



TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church Street, Suite B, Visalia 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
Juliet Allen, Chair
Cam Hamilton, V-Chair
Steve Worthley
Rudy Mendoza
Pete Vander Poel

LAFCO MEETING AGENDA
July 11, 2018 @ 2:00 P.M.
BOARD OF SUPERVISORS CHAMBERS
COUNTY ADMINISTRATIVE BUILDING
2800 West Burrel Avenue
Visalia CA 93291

ALTERNATES:
Mike Ennis
Carlton Jones
Dennis Mederos

EXECUTIVE OFFICER:
Ben Giuliani

- I. **Call to Order**
- II. **Approval of Minutes from June 6, 2018** **(Pages 1-2)**
- III. **Public Comment Period**

At this time, members of the public may comment on any item not appearing on the agenda and that is within the scope of matters considered by the Commission. Under state law, matters presented under this item cannot be discussed or acted upon by the LAFCO Commission at this time. So that all interested parties have an opportunity to speak, any person addressing the Commission may be limited at the discretion of the chair. At all times, please use the microphone and state your name and address for the record.

IV. **New Action Items**

- 1. **Case 1536-W-23 City of Woodlake Annexation 18-001** **(Pages 03-14)**
[Public Hearing]Recommended Action: Approval

The City of Woodlake has submitted a request for annexation for 17.9 acres of land located along the southeast corner of Avenue 344 and Road 196 to the City of Woodlake and the Woodlake Fire Protection District and concurrent detachment of the same area from Tulare County CSA #1. A Mitigated Negative Declaration was prepared in compliance with CEQA by the City of Woodlake for use in this proposal.

- 2. **LAFCO Executive Officer Compensation** **(Pages 15-16)**
[No Public Hearing].....Recommended Action: Approval

An Ad-Hoc Committee composed of Commissioners Worthley and Vander Poel is recommending a salary adjustment for the Executive Officer with an effective date of the first pay period of FY 18/19. Please see the enclosed resolution.

NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact LAFCO Staff at 559-623-0450. Documents related to the items on this Agenda submitted to the Board after distribution of the Agenda packet are available for public inspection at 210 N Church Ste. B Visalia CA 93291

3. Cancellation of August 1st Meeting **(No Page)**
[No Public Hearing] Recommended Action: Approval

There are no action items scheduled for the August 1st, 2018 meeting. If the Commission elects to cancel the August 1st meeting, the next regularly scheduled meeting would be September 5th.

V. Executive Officer's Report

1. Legislative Update **(Page 17-34)**
An update will be given at the meeting. See enclosed CALAFCO legislative report and AB 2050 bill analysis.
2. Upcoming Projects **(No Page)**
The Executive Officer will provide a summary and tentative schedule of upcoming LAFCO projects

VI. Correspondence

There are no items.

VII. Other Business

1. Commissioner Report **(No Page)**
2. Request from LAFCO for items to be set for future agendas **(No Page)**

VIII. Closed Sessions

1. Personnel (Gov. Code Section 54957)
It is the Intention of the Board to Meet in Closed Session to: Consider Public Employee Performance Evaluation for the Position of: LAFCO Executive Officer

IX. Setting Time and Place of Next Meeting

1. August 1, 2018 or September 5, 2018 @ 2:00 P.M. in the Board of Supervisors Chambers in the County Administration Building.

X. Adjournment

NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact LAFCO Staff at 559-623-0450. Documents related to the items on this Agenda submitted to the Board after distribution of the Agenda packet are available for public inspection at 210 N Church Ste. B Visalia CA 93291

TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

**2800 W. Burrel Ave., Visalia, CA 93291 – Tulare County Administrative Building
June 6, 2018 – Meeting Minutes**

Members Present: Allen, Hamilton, Worthley, Mendoza, Vander Poel
Members Absent:
Alternates Present: Mederos
Alternates Absent: Ennis, Jones
Staff Present: Giuliani, Ingoldsby, & Kane recording
Counsel Present: Erickson

- I. **Call to Order:** Chair Allen called the meeting to order at 2:01 p.m.
- II. **Approval of the May 2, 2018 Meeting Minutes:**
Upon motion by Commissioner Worthley and seconded by Commissioner Vander Poel, the Commission unanimously approved the LAFCO minutes.
- III. **Public Comment Period:**
Chair Allen opened/closed the Public Comment Period at 2:03 p.m. No public comments received.
- IV. **New Action Items:**
 1. **Case 1535 Yettem-Seville Community Services District (CSD) Formation Protest Results**
Staff Analyst Ingoldsby reported that the protest hearing was held before the Executive Officer on June 4, 2018; no protests were received. Since zero percentage of written protests were filed the Commission must now adopt a resolution reflecting the findings of the protest hearing.

Upon motion by Commissioner Worthley, and seconded by Commissioner Mendoza the Commission approved the CSD formation subject to the approval by the voters.
 2. **2018-2019 Final Budget and Work Program**
Staff Analyst Ingoldsby presented the 2018/2019 fiscal year budget and work program. The only change to the draft was to use \$50,000 of reserve funds to offset city and county contributions to the budget

Chair Allen opened the public hearing for additional comments, seeing none closed at 2:09 p.m.

Upon motion by Commissioner Vander Poel and seconded by Commissioner Hamilton, the Commission unanimously approved the 2018/2019 Final Budget.
- V. **Executive Officer's Report**
 1. **Legislative Update:**
EO Giuliani highlighted the status of current legislative bills and the effects it will have on Tulare County LAFCO.

2. **Upcoming Projects:**

EO Giuliani stated that for the July meeting an annexation application would be reviewed for the City of Woodlake.

VI. **Correspondence:**

1. **CALAFCO Board of Directors Nominations:**

Chair Allen explained that the CALAFCO Board is accepting nominations of candidate's to serve on the 2018/2019 CALAFCO Board of Directors. Nominations must be received by September 4, 2018 and the elections will be conducted during the CALAFCO Annual Conference October 4, 2018. The Commission suggested no nominations.

VII. **Other Business:**

1. **Commissioner Report:**

Commissioner Mendoza invited those interested to attend the San Joaquin Valley Housing Collaborative meeting; scheduled to be held on Wednesday, June 13, 2018.

Chair Allen provided an update from the RTP/SCS Roundtable Committee; stating that the public comment period had begun for the Regional Transportation Plan (RTP) and she would provide further updates as they became available.

Chair Allen also stated that the South Sierra Group had a productive meeting to discuss water usage in the valley.

1. **Request from LAFCO for items to be set for future agendas:**

None

VIII. **Setting Time and Place of Next Meeting:**

The next Local Agency Formation Commission (LAFCO) meeting is scheduled for **July 11, 2018 at 2:00 p.m.** in the Board of Supervisors Chambers in the County Administration Building

IX. **Adjournment:** The Tulare County LAFCO meeting adjourned at 2:36 p.m.

**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT**

July 11, 2018

**LAFCO Case Number 1536-W-23
City of Woodlake Annexation No. 18-001**

- PROPOSAL:** City of Woodlake Reorganization (annexation to City of Woodlake and Woodlake Fire Protection District, detachment from CSA #1)
- PROPONENT:** The City of Woodlake by resolution of its City Council
- SIZE:** 17.9 acres
- LOCATION:** Southeast corner of Avenue 344 and Road 196. **(Figure 1)**
- NOTICE:** Notice for this public hearing was provided in accordance with Government Code Sections 56660 & 56661.
- SUMMARY:** The purpose for the annexation is to facilitate the conversion of an existing vacant citrus packing warehouse to a cannabis cultivation and distribution business.
- APNs:** 059-110-022, 058-110-024, 059-110-29, 059-090-022

GENERAL ANALYSIS

1. Land Use:

A. Site Information

	Existing (County)	Proposed (City)
Zoning Designation	AE-20	Light Industrial
General Plan Designation	Industrial	Industrial
Uses	Citrus Packing Facility (vacant)	Cannabis Cultivation Facility

B. Surrounding Land Uses and Zoning and General Plan Designations:

	Zoning Designation	General Plan Designation	Existing Use
North	M-1	Industrial	Salvage Yard
South	AE-20	Industrial	Agriculture
East	Light Industrial	Industrial	Warehouse
West	AE-20	AE-20	Agriculture

C. Topography, Natural Features and Drainage

The site is relatively flat and does not contain any natural topographical features. The Friant-Kern Canal runs along the western portion of the site.

