



LOCAL AGENCY FORMATION COMMISSION

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November 11, 2015

To: LAFCo Commissioners
From: Martha Poyatos, Executive Officer
Subject: Legislative Report

Attached is the list of all CALAFCO-tracked bills. The Legislature has recessed its regular session.

Of particular interest is the Governor's signing of SB 239 (Hertzberg), which was opposed by CALAFCO and several individual LAFCos, including San Mateo. The chaptered bill and analysis are attached. Taking effect on January 1, 2016, this law adds Government Code Section 56134 to the Cortese-Knox-Hertzberg Local Government Reorganization Act. In essence, it excludes extension of fire service outside agency boundaries from Government Code Section 56133 and establishes a requirement for LAFCo authorization for a fire agency to provide service outside its boundaries to another fire agency. Section 56134, which applies to all local fire agencies and CAL FIRE, specifies what constitutes a fire protection contract and under what circumstances LAFCo may approve such a contract. It does not apply to mutual aid agreements, provision of year-round staffing at seasonal wildland stations, or pre-hospital emergency medical services.

The law sets forth that an out-of-agency fire protection contract will require LAFCo review if it (1) transfers responsibility for providing fire protection services in more than 25 percent of the area within the jurisdictional boundaries of any public agency affected by the agreement, or (2) changes the employment status of more than 25 percent of the employees of any public agency affected by the contract or agreement. LAFCo review must be initiated by adoption and submittal of a resolution of application. Before submitting the application, the agency must either (1) have the firefighters' unions of each affected agency consent to the proposed agreement or (2) provide at least 30 days' advance notice of the public hearing where the resolution of application will be considered by all affected public agencies and unions. The notice must include a full copy of the proposed agreement. The application submitted to LAFCo must be accompanied by a detailed plan of services and financial information plus an independently prepared comprehensive fiscal analysis that reviews the plan of services. The application must be placed on the Commission agenda within 90 days from the time it is deemed to be complete by LAFCo. This section also identifies several determinations the Commission must make in order to approve the application.

Section 56134 includes terminology that is not well defined, leading to uncertainty over how this new law will apply to certain situations, including whether it will apply to renewal of existing service agreements. Staff will work with County Counsel and fire protection agencies to determine how the new law affects agreements for fire protection in San Mateo County.

cc: San Mateo County Fire Chiefs

CALAFCO Daily Legislative Report as of Wednesday, November 11, 2015

1

AB 115 (Committee on Budget) **Water.**

Current Text: Amended: 6/18/2015 [pdf](#) [html](#)

Introduced: 1/9/2015

Last Amended: 6/18/2015

Status: 9/11/2015-Ordered to inactive file at the request of Senator Mitchell.



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

Summary:

Would authorize the State Water Resources Control Board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This bill would authorize the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation.

Position: Oppose

Subject: Disadvantaged Communities, LAFCo Administration, Special District Consolidations, Water

CALAFCO Comments: This bill is the same as SB 88. As amended, AB 115 gives the State Water Resources Control Board (SWRCB) direct authority to mandate either an extension of service or consolidation of water systems, including public and private systems, and individual wells. The bill focuses on disadvantage communities. Prior to ordering the consolidation, the SWRCB must make certain determinations and take certain actions, including conducting a public hearing in the affected territory. They are also required to "consult with and fully consider input from the relevant LAFCo, the PUC, and either the city or county (whichever has land use authority). Entities are allowed 6 months to find workable solutions before the SWRCB mandates the action. Prior to making the order, the SWRCB must make certain determinations. Upon making the order, the SWRCB must make funding available to the receiving water system for capacity building (no operations and maintenance funding is provided, adequately compensate the subsumed system, pay fees to the LAFCo for whatever work they will do (which is as of now undefined) to facilitate the action. The bill also contains certain CEQA exemptions and liability relief for the subsuming water entity, as well as various penalties. Finally, the bill makes legislative findings and declarations as to the reason for the SWRCB to have these powers, which has been taken directly from the legislative findings and declarations of CKH and the reason LAFCos have the powers they do.

CALAFCO has attempted to work with the administration for some time in defining the best possible process for these actions. However, for the most part, amendments proposed have been dismissed. CALAFCO has a number of concerns regarding the proposed process, not the least of which is the language in section 116682 (g) (the way it is worded now, it exempts the entire consolidation process and there is a legal argument that this would divest LAFCO of any authority to complete the consolidation since that authority is solely contained in CKH). Further, we requested indemnification for LAFCo as they implement section 11682(e) (4) which was also dismissed.

AB 402 (**Dodd D**) **Local agency services: contracts.**

Current Text: Chaptered: 10/2/2015 [pdf](#) [html](#)

Introduced: 2/19/2015

Last Amended: 8/26/2015

Status: 10/2/2015-Chaptered by Secretary of State - Chapter 431, Statutes of 2015.



Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.			

1st House	2nd House	Conc.	Enrolled	Vetoed	Chaptered
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Summary:

Would establish a pilot program, until January 1, 2021, for the Napa and San Bernardino commissions that would permit 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 contains other related provisions.

Position: None at this time

Subject: CKH General Procedures, LAFCo Administration, Service Reviews/Spheres

CALAFCO Comments: This bill creates a 5 year pilot opportunity for Napa and San Bernardino LAFCo Commissions to authorize an extension of services outside boundaries and spheres to support existing or planned uses pending the commission's determination that (1) a service deficiency was identified and evaluated in a MSR; AND (2) the extension of services will not result in adverse impacts on open space or ag lands or have growth inducing impacts.

CALAFCO previously considered (over an extensive period of time) amending GC §56133, and twice (in 2011 and again in 2013) the CALAFCO Board of Directors decided not to pursue those amendments. This is not a CALAFCO sponsored bill. Assembly member Dodd is a former Napa LAFCo Commissioner.

AB 448 (Brown D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Current Text: Introduced: 2/23/2015 [pdf](#) [html](#)

Introduced: 2/23/2015

Status: 8/27/2015-In committee: Held under submission.

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

Summary:

Current property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction shall be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. This bill would modify these reduction and transfer provisions, for the 2015-16 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

Attachments:

[CALAFCO Support Letter March 2015](#)

Position: Support

Subject: Financial Viability of Agencies, Tax Allocation

CALAFCO Comments: As introduced, this bill is identical to AB 1521 (Fox) from last year. This bill reinstates the VLF payment (through ERAF) and changes the way that the growth in the VLF adjustment amount (property tax in lieu of VLF) is calculated starting in FY 2015-16 to include the growth of assessed valuation, including in an annexed area, from FY 2004-05 to FY 2015-16. Beginning in FY 2016-17, the VLF adjustment amount would be the jurisdiction's annual change in the assessed valuation

AB 851 (Mayer R) Local government: organization: disincorporations.

