the commission shall include  
9 a review of whether the agencies under review, including any  
10 public water system as defined in Section 116275 of the Health  
11 and Safety Code, are in compliance with the California Safe  
12 Drinking Water Act (Chapter 4 (commencing with Section 116270)  
13 of Part 12 of Division 104 of the Health and Safety Code) if the  
14 information is ~~readily~~ available *from the State Water Resources*  
15 *Control Board or other sources*. A public water system may satisfy  
16 any request for information as to compliance with that act by  
17 submission of the consumer confidence or water quality report  
18 prepared by the public water system as provided by Section 116470  
19 of the Health and Safety Code.

20 (d) The commission may request information, as part of a service  
21 review under this section, from identified public or private entities  
22 that provide wholesale or retail supply of drinking water, including  
23 mutual water companies formed pursuant to Part 7 (commencing  
24 with Section 14300) of Division 3 of Title 1 of the Corporations  
25 Code, and private utilities, as defined in Section 1502 of the Public  
26 Utilities Code.

27 (e) (1) The commission shall conduct a service review before,  
28 or in conjunction with, but no later than the time it is considering  
29 an action to establish a sphere of influence in accordance with  
30 Section 56425 or 56426.5 or to update a sphere of influence  
31 pursuant to Section 56425.

32 (2) *On or before January 1, 2022, and every five years*  
33 *thereafter, the commission shall conduct service reviews sufficient*  
34 *to have reviewed the entire territory of the county.*

35 (f) *The commission shall file a map of the county that identifies*  
36 *disadvantaged unincorporated communities that lack safe drinking*  
37 *water or adequate wastewater in electronic format with the Office*  
38 *of Planning and Research. The Office of Planning and Research*  
39 *shall make the map available on its Internet Web site.*



1 (g) (1) Within two years of identification of a disadvantaged  
2 unincorporated community that lacks safe drinking water or  
3 adequate wastewater services pursuant to this section, the  
4 commission shall recommend a plan based on the alternatives  
5 analyzed and shall adopt any actions necessary to implement the  
6 plan, including sphere of influence updates, extensions of service,  
7 or changes of organization.

8 (2) Actions taken to adopt a plan under this subdivision shall  
9 not be subject to an election or any protest proceedings, as defined  
10 in Section 56069.5, except that the commission shall conduct  
11 protest proceedings for residents of the disadvantaged community.

12 (3) The commission shall not be required to adopt or implement  
13 a plan if the commission finds, based on substantial evidence, that  
14 there is no technical or economically feasible way of connecting  
15 the disadvantaged unincorporated community to an existing system,  
16 considering any financial assistance available from the State Water  
17 Resources Control Board or any other applicable source of  
18 financial assistance. These findings shall not interfere with or  
19 inform other programs or policies designed to expand basic  
20 services to disadvantaged unincorporated communities, including,  
21 but not limited to, Sections 116680 to 116684, inclusive, of the  
22 Health and Safety Code.

23 (h) (1) Notwithstanding Section 56133, 56133.5, or 56375, on  
24 and after January 1, 2022, a commission shall not change the  
25 sphere of influence of, or authorize extension of services by, a  
26 qualifying city or special district if the commission has not done  
27 one of the following:

28 (A) Conducted the analysis required by this section.

29 (B) Adopted a plan or taken the actions required by subdivision  
30 (g).

31 (2) Notwithstanding Section 56133, 56133.5, or 56375, a  
32 commission shall not change the sphere of influence of, or  
33 authorize an extension of services by, a qualifying city or special  
34 district if the city or special district has been designated in a plan  
35 developed pursuant to subdivision (g) to provide water or  
36 wastewater services and the city or special district has not begun  
37 providing water or wastewater service, as identified by the  
38 commission's plan, within three years of being designated in the  
39 plan.

1     (3) *The prohibition against a change to a sphere of influence*  
2 *or extension of service pursuant to paragraphs (1) and (2) shall*  
3 *not apply to either of the following:*

4     (A) *An application to extend services to, or include in their*  
5 *sphere of influence, a disadvantaged unincorporated community.*

6     (B) *An extension of service authorized pursuant to subdivision*  
7 *(c) of Section 56133.*

8     (i) *As used in this section, “a qualifying city or special district”*  
9 *means a city or special district that provides water service or*  
10 *wastewater services and serves 500 or more connections.*

11     ~~SEC. 6.~~

12     SEC. 4. If the Commission on State Mandates determines that  
13 this act contains costs mandated by the state, reimbursement to  
14 local agencies and school districts for those costs shall be made  
15 pursuant to Part 7 (commencing with Section 17500) of Division  
16 4 of Title 2 of the Government Code.



April 14, 2016

Honorable Bob Wieckowski, Chair  
Senate Committee on Environmental Quality  
California State Senate  
State Capitol, Room 3086  
Sacramento, CA 95814

**RE: OPPOSITION to SB 1318 (Wolk) as amended April 12, 2016**

Dear Chair Wieckowski:

The California Association of Local Agency Formation Commissions (CALAFCO) has been tracking SB 1318 (Wolk), and based on the amendments of April 12, 2016, we remain opposed to the bill. CALAFCO and our member Local Agency Formation Commissions (LAFCo) are aware of and concerned about the disparity of local public services, especially for residents and properties located within disadvantaged unincorporated communities (DUCs). All Californians deserve adequate and safe drinking water and wastewater facilities. While CALAFCO supports the author's intent, we strongly believe this bill does not address the source of the problem, and in fact creates a host of additional problems and unintended consequences.