D. Conformity with General Plans and Spheres of Influence:

The site is within the Sphere of Influence and the Urban Development Boundary and is compatible with the City's General Plan.

2. Impact on Prime Agricultural Land, Agriculture and Open Space:

The parcels are not under Williamson Act contract.

3. Population:

There are not more than 12 registered voters in the proposed annexation area. Therefore, pursuant to GC Section 56046, the annexation area is uninhabited.

4. Services and Controls - Need, Cost, Adequacy and Availability:

Agency providing service

<i>Service</i>	<i>Now</i>	<i>After</i>	<i>Method of finance</i>
Police Protection	County of Tulare	City of Woodlake	Property Taxes / Development Fees
Fire Protection	County of Tulare	Woodlake Fire Protection District	Impact Fees/ General Fund
Water Supply	Individual well	Individual well / City of Woodlake	Meter Charges
Sewage Disposal	Septic System	Septic System	None
Street Lighting	County of Tulare	City of Woodlake	Property Taxes
Street Maintenance	County of Tulare	City of Woodlake	Property Taxes
Planning/Zoning	County of Tulare	City of Woodlake	Property Taxes
Garbage Disposal	County of Tulare Solid Waste Dept.	Mid Valley Disposal	Collection Fees

The Woodlake Fire Protection District has provided a resolution of approval for the annexation area (**Figure 3**). The City can provide all other urban services and infrastructure for development, though it does not intend to immediately provide water or sewer service at this time. An existing well and septic system would provide water and sewage service until city infrastructure is extended to the site at a future date.

5. Boundaries and Lines of Assessment:

The boundaries of the proposal area are definite and certain and conform to the lines of assessment. A map sufficient for filing with the State Board of Equalization has been received.

6. Assessed Value, Tax Rates and Indebtedness:

Upon completion of this annexation the area will be assigned to a new tax rate area. The total assessed valuation of the proposal area is as follows:

Land	\$ 772,917
Improvements	\$ 2,075,739
Total	\$ 2,848,656

7. Environmental Impacts:

The City of Woodlake is the lead agency for this proposal. The City prepared an initial study/environmental checklist and on the basis of that study a Mitigated Negative Declaration was approved for use with this proposal. A copy of the document is included in the application materials.

8. Landowner Consent:

Consent to this annexation has been received from all property owners. Therefore, the protest proceedings may be waived in accordance with GC §56663.

9. Regional Housing Needs Assessment (RHNA):

Pursuant to GC §56668 (I), LAFCO shall consider the extent to which the proposal will assist the receiving city and the County in achieving its fair share of regional housing needs as determined by the appropriate council of governments. Since the land is designated for industrial use, the annexation will not assist the City in achieving its fair share of regional housing needs.

10. Discussion:

Government Services

Adequate governmental services can be provided to the subject area. According to the City they are currently able to provide the annexation area urban services and infrastructure for development such as police, streets lighting, etc., as well as planning and building services. Domestic water and sewer services would be extended later as the site would use an existing well and septic system. Fire protection service would come from the Woodlake Fire Protection District which has provided a resolution that they will serve the area should it be annexed.

Services which would be extended to this area, including police and fire safety services and development permit services, will be funded primarily through impact and users fees and the general fund.

City Peninsula

The proposed annexation lies at the western edge of an existing peninsula of the city. Though the annexation would elongate the peninsula, this site is already developed and is within the SOI. The annexation area abuts the western edge of the SOI and future annexations could not extend further west without amending the SOI.

RECOMMENDED ACTIONS:

It is recommended that this proposal be approved and that the Commission take the following actions:

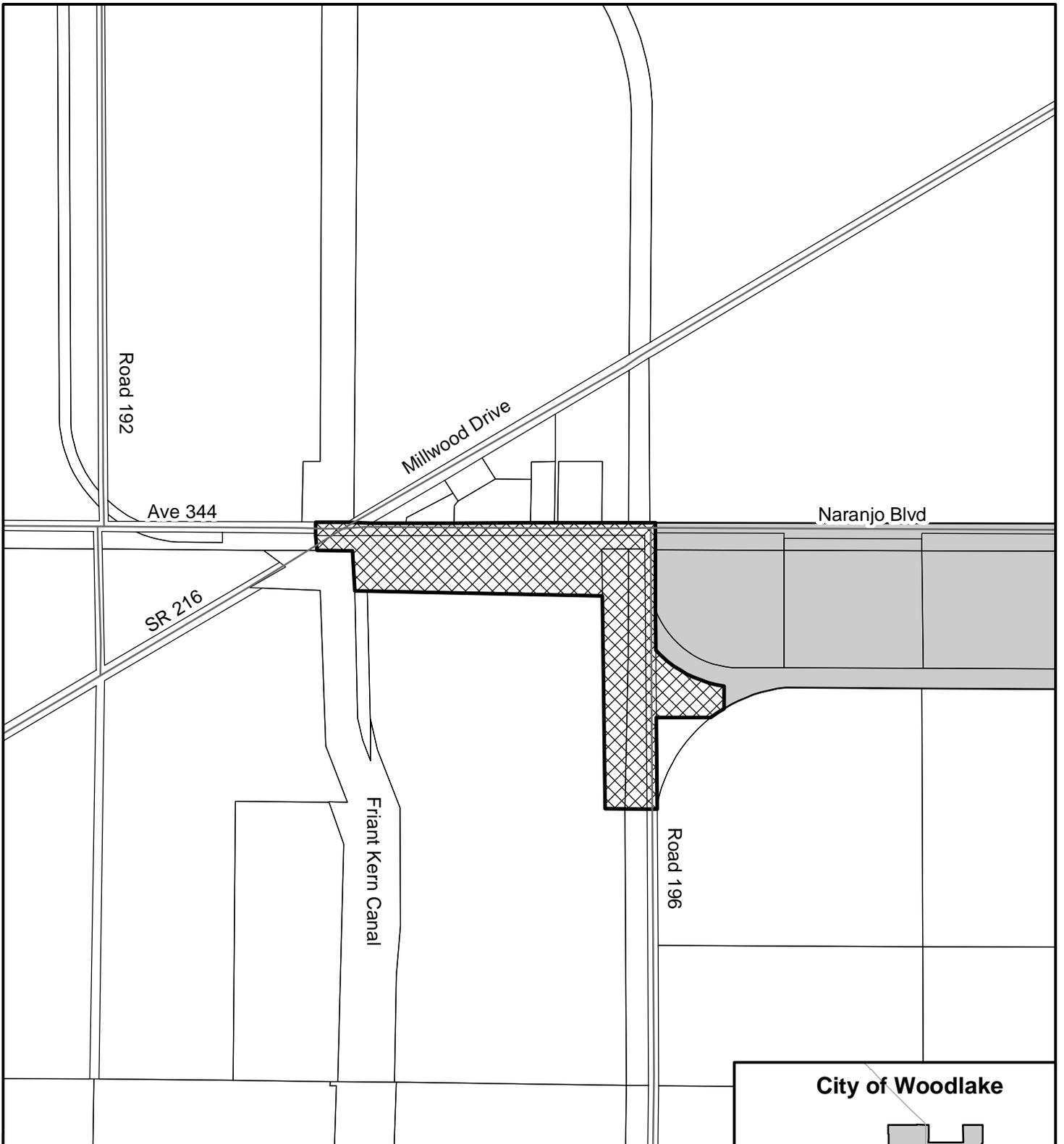
1. Certify that the Commission has reviewed and considered the Mitigated Negative Declaration prepared by the City of Woodlake for this project and find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent.
2. Find that the proposed reorganization of the City of Woodlake complies with the policies and priorities of the Cortese-Knox-Hertzberg Act, Section 56377.
3. Pursuant to LAFCO Policy and Procedure Section C-1, find that:
 - a. The boundaries of the proposed reorganization are definite and certain and conform to lines of assessment.
 - b. There is a demonstrated need for municipal services and controls and that the city has the capability of meeting this need.
 - c. There is a mutual social and economic interest between the residents of the city and the proposed annexation territory.
 - d. The proposed annexation is compatible with the City's General Plan.