Current Text: Chaptered: 9/21/2015 [pdf](#) [html](#)

Introduced: 2/26/2015

Last Amended: 8/18/2015

Status: 9/21/2015-Chaptered by Secretary of State - Chapter 304, Statutes of 2015.

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

Summary:

Current law authorizes a local agency which is conducting proceedings for the incorporation of a city, formation of a district, change of organization, a reorganization, a change of organization of a city, or a municipal reorganization to propose the adoption of a special tax

on behalf of the affected city or district in accordance with this procedure. This bill would additionally authorize a local agency conducting proceedings for the disincorporation of a city to propose the adoption of a special tax on behalf of an affected city in accordance with the above-described procedure.

Attachments:

- [CALAFCO Letter Requesting Governor Signature](#)
- [CALAFCO Support Mar 2015](#)

Position: Sponsor

Subject: CKH General Procedures, Disincorporation/dissolution

CALAFCO Comments: Sponsored by CALAFCO. As amended, this bill addresses the long-outdated statutes relating to disincorporation. Although many other areas of CKH have been updated over the past 52 years, the areas pertaining to disincorporations remain in their original format as written in 1963.

This bill does the following: (1) Clarifies the expectation for assignment of responsibility for debt that will continue in existence after disincorporation; (2) Establishes the parameters and requirements for the submission of the Plan for Service for a disincorporation proposal which outlines existing services, the proponent’s plan for the future of those services, and whether or not a bankruptcy proceeding has been undertaken; (3) Establishes the responsibilities of LAFCOs in preparing a Comprehensive Fiscal Analysis for disincorporations, the determination of the transfer of property tax revenues previously received by the proposed disincorporating City, and the determination of the transfer of debt to a successor agency or agencies. Further, the bill retains LAFCOs existing authority to impose terms and conditions on a proposed disincorporation as well as the election requirements necessary for approval of disincorporation. The proposed disincorporation statutory changes use the incorporation provisions as a template to propose changes in the disincorporation process.

AB 1532 (Committee on Local Government) Local government: omnibus.

Current Text: Chaptered: 7/15/2015 [pdf](#) [html](#)

Introduced: 3/23/2015

Last Amended: 5/22/2015

Status: 7/15/2015-Chaptered by Secretary of State - Chapter 114, Statutes of 2015.

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

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, requires a local agency formation commission to notify specified state agencies having oversight or regulatory responsibility over, or a contractual relationship with, a local health care district when a proposal is made for any of specified changes of organization affecting that district. This bill would update obsolete references to a "hospital" district and replace outdated references to the State Department of Health Services with references to the State Department of Public Health and the State Department of Health Care Services.

Attachments:

- [CALAFCO Letter Requesting Governor Signature](#)
- [CALAFCO Support Letter March 2015](#)

Position: Sponsor

Subject: CKH General Procedures

CALAFCO Comments: This is the annual Omnibus bill for the Cortese-Knox-Hertzberg Reorganization Act of 2000. This bill makes nonsubstantive technical clean-up corrections to the Act.

SB 25 (Roth D) Local government finance: property tax revenue allocation: vehicle license fee adjustments.

Current Text: Vetoed: 9/22/2015 [pdf](#) [html](#)

Introduced: 12/1/2014

Last Amended: 8/28/2015

Status: 9/22/2015-Vetoed by the Governor

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

Would modify specified reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2014-15 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation. This bill contains other related provisions and other existing laws.

Attachments:

- [CALAFCO Letter to Governor Requesting Signature](#)
- [CALAFCO Support March 2015](#)

Position: Support

Subject: Financial Viability of Agencies

CALAFCO Comments: Identical to SB 69 (Roth) from 2014, the bill calls for reinstatement of the VLF through ERAF for cities that incorporated between January 1, 2004 and January 1, 2012. There are no provisions for back payments for lost revenue, but the bill does reinstate future payments beginning in the 2014/15 year for cities that incorporated between 1-1-2004 and 1-1-2012.

SB 88 (Committee on Budget and Fiscal Review) Water.

Current Text: Chaptered: 6/24/2015 [pdf](#) [html](#)

Introduced: 1/9/2015

Last Amended: 6/17/2015

Status: 6/24/2015-Chaptered by Secretary of State - Chapter 27, Statutes of 2015

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

Summary:

Would authorize the State Water Resources Control Board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This bill would authorize the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation.

Position: Oppose

Subject: Disadvantaged Communities, LAFCo Administration, Special District Consolidations, Water

CALAFCO Comments: This bill is the same as AB 115. As amended, SB 88 gives the State Water Resources Control Board (SWRCB) direct authority to mandate either an extension of service or consolidation of water systems, including public and private systems, and individual wells. The bill focuses on disadvantage communities. Prior to ordering the consolidation, the SWRCB must make certain determinations and take certain actions, including conducting a public hearing in the affected territory. They are also required to "consult with and fully consider input from the relevant LAFCo, the PUC, and either the city or county (whichever has land use authority). Entities are allowed 6 months to find workable solutions before the SWRCB mandates the action. Prior to making the order, the SWRCB must make certain determinations. Upon making the order, the SWRCB must make funding available to the receiving water system for capacity building (no operations and maintenance funding is provided, adequately compensate the subsumed system, pay fees to the LAFCo for whatever work they will do (which is as of now undefined) to facilitate the action. The bill also contains certain CEQA exemptions and liability relief for the subsuming water entity, as well as various penalties. Finally, the bill makes legislative findings and declarations as to the reason for the SWRCB to have these powers, which has been taken directly from the legislative findings and declarations of CKH and the reason LAFCOs have the powers they do.

CALAFCO has attempted to work with the administration for some time in defining the best possible process for these actions. However, for the most part, amendments proposed have been dismissed. CALAFCO has a number of concerns regarding the proposed process, not the least of which is the language in section 116682 (g) (the way it is worded now, it exempts

the entire consolidation process and there is a legal argument that this would divest LAFCO of any authority to complete the consolidation since that authority is solely contained in CKH). Further, we requested indemnification for LAFCo as they implement section 11682(e) (4) which was also dismissed.

SB 239 (Hertzberg D) Local services: contracts: fire protection services.

Current Text: Chaptered: 10/10/2015 [pdf](#) [html](#)

Introduced: 2/17/2015

Last Amended: 9/2/2015

Status: 10/10/2015-Chaptered by Secretary of State - Chapter 763, Statutes of 2015.



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

Summary:

Would, with certain exceptions, permit a public agency to exercise new or extended services outside the public agency's jurisdictional boundaries pursuant to a fire protection contract, as defined, only if the public agency receives written approval from the local agency formation commission in the affected county. This bill contains other related provisions and other existing laws.