One of our primary concerns is that the outcome of this legislation does not address the root causes of the lack of acceptable drinking water and wastewater facilities to the DUCs, which are infrastructure deficiencies and a lack of operational and maintenance funding. Instead, the bill and its subsequent amendments, all of which were hastily drafted and without the collective input of all stakeholders affected, propose unworkable solutions. The bill has a highly misplaced focus on the overall role of LAFCos rather than on solving the root issues of the problem.

In addition to the reasons noted above, other reasons for our opposition of the April 12, 2016 version of the bill include:

1. The new requirements found in Government Code Section (GCS) 56430(e)(2), requiring LAFCo to, every five years, conduct service reviews sufficient to have reviewed the entire county, extends LAFCo authority far beyond our current level. This precedent setting requirement means LAFCos will be reviewing entities who do not have a sphere of influence (SOI) adopted by LAFCo and whose boundaries and service areas are established by the California Public Utilities Commission. While legislative statute allows LAFCo to request information from certain private entities providing drinking water and private utilities, there is no statutory requirement for the entities to respond. Further, there is no statutory authority for LAFCo to recommend or make adjustments to these entities' SOI.
2. The requirement for the Commission to adopt a plan regarding all identified DUCs in the County that lack safe drinking water or adequate wastewater services under proposed GCS 56340(g), places expectations on LAFCo that exceed our legislative and legal authority. Specifically, the requirement in section 56340(g)(1) that within two years of the plan's adoption, LAFCo is to "take any actions necessary to implement the plan, including sphere of

influence updates, extensions of service, or changes of organization”, could only currently apply to public agencies subject to LAFCo’s legislative authority. Yet in many cases, inadequate services are provided by private companies or mutual water companies whom are not overseen by LAFCo. Further, LAFCo lacks the authority to direct cities, counties and special districts to implement a plan created by LAFCo. In addition, this requirement presumes LAFCos have the expertise to create plans for infrastructure design, buildout and cost.

3. The distinct lack of funding to fulfill these legislative mandates is a significant hurdle. First, the cost to LAFCo to conduct county-wide studies every five years is significant. Additionally, these studies require significant resources to complete. Next, the resources for LAFCo to complete the required “plan” go unmentioned. Finally, the resources needed for entities to implement the plan are also unidentified.

LAFCos are funded by their member agencies who are cities, counties and in 30 of the 58 LAFCos, independent special districts. These unfunded mandates will need to be paid for in some way, and since the bill does not identify funding sources, all 58 LAFCos will be forced to pass along these additional costs to their member agencies. The requirements under section 56340(e)(2) for LAFCos to conduct service reviews sufficient to have reviewed the entire territory of the county goes well beyond the city and independent special district focus of the existing service review requirements, and would constitute an expensive unfunded mandate upon the Commission with little added benefit to the citizens of the respective county.

To the degree LAFCo has adopted the plan required in section 56340(g), LAFCo is not in a position to seek infrastructure grants or sell bonds to install infrastructure improvements which actually lead to the provision of water and wastewater services. The bill fails to identify funding sources available to cities, independent special districts and private companies that construct and operate these critical public utilities.

4. The bill fails to identify the contents of the required plan referenced in GCS 56430(g)(1).
5. Proposed GCS 56430(g)(2) creates an inconsistent exception for protest proceedings which takes away property rights that have been long-established in governmental reorganizations in California. The residents of the DUC are afforded the right to file protests for Commission initiated boundary changes, but other residents living within a larger annexation boundary that are not part of the DUC would lose their right to protest being included in the annexation or reorganization.

Clearly, this legislation is attempting to address serious problems for DUCs, similar to the measures adopted through SB 244. However, there are obviously a substantial number of unintended consequences to the proposed bill. Again – the bill is not addressing the root cause of the lack of drinking water and waste water services - but instead applies a misguided and misinformed focus on LAFCos, who are only one cog in a very large wheel.

The passage of Budget Trailer Bill SB 88 last year granted the State Water Resources Control Board (SWRCB) the authority to mandate consolidation of water systems. They have been hard at work the past nine months focusing on those areas that lack safe drinking water due to poor water quality. CALAFCO encourages the author and sponsor of SB 1318 to allow time for the process created less than a year ago to work before layering additional and highly unworkable requirements on top of that process.

We want to continue to encourage the author and sponsor to establish a collective dialogue with all affected stakeholders to discuss more reasonable and workable solutions. Further, we encourage them to establish dialogue between the SWRCB, existing service providers, DUCs and the local LAFCOs in those areas in which specific problems have been identified, to discuss the unique circumstances and conditions that exist for that DUC and to determine if annexation or service extensions are a viable alternative.

CALAFCO remains committed to help find solutions to the disparities in service delivery to disadvantaged communities. To that end we continue to offer ourselves as a conversation partner to Senator Wolk, her staff, and the sponsor.

For all of the reasons noted above, CALAFCO remains opposed to SB 1318, and we thank you and your committee for considering our concerns. I am happy to answer any questions you may have.

Yours sincerely,



Pamela Miller  
Executive Director

cc: Members, Senate Environmental Quality Committee  
Honorable Senator Lois Wolk  
Rachel Machi Wagoner, Chief Consultant, Senate Environmental Quality Committee  
Morgan Branch, Senate Republican Caucus Consultant