- e. The proposed annexation represents a logical and reasonable expansion of the annexing municipality.
4. Find that the territory proposed for this annexation to the City of Woodlake and the Woodlake Fire Protection District and detachment from CSA #1 is uninhabited.
5. Find that the annexation does not contain any Williamson Act contract land.
6. Approve the reorganization as proposed by the City of Woodlake to be known as LAFCO Case Number 1536-W-23, City of Woodlake Annexation 18-001 subject to the following conditions:
 - a. No change be made to land use designations or zoning for a period of two years after the completion of the annexation, unless the city council makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the designation or zoning.
 - b. The applicant must provide the required filing fee for the Statement of Boundary Change that is to be submitted to the Board of Equalization.
7. Waive the protest hearing for this proposal in accordance with subsection (c) of Government Code §56663 and order the detachment without an election or if written protests are received prior to the conclusion of the public hearing, conduct the protest hearing pursuant to GC §57000.
8. Authorize the Executive Officer to sign and file a Notice of Determination with the Tulare County Clerk.

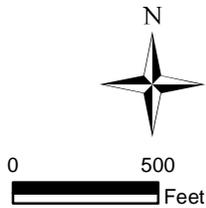
Figures:

- | | |
|----------|--|
| Figure 1 | Site Location Map |
| Figure 2 | Aerial Photo |
| Figure 3 | Woodlake Fire Protection District Resolution |
| Figure 4 | Resolution |

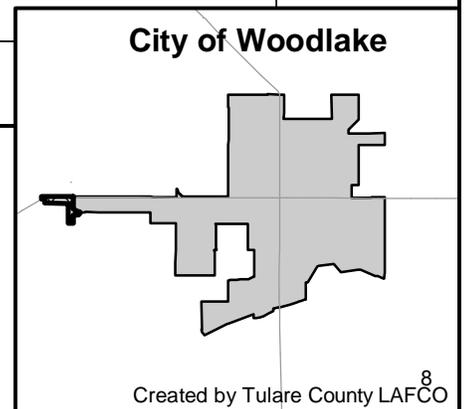
LAFCO Case 1536-W-23



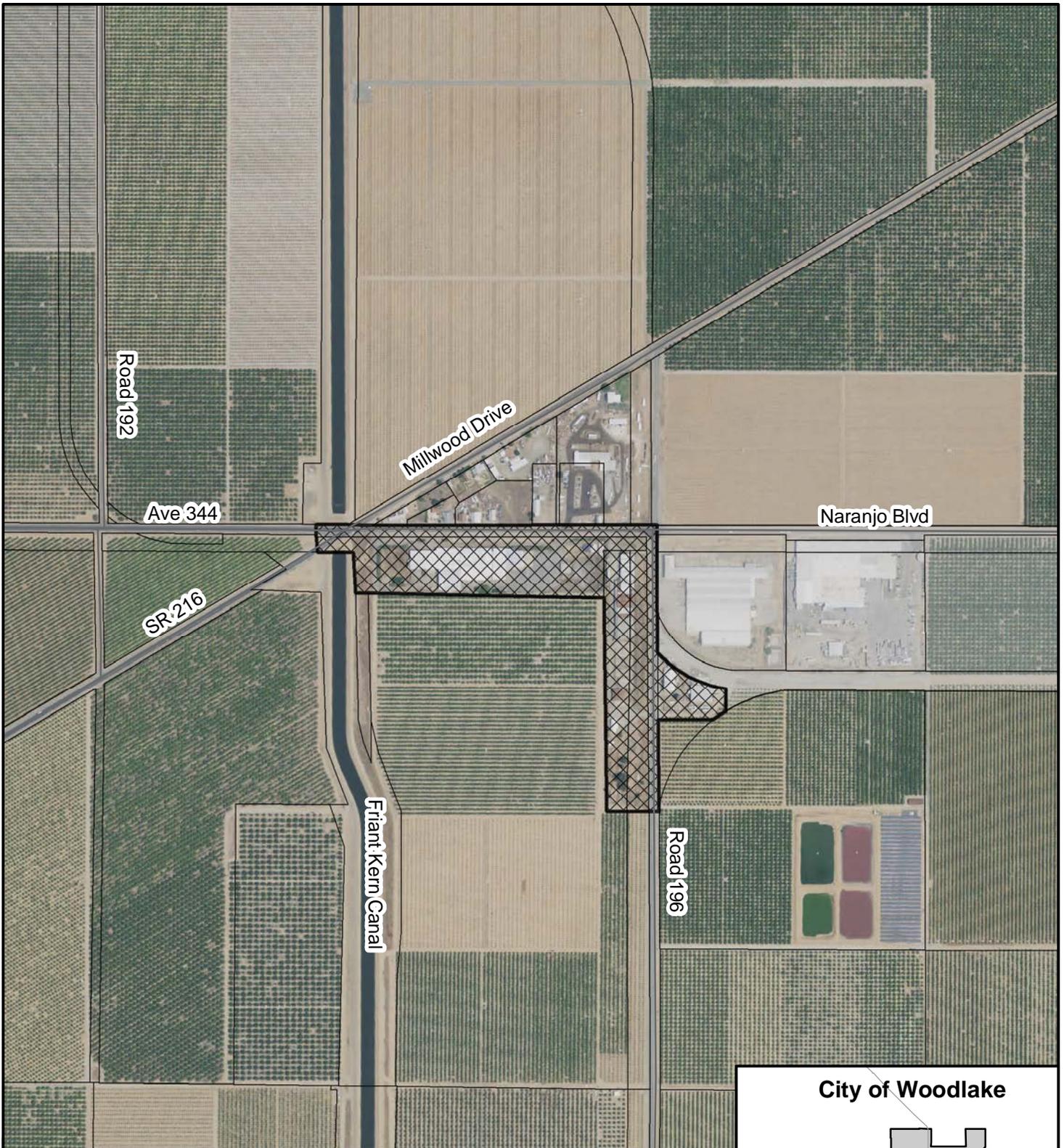
-  Project Location 1536-W-23
-  Parcels
-  City of Woodlake



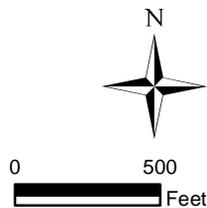
Boundaries as of 5/31/18



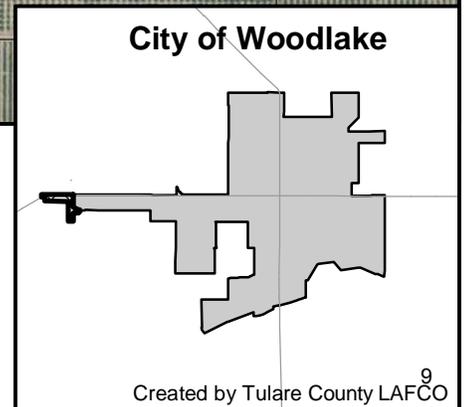
LAFCO Case 1536-W-23



-  Project Location 1536-W-23
-  Parcels
-  City of Woodlake



Boundaries as of 5/31/18



BEFORE THE WOODLAKE
FIRE PROTECTION DISTRICT

In the matter of:

APPROVING ANNEXATION OF APNs)
059-110-024, 059-110-029, 059-090-022 &)
059-110-022)

Resolution No. 18-03

Board member Headrick, offered the following resolution and moved its adoption. That the Woodlake Fire Protection District approve annexation of APNs 059-110-024, 059-110-029, 059-090-022 and 059-110-022.

WHEREAS, the City of Woodlake initiated proceedings pursuant to the Cortese Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code, for the West Woodlake Industrial Annexation, and

WHEREAS, the territory proposed to be is uninhabited, and a description of the external boundary of the territory is set forth in the request for annexation, and

WHEREAS, the properties are within the City's Sphere of influence, and

WHEREAS, the proposed annexation necessitates the inclusion into the Woodlake Fire Protection District, and

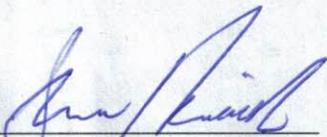
WHEREAS, an Initial Study-Mitigated Negative Declaration has been approved for the project; and

WHEREAS, the Woodlake Planning Commission and Woodlake City Council recommends approval of the zone change and annexation, and

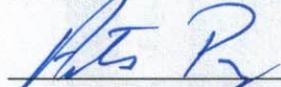
NOW, THEREFORE, BE IT RESOLVED that the Woodlake Fire Protection District approves annexation of APNs 059-110-024, 059-110-029, 059-090-022 and 059-110-022.