Attachments:

- [CALAFCO Removal of Opposition to No Position Leter](#)
- [CALAFCO OpposeLetter April 2015](#)

Position: None at this time

Subject: CKH General Procedures, Municipal Services

CALAFCO Comments: As amended this bill sets forth requirements for the application of service extensions relating to fire protection services. The bill calls for a Fire Protection Contract to be submitted with the application. This is required for applications that (1) Transfer greater than 25% of the service area or (2) Changes the employment status of more than 25% of employees of any affected agencies. Prior to submitting the application for service extension, all affected agency employee unions must approve the request and conduct a public hearing; or, provide at least 30 days notice of the public hearing with such notice being sent to each affected public agency and all affected employee unions and shall include a copy of the proposed agreement. The bill requires contents of the Contract Plan to include: (1) Cost of providing services to be extended; (2) Cost to customers; (3) an ID of existing service providers; (4) Financing plan; (5) Alternatives to the extension; (6) Enumeration and description of services proposed; (7) level and range of services proposed; (8) Timeline for services to be provided; and (9) improvements or upgrades that would be imposed or required to provide services. Further, it requires a comprehensive Fiscal Analysis to be conducted. The bill also outlines determinations the commission must make that include the provider of services for the extension of service will build a "reasonable reserve" during the three years following the effective date of the contract.

The bill sets several precedents. First, it requires a California state agency to apply for, and request LAFCo approval prior to undertaking an action that involves the provision of services outside of a public agency's current service area under contract or agreement. Further, the >25% threshold that triggers this kind of scrutiny appears to be an arbitrary threshold with no data to support it. Next, LAFCos currently have exempted the review and approval of contracts or agreements between two public agencies - this bill would change that provision in certain circumstances. Finally, the bill addresses only one type of service provider, which fails to address the question of why the provision of fire protection services, by contract or agreement, outside of a public agency's boundaries, requires a different level of review than other types of equally vital services or demands a heightened or weighted review from any commenter or affected agency.

Many of CALAFCO's concerns have been removed by amendments, however there are some that remain as noted above. At question for CALAFCO members is whether or not the LAFCo should be reviewing and/or approving contracts/agreements between two public agencies, which is a question for which CALAFCO has received divergent positions. As a result, CALAFCO removed our opposition and took a No Position on the bill.

SB 272 (Hertzberg D) The California Public Records Act: local agencies: inventory.

Current Text: Chaptered: 10/11/2015 [pdf](#) [html](#)

Introduced: 2/19/2015

Last Amended: 9/2/2015

Status: 10/11/2015-Chaptered by Secretary of State - Chapter 795, Statutes of 2015.

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

Summary:

Would require each local agency, except a local educational agency, in implementing the California Public Records Act, to create a catalog of enterprise systems, as defined, to make the catalog publicly available upon request in the office of the person or officer designated by the agency's legislative body, and to post the catalog on the local agency's Internet Web site.

Position: Watch

Subject: LAFCo Administration, Public Records Act

CALAFCO Comments: As amended, this bill requires all local agencies (including LAFCo) to create a catalogue of enterprise systems used by that agency and make that catalogue available to the public. For purposes of the bill, the author defines enterprise systems as a software application or computer system that collects, stores, exchanges, and analyzes information that the agency uses that is both: (1) is a multi-departmental system or system containing information collected about the public; AND (2) a system of record for that agency. Further, the bill defines a system of record as a system that serves as an original source of data within an agency. The bill requires certain pieces of information be disclosed including (1) Current system vendor; (2) Current system product; (3) A brief statement of the system's purpose;(4) A general description of categories, modules, or layers of data;(5) The department that serves as the system's primary custodian;(6) How frequently system data is collected; and (7) How frequently system data is updated. Excluded are 911 systems and other public safety systems.

SB 552 (Wolk D) Public water systems: disadvantaged communities: consolidation or extension of service.

Current Text: Amended: 7/7/2015 [pdf](#) [html](#)

Introduced: 2/26/2015

Last Amended: 7/7/2015

Status: 7/17/2015-Failed Deadline pursuant to Rule 61(a)(10). (Last location was RLS. on 7/9/2015)

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

Summary:

Current law, for purposes of the California Safe Drinking Water Act, defines "disadvantaged community" to mean a disadvantaged community that is in an unincorporated area or is served by a mutual water company. This bill would allow a community to be a "disadvantaged community" if the community is in a mobilehome park even if it is not in an unincorporated area or served by a mutual water company.

Position: Watch

Subject: Disadvantaged Communities, Water

CALAFCO Comments: This bill is being amended as a vehicle to clean-up the water consolidation legislation [passed through as a budget trailer bill, SB 88/AB 115.

AB 3 (Williams D) Isla Vista Community Services District.

Current Text: Chaptered: 10/7/2015 [pdf](#) [html](#)

Introduced: 12/1/2014

Last Amended: 9/9/2015

Status: 10/7/2015-Chaptered by Secretary of State - Chapter 548, Statutes of 2015.

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

Would authorize the establishment of the Isla Vista Community Services District by requiring the Board of Supervisors of the County of Santa Barbara to submit a resolution of application to the Santa Barbara County Local Agency Formation Commission, and, upon direction by the commission, place the questions of whether the district should be established and whether a utility user tax should be imposed on the ballot at the next countywide election following the completion of the review by the commission. By imposing new duties on the County of Santa Barbara, this bill would impose a state-mandated local program.

Attachments:

- [CALAFCO Oppose Unless Amended Letter April 2015](#)
- [CALAFCO Letter of Concern Dec 2014](#)

Position: Oppose unless amended

Subject: LAFCo Administration, Special District Powers

CALAFCO Comments: As amended the bill requires the Santa Barbara Board of Supervisors (BOS) on or before 1/5/16 to file a resolution of application with the Santa Barbara LAFCO to initiate a comprehensive review of the formation of the Isla Vista CSD. The LAFCO will not have the authority to make a final determination as to whether or not the CSD should be formed, but rather only make recommendations as to its formation. (This differs from the last version of the bill which did not include the LAFCO at all.) The final authority of whether or not the district shall be formed will stay with the voters. The bill requires the BOS to pay the appropriate fees for the LAFCO review and recommendations. Further, the bill requires the LAFCO to complete the review and make recommendations within 150 days of the filing of the resolution of application. Finally, because the people are voting on the establishment of the CSD, protest proceedings are being waived.

The bill also requires the BOS to place the formation question on the first ballot after LAFCO completes the review, and should the district be formed, the BOS shall then call for a vote on the funding of the district. Setting a precedent, the bill is calling for a utility user tax to fund the district, which shall be determined by 1/1/23. The bill also calls out the special governing structure of the district board, the boundaries of the proposed CSD and the authorities of the CSD.

[AB 707](#) ([Wood D](#)) **Agricultural land: Williamson Act contracts: cancellation.**

Current Text: Chaptered: 10/8/2015 [pdf](#) [html](#)

Introduced: 2/25/2015

Last Amended: 8/24/2015

Status: 10/8/2015-Chaptered by Secretary of State - Chapter 631, Statutes of 2015.