The foregoing resolution was adopted upon a motion of Board Member HEADRICK and seconded by Board Member FLORES and carried by the following vote at the meeting held on June 26, 2018.

AYES: 3
NOES: 0
ABSTAIN: 0
ABSENT: 0


Shane Headrick, Chairman

ATTEST:


Anthony Perez, Fire Chief

BEFORE THE LOCAL AGENCY FORMATION COMMISSION

OF THE

COUNTY OF TULARE, STATE OF CALIFORNIA

In the Matter of the Proposed Annexation to the)
City of Woodlake and the Woodlake Fire Protection)
District and Detachment from CSA #1,) **RESOLUTION NO. XX-XX**
LAFCO Case No. 1536-W-23, Annexation 18-001)

WHEREAS, application has been made to this Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.) for approval of a proposal from the City of Woodlake to annex certain territories described in attached Exhibit "A" made a part hereof; and

WHEREAS, this Commission has read and considered the Resolution of Application and application materials and the report and recommendations of the Executive Officer, all of which documents and materials are incorporated by reference herein; and

WHEREAS, on July 11, 2018 this Commission heard, received, and considered testimony, comments, recommendations and reports from all persons present and desiring to be heard concerning this matter.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:

1. The information, material and facts set forth in the application and the report of the Executive Officer (including any corrections), have been received and considered in

accordance with GC §56668. All of said information, materials, facts, reports and other evidence are incorporated by reference herein.

2. The City of Woodlake, as Lead Agency, filed a Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA). And finds that the Commission has reviewed and considered the Mitigated Negative Declaration prepared by the City of Woodlake for this project and find although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent.

3. The Commission has reviewed and considered, in accordance with GC §56668, the information, materials and facts presented by the following persons who appeared at the public hearing and commented on the proposal:

XXXXXXXXX

XXXXXXXXX

4. All notices required by law have been given and all proceedings heretofore and now taken in this matter have been and now are in all respects as required by law.

5. Based upon the evidence and information on the record before it, the Commission makes the following findings of fact:

a. The boundaries of the proposed annexation are definite and certain and conform to lines of assessment.

b. Fewer than 12 registered voters reside in the affected territory and 100% landowner consent was received.

c. The Woodlake Fire Protection District has provided a resolution approving the inclusion of the annexation area into the Woodlake Fire Protection District.

d. The proposed annexation area does not contain any Williamson Act contract land.

6. Based upon the evidence and information on the record before it and the findings of fact made above, the Commission makes the following determinations:

a. The proposed annexation is compatible with the City's General Plan.

b. There is a demonstrated need for municipal services and controls and that the city has the capability of meeting this need.

c. There is a mutual social and economic interest between the residents of the city and the proposed annexation territory.

d. The proposed annexation represents a logical and reasonable expansion of the annexing city and district.

e. The proposal is consistent with the findings and declarations of GC §56001.

7. Waive the protest hearing for this proposal in accordance with GC §56663 and order the change of organization without an election.

8. Approve the annexation as proposed by the City of Woodlake, to be known as LAFCO Case Number 1536-W-23, City of Woodlake Annexation No 18-001, with the following conditions:

a. No change be made to land use designations or zoning for a period of two years after the completion of the annexation, unless the city council makes a

finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the designation or zoning.

c. The applicant must provide the required filing fee for the Statement of Boundary Change that is to be submitted to the Board of Equalization.

9. The following short form designation shall be used throughout these proceedings:

LAFCO Case Number 1536-W-23, City of Woodlake Annexation No. 18-001.

10. Determines, in accordance with CEQA, as a Responsible Agency, that it has considered the Mitigated Negative Declaration prepared by the City of Woodlake.

The foregoing resolution was adopted upon motion of Commissioner _____, seconded by Commissioner _____, at a regular meeting held on this 11th day of July, 2018 by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

Ben Giuliani, Executive Officer

BEFORE THE LOCAL AGENCY FORMATION COMMISSION
OF THE
COUNTY OF TULARE, STATE OF CALIFORNIA

In the Matter of LAFCO Ad-Hoc)
Personnel Recommendation)

RESOLUTION NO. 18-0##

WHEREAS, Government Code Section 56375 (k) authorizes LAFCO to appoint and assign staff and contract for professional services to carry out and effect the functions of the Commission; and

WHEREAS, on March 3, 2010, this Commission approved the LAFCO/TCAG staff services agreement to be effective on July 1, 2010 (Resolution 10-012); and

WHEREAS, Benjamin Giuliani was selected by this Commission to be the Executive Officer on June 9, 2010 to be effective on July 1, 2010 (Resolution 10-013); and

WHEREAS, a review of the performance of the Executive Officer is to be conducted at least once every fiscal year by the Commission; and

WHEREAS, an Ad-Hoc committee composed of Commissioners Worthley and Vander Poel recommends an increase of compensation for the LAFCO Executive Officer of 3%, from \$112,608 annually to \$115,986 annually, effective for the first pay period of Fiscal Year 18/19.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:

1. The Executive Officer salary compensation is increased, as recommended by the Ad-Hoc committee, by 3% from \$112,608 annually to \$115,986 annually.

2. The effective date of the compensation change is the first pay period of Fiscal Year 18/19.

The foregoing resolution was adopted upon motion of Commissioner zzz, and seconded by Commissioner yyy, at a regular meeting held on this 11th day of July, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

Benjamin Giuliani, Executive Officer

CALAFCO Daily Legislative Report as of Monday, July 02, 2018

AB 2050 (Caballero D) Small System Water Authority Act of 2018.

Current Text: Amended: 6/11/2018 [html](#) [pdf](#)

Introduced: 2/6/2018

Last Amended: 6/11/2018

Status: 6/28/2018-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (June 27). Re-referred to Com. on APPR.

Summary:

This bill would create the Small System Water Authority Act of 2018 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2019, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance with one or more state or federal primary drinking water standard maximum contaminant levels as of December 31, 2018, and for 4 consecutive quarters, as specified.

Position: Support

Subject: LAFCo Administration, Municipal Services, Water

CALAFCO Comments: This bill is sponsored by Eastern Municipal Water District and the CA Municipal Utilities Assoc. The intent is to give the State Water Resources Control Board (SWRCB) authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems, this will add the authority to mandate dissolution and formation of a new public agency.

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

CALAFCO continues to work with the author and sponsor on additional amendments including giving the authority to levy fines to the SWRCB (rather than the LAFCo); and ensuring codification of the appropriate protest process.

AB 2238 (Aguilar-Curry D) Local agency formation: regional housing need allocation: fire hazards: local health emergencies: hazardous and medical waste.

Current Text: Amended: 6/12/2018 [html](#) [pdf](#)

Introduced: 2/13/2018

Last Amended: 6/12/2018

Status: 6/20/2018-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (June 20). Re-referred to Com. on APPR.

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization of cities and districts. The act specifies the factors that a local agency formation commission is required to consider in the review of a proposal for a change of organization or reorganization, including, among other things, per capita assessed valuation and the proposal's consistency with city or county general and specific plans This bill would require the commission to consider the assessed valuation rather than per capita assessed valuation.

Position: Support

Subject: Climate Change, Growth Management

CALAFCO Comments: This bill seeks to add another factor for LAFCo consideration in the review of a proposal. That factor is information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal. The bill also adds two non-LAFCo-related sections pertaining to the update of a housing element. This bill is in response to the rash of wildfires throughout the state over the past several years and the ongoing threat of same as a result of climate change.

AB 2258 (Caballero D) Local agency formation commissions: grant program.

Current Text: Amended: 4/23/2018 [html](#) [pdf](#)

Introduced: 2/13/2018

Last Amended: 4/23/2018

Status: 6/28/2018-From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 7. Noes 2.) (June 26).

Calendar: 7/2/2018 #50 SENATE SEN SECOND READING FILE - ASSEMBLY BILLS

Summary:

Current law establishes the Strategic Growth Council in state government and assigns to the council certain duties, including providing, funding, and distributing data and information to local governments and regional agencies that will assist in the development and planning of sustainable communities. This bill would require the Strategic Growth Council, until January 1, 2024, to establish and administer a local agency formation commissions grant program for the payment of costs associated with initiating and completing the dissolution of districts listed as inactive, the payment of costs associated with a study of the services provided within a county by a public agency, and for other specified purposes, including the initiation of an action, based on determinations found in the study, as approved by the commission.

Position: Sponsor

Subject: Other

CALAFCO Comments: This is a CALAFCO sponsored bill following up on the recommendation of the Little Hoover Commission report of 2017 for the Legislature to provide LAFCo's one-time grant funding for in-depth studies of potential reorganization of local service providers. CALAFCO is working with the Strategic Growth Council (SGC) who has agreed to administer the grant program. Grant funds will be used specifically for conducting special studies to identify and support opportunities to create greater efficiencies in the provision of municipal services; to potentially initiate actions based on those studies that remove or reduce local costs thus incentivizing local agencies to work with the LAFCo in developing and implementing reorganization plans; and the dissolution of inactive districts (pursuant to SB 448, Wieckowski, 2017). The grant program would sunset on December 31, 2023.

The bill also changes the protest threshold for LAFCo initiated actions, solely for the purposes of actions funded pursuant to this new section. It allows LAFCo to order the dissolution of a district (outside of the ones identified by the SCO) pursuant to a majority protest (mirroring existing language in Government Code Section 57077.1.c). For all other changes of organization or reorganization pursuant to this section, the threshold would be 25% rather than 10%, in accordance with Government Code Section 57075.

Amendments taken in Senate Governance & Finance and Natural Resources & Water will narrow the scope of the bill to focus on service providers serving disadvantaged communities; will require LAFCo pay back grant funds in their entirety if the study is not completed within two years; and require the SGC to give preference to LAFCo's whose decisions have been aligned with the goals of sustainable communities strategies.

Other amendments pending are clarifying the language in section (4) regarding inactive districts and changing the protest thresholds to mirror elections code 11221 so that they are a sliding scale.

AB 2600 (Flora R) Regional park and open space districts.

Current Text: Amended: 6/26/2018 [html](#) [pdf](#)

Introduced: 2/15/2018

Last Amended: 6/26/2018

Status: 6/26/2018-Read second time and amended. Ordered to third reading.

Calendar: 7/2/2018 #204 SENATE SEN THIRD READING FILE - ASM BILLS

Summary:

Current law authorizes proceedings for the formation of a regional park, park and open-space, or open-space district to be initiated pursuant to a petition signed by at least 5,000 electors residing within the proposed district territory and presented to the county board of supervisors, as specified. Existing law also authorizes proceedings for district formation in specified counties to be initiated by resolution of the county board of supervisors adopted after a noticed hearing, and specifies the contents of the resolution. This bill would, in lieu of the petition described

above, authorize the formation of a district by the adoption of a resolution of application by the legislative body of any county or city that contains the territory proposed to be included in the district.

Position: Support

CALAFCO Comments: This bill would expand the process of initiating the formation of a regional pack and open space district by adding that a local governing body may adopt a resolution proposing to form a new district. This would be in lieu of having a 5,000 signature petition. The LAFCo process remains intact.

The intent of this bill is to create an easier way to proposed the formation of these types of districts, thereby removing the need for special legislation to do so. The bill is author-sponsored.

AB 3254 (Committee on Local Government) Local government organization: omnibus.

Current Text: Enrollment: 6/29/2018 [html](#) [pdf](#)

Introduced: 3/14/2018

Last Amended: 5/17/2018

Status: 6/29/2018-Enrolled and presented to the Governor at 3 p.m.

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act) provides the authority and procedure for the initiation, conduct, and completion of changes of organization, reorganization, and sphere of influence changes for cities and districts, as specified. Current law defines various terms for purposes of that Act, including the terms "affected territory" and "inhabited territory." This bill would revise those definitions to include territory that is to receive extended services from a local agency, and additionally define the term "uninhabited territory" for purposes of the Act.

Position: Sponsor

CALAFCO Comments: This is the annual Assembly Local Government Committee Omnibus bill, sponsored by CALAFCO. Amendments are pending to add several items.

SB 1215 (Hertzberg D) Provision of sewer service: disadvantaged communities.

Current Text: Amended: 6/21/2018 [html](#) [pdf](#)

Introduced: 2/15/2018

Last Amended: 6/21/2018

Status: 6/28/2018-From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 8. Noes 1.) (June 27).

Calendar: 7/2/2018 #13 ASSEMBLY SECOND READING FILE -- SENATE BILLS

Summary:

The Porter-Cologne Water Quality Control Act requires each California regional water quality control board to adopt water quality control plans and to establish water quality objectives in those plans, considering certain factors, to ensure the reasonable protection of beneficial uses and the prevention of nuisance. This bill would authorize the regional board to order the provision of sewer service by a special district, city, or county to a disadvantaged community, as defined, under specified circumstances. By authorizing the regional board to require a special district, city, or county to provide sewer service, this bill would impose a state-mandated local program.

Position: Watch With Concerns

Subject: Disadvantaged Communities, Water

CALAFCO Comments: As amended, this bill authorizes the State Water Resources Control Board (SWRCB) to mandate extension of service or consolidation of wastewater systems - both public and private, under certain circumstances. The process mirrors the process set forth in SB 88 giving the SWRCB authority to mandate the same for drinking water systems. The current version includes a number of amendments that address previous CALAFCO concerns. However, there is an outstanding issue of annexing territory to which services were extended into a city. (The bill does now call for a mandatory annexation into a district should the services be extended by them.)

SB 1496 (Committee on Governance and Finance) Validations.

Current Text: Chaptered: 6/1/2018 [html](#) [pdf](#)

Introduced: 3/1/2018

Status: 6/1/2018-Approved by the Governor. Chaptered by Secretary of State. Chapter 23, Statutes of 2018.

Summary:

This bill would enact the Second Validating Act of 2018, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Position: Support

SB 1497 (Committee on Governance and Finance) Validations.

Current Text: Chaptered: 6/1/2018 [html](#) [pdf](#)

Introduced: 3/1/2018

Status: 6/1/2018-Approved by the Governor. Chaptered by Secretary of State. Chapter 24, Statutes of 2018.

Summary:

This bill would enact the First Validating Act of 2018, 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.

Position: Support

Subject: LAFCo Administration

SB 1499 (Committee on Governance and Finance) Validations.

Current Text: Chaptered: 6/1/2018 [html](#) [pdf](#)

Introduced: 3/1/2018

Status: 6/1/2018-Approved by the Governor. Chaptered by Secretary of State. Chapter 25, Statutes of 2018.

Summary:

This bill would enact the Third Validating Act of 2018, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Position: Support

Subject: LAFCo Administration

AB 2268 (Reyes D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Current Text: Amended: 4/16/2018 [html](#) [pdf](#)

Introduced: 2/13/2018

Last Amended: 4/16/2018

Status: 5/25/2018-Failed Deadline pursuant to Rule 61(b)(8). (Last location was A. APPR. SUSPENSE FILE on 5/2/2018)

Summary:

for the 2018–19 fiscal year, would require the vehicle license fee adjustment amount to be the sum of the vehicle license fee adjustment amount in the 2017–18 fiscal year, the product of that sum and the percentage change in gross taxable assessed valuation within the jurisdiction of that entity between the 2017–18 fiscal year to the 2018–19 fiscal year, and the product of the amount of specified motor vehicle license fee revenues that the Controller allocated to the applicable city in July 2010 and 1.17.

Position: Support

Subject: Tax Allocation

CALAFCO Comments: Sponsored by the League, this bill will reinstate ERAF funding for inhabited annexations.

AB 2491 (Cooley D) Local government finance: vehicle license fee adjustment amounts.

Current Text: Amended: 4/2/2018 [html](#) [pdf](#)

Introduced: 2/14/2018

Last Amended: 4/2/2018

Status: 5/25/2018-Failed Deadline pursuant to Rule 61(b)(8). (Last location was A. APPR. SUSPENSE FILE on 4/25/2018)

Summary:

Would establish a separate vehicle license fee adjustment amount for a city incorporating after January 1, 2012, including an additional separate vehicle license fee adjustment amount for the first fiscal year of incorporation and for the next 4 fiscal years thereafter. This bill contains other related provisions and other existing laws.