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

Summary:

Current law provides for the procedure to cancel a contract entered into under specified provisions of the Williamson Act, and provides that the landowner and the Department of Conservation may agree on the cancellation value of the land. This bill would require the department to provide a preliminary valuation of the land to the county assessor and the city council or board of supervisors at least 60 days prior to the effective date of the agreed upon cancellation valuation if the contract includes an additional cancellation fee, as specified.

Position: Watch

Subject: Ag Preservation - Williamson

CALAFCO Comments: As written, this bill repeals the provision that allows cancellation of the valuation of the land.

[AB 168](#) ([Maienschein R](#)) **Local government finance.**

Current Text: Introduced: 1/22/2015 [pdf](#) [html](#)

Introduced: 1/22/2015**Status:** 5/15/2015-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 1/22/2015)

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

Summary:

Current law requires the county auditor, in the case in which a qualifying city becomes the successor agency to a special district as a result of a merger with that district as described in a specified statute, to additionally allocate to that successor qualifying city that amount of property tax revenue that otherwise would have been allocated to that special district pursuant to general allocation requirements. This bill would make nonsubstantive changes to the provision pertaining to property tax revenue allocations to a qualifying city that merges with a special district.

Position: Placeholder - monitor**Subject:** Tax Allocation**AB 369** (**Steinorth R**) **Local government.****Current Text:** Introduced: 2/17/2015 [pdf](#) [html](#)**Introduced:** 2/17/2015**Status:** 5/15/2015-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/17/2015)

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

Summary:

The Planning and Zoning Law establishes in each city and county a planning agency with the powers necessary to carry out the purposes of that law. Current law sets forth the Legislature's findings and declarations regarding the availability of affordable housing throughout the state. This bill would make nonsubstantive changes to those findings and declarations.

Position: Placeholder - monitor**AB 541** (**Dahle R**) **Big Valley Watermaster District Act.****Current Text:** Introduced: 2/23/2015 [pdf](#) [html](#)**Introduced:** 2/23/2015**Status:** 5/1/2015-Failed Deadline pursuant to Rule 61(a)(2). (Last location was L. GOV. on 3/5/2015)

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

Summary:

Would create a watermaster district with unspecified boundaries within the Counties of Lassen and Modoc to be known as the Big Valley Watermaster District. The bill would generally specify the powers and purposes of the district. The bill would prescribe the composition of the board of directors of the district. The bill would require the district to provide watermaster service on behalf of water right holders whose place of use under an appointed decree, as defined, is a parcel of real property within the district.

Position: Watch**Subject:** LAFCo Administration, Special District Powers, Water**AB 568** (**Dodd D**) **Reclamation District No. 108: hydroelectric power.****Current Text:** Chaptered: 8/7/2015 [pdf](#) [html](#)**Introduced:** 2/24/2015**Last Amended:** 5/14/2015**Status:** 8/7/2015-Chaptered by Secretary of State - Chapter 134, Statutes of 2015.

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

Summary:

Current law authorizes Reclamation District No. 1004, in conjunction with the County of Colusa, to construct, maintain, and operate a plant, transmission lines, and other necessary or appropriate facilities for the generation of hydroelectric power, as prescribed. Current law requires proceeds from the sale of electricity to be utilized to retire any time warrants issued for construction of the facilities and otherwise for the powers and purposes for which the district was formed. This bill would grant the above-described hydroelectric power authority to Reclamation District No. 108 until January 1, 2021.

Position: Watch
Subject: Special District Powers

AB 656 (**Garcia, Cristina D**) **Joint powers agreements: mutual water companies.**

Current Text: Chaptered: 9/3/2015 [pdf](#) [html](#)

Introduced: 2/24/2015

Last Amended: 6/22/2015

Status: 9/3/2015-Chaptered by Secretary of State - Chapter 250, Statutes of 2015.

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

Summary:

Would specifically authorize a mutual water company and a public agency to participate in joint powers agreement for the provision of insurance and risk-pooling, technical support, and other similar services for the purpose of reducing risk liability, as specified.

Position: Watch
Subject: Other

CALAFCO Comments: As amended, the bill gives the ability for a mutual water company to enter into a joint powers agreement with a public water agency for the purposes of either risk-pooling or the provision of technical support, continuing education, safety engineering, operational and managerial advisory assistance to be provided to the members of that joint powers agency.

SB 13 (**Pavley D**) **Groundwater.**

Current Text: Chaptered: 9/3/2015 [pdf](#) [html](#)

Introduced: 12/1/2014

Last Amended: 7/6/2015

Status: 9/3/2015-Chaptered by Secretary of State - Chapter 255, Statutes of 2015.

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

Summary:

Would specify that the State Water Resources Control Board is authorized to designate a high- or medium-priority basin as a probationary basin. This bill would provide a local agency or groundwater sustainability agency 90 or 180 days, as prescribed, to remedy certain deficiencies that caused the board to designate the basin as a probationary basin. This bill would authorize the board to develop an interim plan for certain probationary basins one year after the designation of the basin as a probationary basin.

Position: Watch
Subject: Water

CALAFCO Comments: While this bill has no direct affect on LAFcos, the formation of groundwater management agencies and groundwater management is of interest, therefore CALAFCO will watch the bill.

SB 181 (**Committee on Governance and Finance**) **Validations.**

Current Text: Chaptered: 6/1/2015 [pdf](#) [html](#)

Introduced: 2/9/2015

Status: 6/1/2015-Chaptered by Secretary of State - Chapter No. 4, Statutes of 2015

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 2015, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

Attachments:

[CALAFCO Letter of Support Mar 2015](#)

Position: Support

Subject: Other

CALAFCO Comments: One of three annual acts which validate the boundaries of all local agencies.

SB 182 (Committee on Governance and Finance) Validations.

Current Text: Chaptered: 9/3/2015 [pdf](#) [html](#)

Introduced: 2/9/2015

Status: 9/3/2015-Chaptered by Secretary of State - Chapter 256, Statutes of 2015.

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 2015, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

Attachments:

[CALAFCO Letter of Support Mar 2015](#)

Position: Support

Subject: Other

CALAFCO Comments: One of three annual acts which validate the boundaries of all local agencies.

SB 183 (Committee on Governance and Finance) Validations.

Current Text: Chaptered: 7/2/2015 [pdf](#) [html](#)

Introduced: 2/9/2015

Status: 7/2/2015-Chaptered by Secretary of State - Chapter 45, Statutes of 2015.

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 2015, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Attachments:

[CALAFCO Letter of Support Mar 2015](#)

Position: Support

Subject: Other

CALAFCO Comments: One of three annual acts which validate the boundaries of all local agencies.

SB 184 (Committee on Governance and Finance) Local government: omnibus bill.

Current Text: Chaptered: 9/4/2015 [pdf](#) [html](#)

Introduced: 2/9/2015

Last Amended: 6/15/2015

Status: 9/4/2015-Chaptered by Secretary of State. Chapter 269, Statutes of 2015.