Position: Support

Subject: Tax Allocation

CALAFCO Comments: Sponsored by the League, this bill will reinstate ERAF funding for cities incorporating after 2017.

AB 2501 (Chu D) Drinking water: consolidation and extension of service.

Current Text: Amended: 6/27/2018 [html](#) [pdf](#)

Introduced: 2/14/2018

Last Amended: 6/27/2018

Status: 6/27/2018-Read second time and amended. Re-referred to Com. on APPR.

Summary:

The California Safe Drinking Water Act authorizes the State Water Resources Control Board to order extension of service to an area within a disadvantaged community 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 of consolidation. The act defines "disadvantaged community" for these purposes to mean a disadvantaged community that is in an unincorporated area, is in a mobilehome park, or is served by a mutual water company or small public water system. This bill would redefine "disadvantaged community" for these purposes to also include a disadvantaged community that is served by a state small water system or domestic well.

Position: Watch With Concerns

Subject: Disadvantaged Communities, Water

AB 1577 (Gipson D) California Safe Drinking Water Act: Sativa-Los Angeles County Water District.

Current Text: Amended: 6/27/2018 [html](#) [pdf](#)

Introduced: 2/17/2017

Last Amended: 6/27/2018

Status: 6/27/2018-Read second time and amended. Re-referred to Com. on APPR.

Summary:

The California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board various responsibilities and duties. The act authorizes the state board to order consolidation with a receiving water system where a public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This bill would authorize the state board to order a designated public water system to accept managerial and administrative services without first making a finding that consolidation or extension of service is not appropriate or not technically and economically feasible if the state board finds that an emergency circumstance exists to warrant immediate action to protect the public health.

Position: Support

Subject: Disincorporation/dissolution, Water

AB 1889 (Caballero D) Santa Clara Valley Water District.

Current Text: Amended: 4/4/2018 [html](#) [pdf](#)

Introduced: 1/18/2018

Last Amended: 4/4/2018

Status: 6/27/2018-VOTE: Do pass as amended

Summary:

The Santa Clara Valley Water District Act authorizes the district to impose special taxes at minimum rates according to land use category and size. The district act authorizes the district to provide an exemption from these taxes for residential parcels owned and occupied by one or more taxpayers who are at least 65 years of age, or who qualify as totally disabled, if the household income is less than an amount approved by the voters of the district. This bill would authorize the district to require a taxpayer seeking an exemption from these special taxes to verify his or her age, disability status, or household income, as prescribed.

Position: Watch

AB 2019 (Aguiar-Curry D) Health care districts.

Current Text: Amended: 6/25/2018 [html](#) [pdf](#)

Introduced: 2/5/2018

Last Amended: 6/25/2018

Status: 6/25/2018-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on APPR.

Summary: The Local Health Care District Law provides for local health care districts that govern certain health care facilities. Each health care district has a board of directors with specific duties and powers respecting the creation, administration, and maintenance of the district. Current law requires the board of directors to establish and maintain an Internet Web site that may include specified information, such as a list of current board members and recipients of grant funding or assistance provided by the district, if any, and to adopt annual policies for providing assistance or grant funding, as specified. This bill would require the board of directors to include specified information, such as the district's policy for providing assistance or grant funding, on the district's Internet Web site.

Position: Watch

CALAFCO Comments: This bill places a number of statutory requirements on healthcare districts (HCDs). One provision that directly affects LAFCo is the HCDs will be required to notify their respective LAFCo when they file for bankruptcy.

AB 2179 (Gipson D) Municipal corporations: public utility service: water and sewer service.

Current Text: Introduced: 2/12/2018 [html](#) [pdf](#)

Introduced: 2/12/2018

Status: 6/28/2018-From committee: Do pass. (Ayes 7. Noes 0.) (June 27).

Calendar: 7/2/2018 #42 SENATE SEN SECOND READING FILE - ASSEMBLY BILLS

Summary: Would authorize a municipal corporation to utilize the alternative procedures to lease, sell, or transfer that portion of a municipal utility used for furnishing sewer service outside the boundaries of the municipal corporation.

Position: Watch

Subject: Municipal Services

AB 2262 (Wood D) Coast Life Support District Act: urgent medical care services.

Current Text: Amended: 4/16/2018 [html](#) [pdf](#)

Introduced: 2/13/2018

Last Amended: 4/16/2018

Status: 6/28/2018-From committee: Do pass. To Consent Calendar. (Ayes 9. Noes 0.) (June 27). **Calendar:**

7/2/2018 #18 SENATE SEN SECOND READING FILE - ASSEMBLY BILLS

Summary:

Current law, the Coast Life Support District Act, establishes the Coast Life Support District and specifies the powers of the district. The district is authorized, among other things, to supply the inhabitants of the district emergency medical services, as specified. This bill would additionally authorize the district to provide urgent medical care services.

Position: Support

Subject: LAFCo Administration, Special District Powers

CALAFCO Comments: This is a single district bill in which the district is seeking to add the power of providing urgent care (actually to codify powers they have been performing for a number of years). As amended, the bill cleans up the outdated reference to the Act and adds a provision requiring the district to seek LAFCo approval to activate the new power. As a result of these amendments, CALAFCO has removed our opposition and now supports the bill.

AB 2339 (Gipson D) Water utility service: sale of water utility property by a city.

Current Text: Amended: 4/3/2018 [html](#) [pdf](#)

Introduced: 2/13/2018

Last Amended: 4/3/2018

Status: 6/27/2018-VOTE: Do pass as amended

Summary: Would permit a city that owns and operates a public utility for furnishing water service to sell the public utility for the purpose of consolidating its public water system with another public water system pursuant to the specified procedures, only if the potentially subsumed water system is wholly within the boundaries of the city, if the city determines that it is uneconomical and not in the public interest to own and operate the public utility, and if certain requirements are met. The bill would prohibit the city from selling the public utility for one year if 50% of interested persons, as defined, protest the sale.

Position: Watch

Subject: Water

SB 522 (Glazer D) West Contra Costa Healthcare District.

Current Text: Amended: 1/3/2018 [html](#) [pdf](#)

Introduced: 2/16/2017

Last Amended: 1/3/2018

Status: 6/28/2018-Read second time. Ordered to consent calendar.

Calendar: 7/2/2018 #87 ASSEMBLY CONSENT CALENDAR 1ST DAY SENATE BILLS

Summary:

Current law provides for the formation of local health care districts and specifies district powers. Under existing law, the elective officers of a local health care district consist of a board of hospital directors consisting of 5 members, each of whom is required to be a registered voter residing in the district and whose term shall be 4 years, except as specified. This bill would dissolve the existing elected board of directors of the West Contra Costa Healthcare District, effective January 1, 2019, and would require the Board of Supervisors of the County of Contra Costa, at its election, to either serve as the district board or appoint a district board, as specified.

Position: Watch

Subject: Special Districts Governance

SB 561 (Gaines R) Fallen Leaf Lake Community Services District: State audit.

Current Text: Amended: 6/26/2018 [html](#) [pdf](#)

Introduced: 2/17/2017

Last Amended: 6/26/2018

Status: 6/28/2018-Re-referred to Com. on APPR. pursuant to Assembly Rule 96.

Summary:

Current law requires the county auditor to either perform an audit, or contract with a certified public accountant or public accountant to perform an audit, of the accounts and records of every special district within the county, as specified. Current law authorizes a special district, by unanimous request of its governing board and unanimous approval by the board of supervisors, to replace the annual audit with an audit over a longer period of time or with a financial review, as specified. This bill would require, by August 1, 2019, the California State Auditor to complete an audit of the Fallen Leaf Lake Community Services District that includes, among other things, an analysis of the district's financial condition and ongoing financial viability.

Position: Watch

Subject: Special Districts Governance

SB 623 (Monning D) Water quality: Safe and Affordable Drinking Water Fund.

Current Text: Amended: 8/21/2017 [html](#) [pdf](#)

Introduced: 2/17/2017

Last Amended: 8/21/2017

Status: 9/1/2017-From committee: Without recommendation. (Ayes 11. Noes 0.) (September 1) Re-referred to Com. on RLS.

Summary:

Would establish the Safe and Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the State Water Resources Control Board. The bill would require the board to administer the fund to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure. The bill would authorize the state board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, bequests, and settlements from parties responsible for contamination of drinking water supplies.

Position: Watch

Subject: Water

SB 778 (Hertzberg D) Water systems: consolidations: administrative and managerial services.

Current Text: Amended: 7/13/2017 [html](#) [pdf](#)

Introduced: 2/17/2017

Last Amended: 7/13/2017

Status: 9/1/2017-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. on 8/23/2017)(May be acted upon Jan 2018)

Summary:

Would require, on or before March 1, 2018, and regularly thereafter, as specified, the State Water Resources Control Board to track and publish on its Internet Web site an analysis of all voluntary and ordered consolidations of water systems that have occurred on or after July 1, 2014. The bill would require the published information to include the resulting outcomes of the consolidations and whether the consolidations have succeeded or failed in providing an adequate supply of safe drinking water to the communities served by the consolidated water systems.

Position: Watch

Subject: Municipal Services

SB 929 (McGuire D) Special districts: Internet Web sites.

Current Text: Amended: 3/6/2018 [html](#) [pdf](#)

Introduced: 1/25/2018

Last Amended: 3/6/2018

Status: 6/28/2018-Read second time. Ordered to consent calendar.

Calendar: 7/2/2018 #91 ASSEMBLY CONSENT CALENDAR 1ST DAY SENATE BILLS

Summary:

The California Public Records Act requires a local agency to make public records available for inspection and allows a local agency to comply by posting the record on its Internet Web site and directing a member of the public to the Web site, as specified. This bill would, beginning on January 1, 2020, require every independent special district to maintain an Internet Web site that clearly lists contact information for the special district, except as provided. Because this bill would require local agencies to provide a new service, the bill would impose a state-mandated local program.

Position: Support

SB 1498 (Committee on Governance and Finance) Local Government Omnibus Act of 2018.

Current Text: Amended: 6/19/2018 [html](#) [pdf](#)

Introduced: 3/1/2018

Last Amended: 6/19/2018

Status: 6/28/2018-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To consent calendar. (Ayes 9. Noes 0.) (June 27). Re-referred to Com. on APPR.

Summary:

Current law sets forth various provisions governing cities that reference various officers and employees. This bill would make these references gender neutral.

Position: Watch

CALAFCO Comments: This is the annual Senate Governance & Finance Committee Omnibus bill.

SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair
2017 - 2018 Regular

Bill No: AB 2050
Author: Caballero
Version: 6/11/18
Consultant: Favorini-Csorba

Hearing Date: 6/27/18
Tax Levy: No
Fiscal: Yes

SMALL SYSTEM WATER AUTHORITY ACT OF 2018

Requires consolidation of failing water systems into a “small system water authority.”

Background

Local government boundaries. The Cortese-Knox-Hertzberg Act creates a local agency formation commission (LAFCO) in each county to control the boundaries of cities, county service areas, and most special districts. The courts often refer to LAFCOs as the Legislature’s watchdog over boundary changes. To plan for the future boundaries and service areas of the cities and special districts, a LAFCO must adopt a policy document for each city and district called a sphere of influence. The LAFCO’s boundary decisions must be consistent with the spheres of influence of the affected cities or districts. Spheres must be updated at least every five years.

Local governments can only exercise their powers and provide services where LAFCO allows them to: within their boundaries (which are set by LAFCO), within their spheres of influence but outside their boundaries (with authorization by LAFCO), and outside their spheres to address a major threat to public health if the extension is consistent with LAFCO’s policies. In 2015, the Legislature approved AB 402 (Dodd), which established a pilot program in Napa County and San Bernardino County that allowed the extension of services outside a local agency’s sphere of influence to support existing or planned uses under specified conditions. A local government that wants to expand its territory must ask LAFCO to annex new territory into the local government’s boundaries.

To determine spheres of influence, LAFCOs must periodically conduct a “municipal service review” (MSR) to inform their decisions. Among other topics, MSRs must analyze and make determinations about whether adequate public services are available to current and future residents in the county, and whether services could be improved by governmental reorganizations.

Most changes of organization, including consolidations of districts, require numerous steps in the following order:

- First, there must be a completed application to LAFCO, including a petition or resolution, a “plan for service”, an environmental review document, and a property tax exchange agreement.
- Second, LAFCO must hold a noticed public hearing, take testimony, and may approve the proposed change of organization. The LAFCO may impose terms and conditions that

spell out what happens to the affected agencies' property, assets, and liabilities. If LAFCO disapproves, the proposed change of organization stops.

- Third, LAFCO must hold another public hearing to measure protests. The proposed change of organization stops if there is a majority protest; that is, if more than 50 percent of the affected voters file written protests.
- Fourth, if enough voters protest, but not a majority, LAFCO must order an election on the proposed change, subject to majority voter approval.
- Finally, LAFCO's staff files documents to complete the change.

LAFCOs are required to approve district consolidations where each merging district passes a resolution endorsing the consolidation, but the provisions that govern protest and elections still apply.

Drinking water regulation. The California Safe Drinking Water Act (SDWA) regulates the quality of drinking water provided to the state's residents by "public water systems"—generally, those systems regularly serving 15 or more connections or 25 individuals—and other water providers. Until 2014, the California Department of Public Health administered the SDWA. However, SB 861 (Committee on Budget and Fiscal Review, 2014) transferred the Drinking Water Program from the Department of Public Health to the State Water Resources Control Board (SWRCB) effective July 1, 2014, creating the new Division of Drinking Water within the State Water Board. It also made other statutory changes to create efficiencies in the administration of the Drinking Water Program.

The State Water Board directly enforces the SDWA for all large water systems (those with 200 or more service connections). For small water systems (those with less than 200 connections), SWRCB can delegate SDWA regulatory authority to local health departments.

In 2012, California became the first state to enact a Human Right to Water law (AB 685, Eng). The Human Right to Water states that every human being has a right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation.

Drinking water challenges. In 2013, SWRCB released a report, "Communities that Rely on Contaminated Groundwater," that identified 682 water systems in California, serving nearly 21 million people, that rely on contaminated groundwater as a primary source of drinking water. While many of those systems successfully treat their water to all required standards, the report also found that 265 water systems, serving a little more than two million people, had received at least one drinking water quality violation within the last compliance cycle. The report also noted that an additional two million Californians rely on groundwater from a private domestic well or a smaller groundwater-reliant system that is not regulated by the state, of which the water quality is uncertain. The findings from SWRCB report, as well as a January 2012, University of California at Davis study on nitrate contamination in California's groundwater, indicate that drinking water contamination in California disproportionately affects small, rural, and low-income communities that depend mostly on groundwater as their drinking water source.

SB 88 and SB 552. To begin to address California's safe drinking water challenges, the Legislature granted SWRCB the authority to order the consolidation of neighboring drinking water systems where it is economically feasible in order to address public health threats (SB 88, Committee on Budget and Fiscal Review, 2015). SB 88 established an elaborate process for consolidating water systems that requires multiple public hearings, as well as consultations with

affected entities (such as the water system being subsumed, the receiving water system, domestic well owners, and the local government with land use authority over the area) and LAFCO.

Before ordering consolidation or extension of service, SWRCB must also encourage voluntary consolidations or extension of service, consider other enforcement remedies, obtain written consent from any domestic well owner, and provide technical assistance to both systems. The SWRCB must also make a series of findings, including that:

- Consolidation or extension of service is the most effective and cost-effective means to provide an adequate supply of safe drinking water; and
- The capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving the current customers of the subsumed water system.

Under SB 88, SWRCB must pay the full cost of the new capacity, including replacing any capacity lost as a result of the consolidation or extension of service, providing additional capacity needed as a result of the consolidation or extension of service, and legal fees. The SWRCB must also pay LAFCO's costs and fees, adequately compensate the owners of any privately owned subsumed water system, and coordinate with the appropriate local agency formation commission and other relevant local agencies to facilitate the change of organization or reorganization.

To date, SWRCB has completed two mandatory consolidations and initiated an additional nine mandatory consolidations of 13 failing water systems. SWRCB has also issued 230 informal consolidation letters indicating SWRCB's intent to initiate consolidation, which have led to over 40 voluntary consolidations. In addition, SWRCB now tracks non-compliant water systems and makes that information publicly available on its website.