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

Summary:

Current law authorizes specified local entities, including cities, counties, special districts, and other authorized public corporations, to collect fees, tolls, rates, rentals, or other charges for water, sanitation, storm drainage, or sewerage system services and facilities. Under current law, a local entity may collect these charges on the property tax roll at the same time and in

the same manner as its general property taxes, but is required to file a report on these collected charges. Current law requires the clerk or secretary to annually file the report with the auditor. This bill would define "clerk" to mean the clerk of the legislative body or secretary of the entity.

Position: Watch

Subject: Other

CALAFCO Comments: This bill is the Senate Governance & Finance Committee's annual Omnibus bill. This bill is intended to make technical, non-substantive changes to the Government Code outside of CKH.

SB 226 (Pavley D) Sustainable Groundwater Management Act: groundwater adjudication.

Current Text: Chaptered: 10/9/2015 [pdf](#) [html](#)

Introduced: 2/13/2015

Last Amended: 9/3/2015

Status: 10/9/2015-Chaptered by Secretary of State - Chapter 676, Statutes of 2015.

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

Summary:

Current law authorizes a court to order a reference to the State Water Resources Control Board, as referee, of any and all issues involved in a suit brought in any court of competent jurisdiction in this state for determination of rights to water. This bill would authorize the state to intervene in a comprehensive adjudication conducted as specified in AB 1390 of the 2015- 16 Regular Session. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject: Water

CALAFCO Comments: As amended this bill addresses groundwater rights and is a follow up to the 2014 groundwater legislative package.

SB 393 (Nguyen R) Local agencies.

Current Text: Introduced: 2/25/2015 [pdf](#) [html](#)

Introduced: 2/25/2015

Status: 5/15/2015-Failed Deadline pursuant to Rule 61(a)(3). (Last location was RLS. on 3/5/2015)

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

Summary:

Current law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. This bill would make technical, nonsubstantive changes to the above-described law.

Position: Placeholder - monitor

Subject: CKH General Procedures

CALAFCO Comments: This is a spot bill.

SB 422 (Monning D) Santa Clara Valley Open-Space Authority.

Current Text: Chaptered: 7/15/2015 [pdf](#) [html](#)

Introduced: 2/25/2015

Last Amended: 6/18/2015

Status: 7/15/2015-Chaptered by Secretary of State - Chapter 99, Statutes of 2015.

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

Summary:

Would authorize the Santa Clara County Open-Space Authority to acquire, but not to take by eminent domain, interests in real property that are without the authority's jurisdiction, necessary to the full exercise of its powers. The bill would also authorize the authority's boundaries to be altered by the annexation of contiguous territory, in the unincorporated

area of a neighboring county, as provided. The bill would change the name of the authority to the Santa Clara Valley Open-Space Authority and make conforming changes.

Subject: Special District Powers

SB 485 (Hernandez D) County of Los Angeles: sanitation districts.

Current Text: Chaptered: 10/9/2015 [pdf](#) [html](#)

Introduced: 2/26/2015

Last Amended: 8/27/2015

Status: 10/9/2015-Chaptered by Secretary of State - Chapter 678, Statutes of 2015.



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

Summary:

Would authorize specified sanitation districts in the County of Los Angeles to acquire, construct, operate, maintain, and furnish facilities for the diversion, management, and treatment of stormwater and dry weather runoff, the discharge of the water to the stormwater drainage system, and the beneficial use of the water. This bill contains other related provisions.

Subject: Special District Powers

Total Measures: 26

Total Tracking Forms: 26

11/11/2015 2:24:20 PM

BILL ANALYSIS

SENATE RULES COMMITTEE	SB 239
Office of Senate Floor Analyses	
(916) 651-1520 Fax: (916)	
327-4478	

UNFINISHED BUSINESS

Bill No: SB 239
 Author: Hertzberg (D)
 Amended: 9/2/15
 Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/29/15
 AYES: Hertzberg, Beall, Hernandez, Lara, Pavley
 NO VOTE RECORDED: Nguyen, Moorlach

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/28/15
 AYES: Lara, Beall, Hill, Leyva, Mendoza
 NOES: Bates, Nielsen

SENATE FLOOR: 26-12, 6/2/15
 AYES: Allen, Beall, Block, Cannella, De León, Galgiani, Hall,
 Hancock, Hernandez, Hertzberg, Hill, Hueso, Jackson, Lara,
 Leno, Leyva, Liu, McGuire, Mendoza, Mitchell, Nguyen, Pan,
 Pavley, Roth, Wieckowski, Wolk
 NOES: Anderson, Bates, Berryhill, Fuller, Gaines, Huff,
 Moorlach, Morrell, Nielsen, Runner, Stone, Vidak
 NO VOTE RECORDED: Glazer, Monning

ASSEMBLY FLOOR: 54-23, 9/08/15 - See last page for vote

SUBJECT: Local services: contracts: fire protection services

SOURCE: California Professional Firefighters

DIGEST: This bill requires a local agency formation commission (LAFCO) to review a contract or agreement for new or extended fire service outside of a public agency's jurisdictional boundaries.

SB 239 _
 Page 2

Assembly Amendments:

- 1) Replace references to a public agency's "service area" with references to an agency's "jurisdictional boundaries," as defined.
- 2) Exempt cooperative agreements entered into by the California Department of Forestry and Fire Protection (CAL FIRE) and a city, county, special district, or political subdivision for the purpose of preventing and suppressing fires, pursuant to specified statutes, from the definition of a "fire protection contract."
- 3) Change the required elements that must be included in an independent comprehensive fiscal analysis submitted pursuant to this bill's provisions.
- 4) Add double-jointing language to avoid chaptering out conflicts

in the event that both this bill and AB 402 (Dodd), which also amends Section 56133 of the Government Code, are enacted into law.

ANALYSIS:

Existing law:

SB 239 _
Page 3

- 1) Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act, delegates the Legislature's power to control the boundaries of cities and special districts to LAFCOs.
- 2) Requires that cities and districts must get a LAFCO's written approval before they can serve territory outside their boundaries (AB 1335, Gotch, Chapter 1307, Statutes of 1993). However, LAFCO approval is not required for contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the exiting service provider.
- 3) Allows cities and fire protection districts to contract with a county to provide fire protection services within the local agency's jurisdiction.
- 4) Allows local governments to contract with the California Department of Forestry and Fire Protection (CAL FIRE) to provide fire protection services.

This bill:

- 1) Requires a public agency to obtain a LAFCO's approval to provide new or extended services under a fire protection contract, pursuant to a specified approval process.
- 2) Defines a "fire protection contract" as a contract or agreement that:

SB 239 _
Page 4

- a) Is for the exercise of new or extended fire protection services outside a public agency's jurisdictional boundaries;
- b) Is executed pursuant to specified statutes allowing local governments and CALFIRE to enter into fire protection service contracts and agreements; and,
- c) Does either of the following:
 - i) Transfers responsibility for providing services in more than 25% of the jurisdictional boundaries of any public agency affected by the contract or agreement.
 - ii) Changes the employment status of more than

25% of the employees of any public agency affected by the contract or agreement.

- 3) Applies the definition of a fire protection contract to a contract or agreement that, in combination with other contracts or agreements, meets the bill's definition of a fire protection contract.
- 4) Requires a public agency to initiate a request for LAFCO approval of services provided under a fire protection contract by adopting a resolution of application as follows:
 - a) The legislative body of a public agency that is not a state agency must adopt a resolution of application proposing to provide new or extended services outside the public agency's current service area.
 - b) The director of a state agency must initiate an

SB 239 _
Page 5

application, which must be approved by the Director of Finance.

- 5) Defines "jurisdictional boundaries" as include the territory or lands protected pursuant to a fire protection contract entered into on or before December 31, 2015.
- 6) Directs that an extension of a fire protection contract entered into on or before December 31, 2015, that would meet the definition of a fire protection contract must be deemed a fire protection contract for the purposes of this bill.
- 7) Specifies the manner in which a request by a public agency for commission approval of new or extended services provided pursuant to a fire protection contract must be initiated and approved.
- 8) Requires that the legislative body of a public agency or the director of a state agency must do all of the following before submitting a resolution of application to the LAFCO:
 - a) Conduct an open and public hearing on the resolution, and
 - b) Do either of the following:
 - i) Obtain and submit with the resolution a written agreement validated and executed by each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers consenting to the proposed change of organization.
 - ii) At least 30 days before the public hearing,

SB 239 _
Page 6

provide written notice to each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers of the proposed fire protection contract and submit a copy of each written notice with the resolution of application. The notice must include a full copy of the proposed contract.

- 9) Requires that a proposal for a change of organization must be submitted with a plan prepared pursuant to specified statutory requirements. The plan must include ten specified elements.
- 10) Requires a public agency to cause to be prepared by contract an independent comprehensive fiscal analysis that reviews and documents:
- a) The plan for services submitted to the LAFCO by the public agency.
 - b) How the costs of the existing service provider compare to the costs of services provided in service areas with similar populations and of similar geographic size that provide a similar level and range of services and make a reasonable determination of the costs expected to be borne by the public agency providing new or extended fire protection services.
 - c) Any other information and analysis needed to support the findings that a LAFCO must make to approve services under a fire protection contract.
- 11) Requires the clerk of the legislative body of a public agency or the director of a state agency adopting a resolution of application to file a certified copy of the resolution with the LAFCO executive officer. This bill specifies how a LAFCO

must process resolutions of application submitted to the executive officer.

- 12) Requires a LAFCO to review and approve, disapprove, or approve with conditions a fire protection reorganization contract after a public hearing called and held for that purpose. This bill allows an applicant to request reconsideration if a contract is disapproved or approved with conditions.
- 13) Prohibits a LAFCO from approving an application unless the LAFCO determines that the public agency will have sufficient revenues to carry out the exercise of the new or extended services outside its current area. However, if the LAFCO has determined that the public agency will not have sufficient revenue to provide the proposed new or different functions or class of services, this bill allows a LAFCO to approve an application if the LAFCO conditions its approval on the concurrent approval of sufficient revenue sources pursuant to state law. In approving an application, the LAFCO must provide that if the revenue sources are not approved, the public agency's authority to provide new or extended services must not be exercised.
- 14) Prohibits a LAFCO from approving an application for approval of a fire protection reorganization contract unless the LAFCO makes specified determinations, based on the entire record.
- 15) Specifies the manner in which a LAFCO executive officer must provide public notice by mail, in a newspaper, and on the Internet, of a hearing to review an application for approval of a fire protection contract. This bill allows a LAFCO to continue a hearing and requires that a LAFCO must hear and consider oral or written testimony presented by any affected local agency, affected county, or any interested person who appears at the hearing.

- 16) Specifies that a fire protection contract is exempt from the statute that governs LAFCOs' approval of extraterritorial service contracts.
- 17) Directs that its provisions must not be construed to abrogate a public agency's obligations under the Meyers-Milias-Brown Act.
- 18) Makes additional technical and conforming changes to the Cortese-Knox-Hertzberg Act.

FISCAL EFFECT: Appropriation: No Fiscal
Com.: Yes Local: No

According to the Assembly Appropriations Committee:

Unknown increased GF costs to the Department of Forestry and Fire Protection (CAL FIRE), likely in the low hundreds of thousands annually, to comply with specified administrative requirements prior to contracting with local agencies for fire protection services. CAL FIRE currently has 115 contracts with local agencies for full fire protection services, and the contracts typically have a duration of three years. It is likely that all of those contracts would meet the criteria in the bill requiring LAFCO approval. For illustrative purposes, if CAL FIRE incurred additional costs of \$10,000 to extend 38 fire protection contracts in a year through the LAFCO process, annual administrative costs would be \$380,000. It is likely that CAL FIRE would incur higher costs to assess the impacts of contracts for larger service areas.

Unknown, potentially significant impact on CAL FIRE fire protection costs (GF). Currently, CAL FIRE provides over \$50 million in contracted reimbursements to counties for fire protection services in "state responsibility areas,"

and the state is provided with over \$300 million in contracted reimbursements from local agencies for CAL FIRE to provide a variety of fire protection services to cities, counties, and fire protection districts. To the extent this bill discourages or prevents contracting for fire services, both CAL FIRE and local agencies could experience increased costs to provide fire protection.

SUPPORT: (Verified 9/8/15)

California Professional Firefighters (Source)
CAL FIRE, Local 2881
California Labor Federation

OPPOSITION: (Verified 9/8/15)

Alameda County Local Agency Formation Commission
California Building Industry Association
California Business Properties Association
California Special Districts Association
California State Association of Counties
Cities of Calimesa, Coalinga, Colton, El Centro, Fortuna, Fremont, Hesperia, Highland, Indio, Lakewood, Montclair, Rancho Mirage, and Seaside
Contra Costa County
Contra Costa County Local Agency Formation Commission
El Dorado County Local Agency Formation Commission
League of California Cities
Los Angeles County Board of Supervisors
Los Angeles County Division, League of California Cities
Madera County Board of Supervisors
North Tahoe Fire Protection District
Pebble Beach Community Services District
Rural County Representatives of California

San Bernardino County Local Agency Formation Commission (unless amended)
 San Diego Local Agency Formation Commission
 San Luis Obispo Local Agency Formation Commission
 San Mateo County Local Agency Formation Commission
 Santa Cruz Local Agency Formation Commission

SB 239 _
 Page 10

Sausalito-Marín City Sanitary District
 Sonoma Local Agency Formation Commission

ARGUMENTS IN SUPPORT: When a contract or agreement between two public agencies makes substantial changes to the administration of fire protection services in a community, it deserves to be scrutinized by LAFCO in a manner that is similar to how a detachment and annexation of fire protection services would be scrutinized under current law. When the Legislature enacted the 1993 Gotch bill requiring LAFCO review of some extraterritorial service contracts, it did so in response to concerns that local governments were using service contracts to circumvent LAFCO review of major changes to local service delivery. However, the review requirement for extraterritorial service contracts contained a substantial loophole for contracts that only involved public agencies. SB 239 will narrow that loophole. Some recent fire protection service contracts between public agencies have resulted in costly litigation and generated deep divisions among community members. Other agreements have been jeopardized by public officials' reliance on financial data that later was determined to be inaccurate. Problems like these can be avoided by providing more opportunities for the public to review and consider independent analyses of proposed changes to fire service delivery in their communities. By requiring a public agency to submit a plan for extended services for fire protection to LAFCO for review and approval, this bill will ensure that the details of service delivery and costs are thoroughly and independently examined, which will benefit the residents, the public agency and the firefighters in all of the affected areas.

ARGUMENTS IN OPPOSITION: Local voters elect county supervisors, city council members, and special district board members to make public policy in response to local needs. Local elected officials strive to provide their communities' residents with the best services at the most reasonable cost. They have to answer to residents who are displeased with the quality and cost of their services. As a result, a decision to enter into a contract with another public agency to provide fire protection services is a decision that elected officials make only after

SB 239 _
 Page 11

considering the fiscal, administrative, and service delivery implications for their communities. By requiring LAFCO review of fire protection reorganization contracts, this bill diminishes local officials' autonomy to contract for fire protection services in the manner that they determine will best serve their constituents, potentially disrupting fire services and increasing local costs.

ASSEMBLY FLOOR: 54-23, 9/08/15

AYES: Alejo, Bloom, Bonilla, Bonta, Brown, Burke, Calderon, Campos, Chau, Chiu, Chu, Cooley, Cooper, Dababneh, Daly, Dodd, Eggman, Frazier, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gray, Roger Hernández, Holden, Irwin, Jones-Sawyer, Linder, Lopez, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Patterson, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Weber, Williams, Wood, Atkins
 NOES: Achadjian, Travis Allen, Baker, Bigelow, Brough, Dahle, Beth Gaines, Gallagher, Grove, Hadley, Harper, Jones, Kim, Lackey, Levine, Mathis, Mayes, Melendez, Obernolte, Olsen, Wagner, Waldron, Wilk
 NO VOTE RECORDED: Chang, Chávez, Gordon

Prepared by: Brian Weinberger / GOV. & F. / (916) 651-4119
9/8/15 20:10:33

**** END ****

Senate Bill No. 239

CHAPTER 763

An act to amend Sections 56017.2 and 56133 of, and to add Section 56134 to, the Government Code, relating to local services.

[Approved by Governor October 10, 2015. Filed with
Secretary of State October 10, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 239, Hertzberg. Local services: contracts: fire protection services.

Existing law prescribes generally the powers and duties of the local agency formation commission in each county with respect to the review approval or disapproval of proposals for changes of organization or reorganization of cities and special districts within that county. Existing law permits a city or district to provide extended services, as defined, outside its jurisdictional boundaries only if it first requests and receives written approval 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, with certain exceptions, permit a public agency to exercise new or extended services outside the public agency's jurisdictional boundaries pursuant to a fire protection contract, as defined, only if the public agency receives written approval from the local agency formation commission in the affected county. The bill would require that the legislative body of a public agency that is not a state agency adopt a resolution of application and submit the resolution along with a plan for services, as provided, that a proposal by a state agency be initiated by the director of the agency with the approval of the Director of Finance, and that a proposal by a local agency that is currently under contract for the provision of fire protection services be initiated by the local agency and approved by the Director of Finance. The bill would require, prior to adopting the resolution or submitting the proposal, the public agency to enter into a written agreement for the performance of new or extended services pursuant to a fire protection contract with, or provide written notice of a proposed fire protection contract to, each affected public agency and recognized employee organization representing firefighters in the affected area, and to conduct a public hearing on the resolution.

The bill would require the commission to approve or disapprove the proposal as specified. The bill would require the commission to consider, among other things, a comprehensive fiscal analysis prepared by the executive officer in accordance with specified requirements.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

This bill would incorporate additional changes to Section 56133 of the Government Code proposed by AB 402 that would become operative if this bill and AB 402 are both enacted and this bill is enacted last.

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

SECTION 1. Section 56017.2 of the Government Code is amended to read:

56017.2. "Application" means any of the following:

(a) A resolution of application or petition initiating a change of organization or reorganization with supporting documentation as required by the commission or executive officer.

(b) A request for a sphere of influence amendment or update pursuant to Section 56425.

(c) A request by a city or district for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Section 56133.

(d) A request by a public agency for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Section 56134.

SEC. 2. Section 56133 of the Government Code is amended to read:

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

(1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public

Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to any of the following:

(1) Contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

(2) Contracts for the transfer of nonpotable or nontreated water.

(3) Contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

(4) An extended service that a city or district was providing on or before January 1, 2001.

(5) A local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

(6) A fire protection contract, as defined in subdivision (a) of Section 56134.

SEC. 2.5. Section 56133 of the Government Code is amended to read:

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

(c) If consistent with adopted policy, the commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, if both of the following requirements are met:

(1) The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

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

(e) This section does not apply to any of the following:

(1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

(2) The transfer of nonpotable or nontreated water.

(3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

(4) An extended service that a city or district was providing on or before January 1, 2001.

(5) A local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundary.

(6) A fire protection contract, as defined in subdivision (a) of Section 56134.

(f) This section applies only to the commission of the county in which the extension of service is proposed.

SEC. 3. Section 56134 is added to the Government Code, to read:

56134. (a) (1) For the purposes of this section, "fire protection contract" means a contract or agreement for the exercise of new or extended fire protection services outside a public agency's jurisdictional boundaries, as authorized by Chapter 4 (commencing with Section 55600) of Part 2 of Division 2 of Title 5 of this code or by Article 4 (commencing with Section 4141) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except those contracts entered into pursuant to Sections 4143 and 4144 of the Public Resources Code, that does either of the following:

(A) Transfers responsibility for providing services in more than 25 percent of the area within the jurisdictional boundaries of any public agency affected by the contract or agreement.

(B) Changes the employment status of more than 25 percent of the employees of any public agency affected by the contract or agreement.

(2) A contract or agreement for the exercise of new or extended fire protection services outside a public agency's jurisdictional boundaries, as authorized by Chapter 4 (commencing with Section 55600) of Part 2 of Division 2 of Title 5 of this code or Article 4 (commencing with Section 4141) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except those contracts entered into pursuant to Sections 4143 and 4144 of the Public Resources Code, that, in combination with other contracts or agreements, would produce the results described in subparagraph (A) or (B) of paragraph (1) shall be deemed a fire protection contract for the purposes of this section.

(3) For the purposes of this section, "jurisdictional boundaries" shall include the territory or lands protected pursuant to a fire protection contract entered into on or before December 31, 2015. An extension of a fire protection contract entered into on or before December 31, 2015, that would produce the results described in subparagraph (A) or (B) of paragraph (1) shall be deemed a fire protection contract for the purposes of this section.

(b) Notwithstanding Section 56133, a public agency may provide new or extended services pursuant to a fire protection contract only if it first requests and receives written approval from the commission in the affected county pursuant to the requirements of this section.

(c) A request by a public agency for commission approval of new or extended services provided pursuant to a fire protection contract shall be made by the adoption of a resolution of application as follows:

(1) In the case of a public agency that is not a state agency, the application shall be initiated by the adoption of a resolution of application by the legislative body of the public agency proposing to provide new or extended services outside the public agency's current service area.

(2) In the case of a public agency that is a state agency, the application shall be initiated by the director of the state agency proposing to provide new or extended services outside the agency's current service area and be approved by the Director of Finance.

(3) In the case of a public agency that is a local agency currently under contract with a state agency for the provision of fire protection services and proposing to provide new or extended services by the expansion of the existing contract or agreement, the application shall be initiated by the public agency that is a local agency and be approved by the Director of Finance.

(d) The legislative body of a public agency or the director of a state agency shall not submit a resolution of application pursuant to this section unless both of the following occur:

(1) The public agency does either of the following:

(A) Obtains and submits with the resolution a written agreement validated and executed by each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers consenting to the proposed fire protection contract.

(B) Provides, at least 30 days prior to the hearing held pursuant to paragraph (2), written notice to each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers of the proposed fire protection contract and submits a copy of each written notice with the resolution of application. The notice shall, at minimum, include a full copy of the proposed contract.

(2) The public agency conducts an open and public hearing on the resolution, conducted pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5) or the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), as applicable.

(e) A resolution of application submitted pursuant to this section shall be submitted with a plan which shall include all of the following information:

(1) The total estimated cost to provide the new or extended fire protection services in the affected territory.

(2) The estimated cost of the new or extended fire protection services to customers in the affected territory.

(3) An identification of existing service providers, if any, of the new or extended services proposed to be provided and the potential fiscal impact to the customers of those existing providers.

(4) A plan for financing the exercise of the new or extended fire protection services in the affected territory.

(5) Alternatives for the exercise of the new or extended fire protection services in the affected territory.

(6) An enumeration and description of the new or extended fire protection services proposed to be extended to the affected territory.

(7) The level and range of new or extended fire protection services.

(8) An indication of when the new or extended fire protection services can feasibly be extended to the affected territory.

(9) An indication of any improvements or upgrades to structures, roads, sewer or water facilities, or other conditions the public agency would impose or require within the affected territory if the fire protection contract is completed.

(10) A determination, supported by documentation, that the proposed fire protection contract meets the criteria established pursuant to subparagraph (A) or (B) of paragraph (1) or paragraph (2), as applicable, of subdivision (a).

(f) The applicant shall cause to be prepared by contract an independent comprehensive fiscal analysis to be submitted with the application pursuant to this section. The analysis shall review and document all of the following:

(1) A thorough review of the plan for services submitted by the public agency pursuant to subdivision (e).

(2) How the costs of the existing service provider compare to the costs of services provided in service areas with similar populations and of similar geographic size that provide a similar level and range of services and make a reasonable determination of the costs expected to be borne by the public agency providing new or extended fire protection services.

(3) Any other information and analysis needed to support the findings required by subdivision (j).

(g) The clerk of the legislative body of a public agency or the director of a state agency adopting a resolution of application pursuant to this section shall file a certified copy of the resolution with the executive officer.

(h) (1) The executive officer, within 30 days of receipt of a public agency's request for approval of a fire protection contract, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request does not comply with the requirements of subdivision (d), the executive officer shall determine that the request is incomplete. If a request is determined incomplete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete.

(2) The commission shall approve, disapprove, or approve with conditions the contract for new or extended services following the hearing at the commission meeting, as provided in paragraph (1). If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(i) (1) The commission shall not approve an application for approval of a fire protection contract unless the commission determines that the public agency will have sufficient revenues to carry out the exercise of the new or

extended fire protection services outside its current area, except as specified in paragraph (2).

(2) The commission may approve an application for approval of a fire protection contract where the commission has determined that the public agency will not have sufficient revenue to provide the proposed new or different functions or class of services, if the commission conditions its approval on the concurrent approval of sufficient revenue sources pursuant to Section 56886. In approving a proposal, the commission shall provide that, if the revenue sources pursuant to Section 56886 are not approved, the authority of the public agency to provide new or extended fire protection services shall not be exercised.

(j) The commission shall not approve an application for approval of a fire protection contract unless the commission determines, based on the entire record, all of the following:

(1) The proposed exercise of new or extended fire protection services outside a public agency's current service area is consistent with the intent of this division, including, but not limited to, the policies of Sections 56001 and 56300.

(2) The commission has reviewed the comprehensive fiscal analysis prepared pursuant to subdivision (f).

(3) The commission has reviewed any testimony presented at the public hearing.

(4) The proposed affected territory is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following the effective date of the contract or agreement between the public agencies to provide the new or extended fire protection services.

(k) At least 21 days prior to the date of the hearing, the executive officer shall give mailed notice of that hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the territory affected by the proposal proposed to be adopted and shall post the notice of the hearing on the commission's Internet Web site.

(l) The commission may continue from time to time any hearing called pursuant to this section. The commission shall hear and consider oral or written testimony presented by any affected local agency, affected county, or any interested person who appears at any hearing called and held pursuant to this section.

(m) This section shall not be construed to abrogate a public agency's obligations under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1).

SEC. 4. The Legislature finds and declares that, with respect to fire protection contracts subject to this act, the provisions of this act are not intended to change, alter, or in any way affect either of the following:

(a) The existing jurisdiction of a local agency formation commission over proceedings that involve the provision of prehospital emergency medical services.

(b) Mutual aid agreements, including mutual aid agreements entered into pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 1 of the Government Code) or the Fire Protection District Law of 1987 (Part 2.7 (commencing with Section 13800) of Division 12 of the Health and Safety Code).

SEC. 5. The Legislature finds and declares that Section 3 of this act, which adds Section 56134 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act provides for notice to the public in accordance with existing provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and will ensure that the right of public access to local agency meetings is protected.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 56133 of the Government Code proposed by both this bill and Assembly Bill 402. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 56133 of the Government Code, and (3) this bill is enacted after Assembly Bill 402, in which case Section 2 of this bill shall not become operative.