The following year, SB 552 (Wolk, 2016) gave SWRCB another tool to address the systemic issues affecting public water systems serving small, disadvantaged communities. SB 552 authorizes SWRCB to identify public water systems that are consistently unable to provide an adequate and affordable supply of safe drinking water and, once funding is available, to then contract with a competent administrator to provide managerial and technical expertise to that system.

Despite the recent legislation and state action, as of June 2018, SWRCB had identified 269 systems statewide that chronically serve contaminated drinking water or cannot provide reliable water service due to either unsound infrastructure or lack of local financial, managerial, and technical resources. Eastern Municipal Water District and the California Municipal Utilities Association want the Legislature to provide additional tools for improving drinking water quality in the state.

Proposed Law

Assembly Bill 2050 enacts the Small System Water Authority Act of 2018, which authorizes the creation of a small system water authority (authority) and requires consolidation of failing water systems into an authority.

Notifying noncompliant systems. AB 2050 directs SWRCB by March 1, 2019, to provide written notice to all public agencies, private water companies, or mutual water companies that

operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance with one or more state or federal primary drinking water standard maximum contaminant levels as of December 31, 2018, and for four consecutive quarters, as specified. If the noncompliant system is a water corporation, SWRCB must provide a copy of the notice to the Public Utilities Commission (PUC). AB 2050 requires the PUC to be responsible with the state board for ensuring compliance with the provisions of the bill.

Response from noncompliant systems. AB 2050 requires an entity receiving the notice to respond to SWRCB, and, if appropriate, the PUC, as to whether the violations of drinking water standards are remedied and the basis for that conclusion. If an entity reports a continuing violation of drinking water standards, the entity has 180 days from the date of a specified response filed with the state board to prepare and submit a plan to SWRCB to permanently remedy a violation of drinking water standards within a reasonable time that is no later than January 1, 2024.

AB 2050 requires SWRCB to review the plan and accept, accept with reasonable conditions, or reject the plan. An entity with an accepted plan must provide quarterly reports to SWRCB on progress towards a permanent remedy for violations of drinking water standards. The SWRCB must annually hold a public hearing to consider whether the progress is satisfactory.

Formation of an authority. If SWRCB rejects the plan, AB 2050 requires SWRCB to cause the formation of a small system water authority by the applicable LAFCO, subject to conditions in the bill. To order the creation of the authority, SWRCB must first find that:

- The continued operation of the public water system in its current condition is a threat to public health and safety;
- The public water system lacks the financial, managerial, or technical resources required to remedy the violation of state or federal primary drinking water standards, which results in the entity's inability to remain operationally viable as a public water system; and
- There is no alternative that would protect the public drinking water supplies of the public water system other than for there to be the formation of an authority.

AB 2050 also requires SWRCB, by January 1, 2021, to notify each county, city, water district, private water company, or mutual water company located within a county where SWRCB is considering forming an authority and to invite other public water suppliers to consider a voluntary dissolution and subsequent inclusion into the authority. An agency wishing to consolidate into a proposed authority must opt in to the authority on or before July 1, 2021. A city or county that wants to later include a dependent district in the authority may do so by a proposal or petition to LAFCO. AB 2050 allows an authority to include non-contiguous territory.

Within 30 days of rejecting a plan to remedy a violation of drinking water standards, AB 2050 requires SWRCB to notify LAFCO and the PUC, if applicable, that it has determined that the public water system shall be consolidated into an authority. Within 60 days of the rejection, SWRCB must notify LAFCO and the PUC of the public water systems that will be consolidated into an authority.

Administrator responsibilities. AB 2050 requires SWRCB to appoint an administrator for each proposed authority. The administrator serves at the pleasure of SWRCB until whichever of the following dates occurs earlier:

- The LAFCO issues a notice of completion regarding the plan for service for the authority;
- Three years from the date that LAFCO forms an authority; or
- No sooner than 30 days after the appointment of a general manager by the board of the authority.

AB 2050 also requires SWRCB to establish a list of individuals qualified to be an administrator by January 1, 2020. AB 2050 requires an administrator to be responsible for the interim administration and management of the authority and requires SWRCB to bear the cost of the administrator. After a consultation with LAFCO, the administrator must submit to SWRCB a conceptual formation plan that includes:

- The public water system service areas to be served by the authority;
- The population to be served by the authority;
- The available infrastructure to be used by the authority and any known deficiencies;
- The recorded violations of drinking water standards and the nature of the threat to public health and safety; and
- Financial and operational provisions to be addressed in the plan for service provided to LAFCO.

The SWRCB must comment on the conceptual formation plan to the administrator and applicable LAFCO within 60 days of its receipt.

LAFCO review. AB 2050 requires the administrator, within 180 days after the state board provides comments on the draft conceptual formation plan, to submit an application for formation and proposed plan for service to LAFCO for review and would require LAFCO to hold a hearing on the plan and approve or deny it, or approve it with modifications. The LAFCO can only approve formation of an authority if at least five public water systems—including failing systems, voluntary participants, and dependent districts of a city or county—are proposed to be included in the authority. The plan for service evaluated by LAFCO must include:

- A description of the services currently provided and proposed to be provided;
- The improvements that will be made within the affected territory;
- The authority's process for ensuring compliance with Constitutional requirements and limitations on taxes and fees;
- The necessary financial resources to improve or upgrade water facilities or other infrastructure identified in the formation application;
- A discussion of the economies of scale that accrue when several small organizations are consolidated into a single authority;
- An estimated timeframe for constructing and delivering the services identified in the formation application;
- The operation and maintenance needs of the authority;
- Financial plans for the financing of capital improvements, operation and maintenance of facilities, and operation of the authority;
- Financial resources currently available, including taxes, bonds, and other charges; and

- The governance, oversight, and long-term maintenance of the services identified in the formation application after the initial costs are recouped and any tax increment financing terminates.

If the administrator determines that the formation of an authority would be infeasible for financial, technical, or operational reasons, or would not provide the necessary economies of scale or operating benefits, the administrator may set forth those conclusions in a report to SWRCB instead of submitting a plan for service to LAFCO. The administrator must submit the report to the state board no later than 180 days after receiving comments from SWRCB on the plan.

Once the plan is approved by LAFCO, the authority must file a statement, under penalty of perjury, with LAFCO certifying that the authority will take the appropriate actions to comply with an approved plan. Within 30 days of receiving the statement, LAFCO must issue a notice of completion to the authority and send a copy of that notice to SWRCB. If the authority fails to timely file a statement certifying compliance with the plan, SWRCB can compel the authority to file a statement certifying compliance with the plan or other remedial action as may be appropriate.

AB 2050 requires the authority to file an annual report with LAFCO describing its compliance with the plan for three years after formation. The LAFCO must hold a public hearing on the report to review the authority's performance during the previous year. AB 2050 allows LAFCO to order an authority to remedy any failures to comply with conditions, and allows a LAFCO to impose a civil penalty on an authority of up to \$500 per day for each violation if an authority fails to timely comply with its remedial order, up to a maximum of \$10,000 per year for each particular violation.

Within a year of formation, AB 2050 requires the administrator to submit a capital improvement plan to SWRCB that will bring the authority into full compliance with drinking water standards within three years or longer if authorized by the board.

Asset transfer. AB 2050 requires the authority to assume all obligations and liabilities of a subsumed public water system. The bill also requires the PUC to order the dissolution of a public water system and the transfer of all assets of a subject water corporation to the authority, and requires SWRCB to petition a court for an order dissolving any mutual water company, water corporation, or private corporation that has been operating a public water system and transferring the assets of that company or corporation to the authority. AB 2050 also establishes a process for valuing any private companies according to a "distressed business valuation" and requires the authority to compensate the owners of the company accordingly.

Review of authorities. AB 2050 requires the State Controller, in consultation with SWRCB and various associations, no later than January 1, 2025, to contract with an independent consultant to review the startup operations of the authorities and the management of the authorities by the administrators. The bill requires the consultant to prepare a report for the Legislature regarding the fiscal and operational health of the authorities, including recommendations regarding the need for supplemental state funding, if any, and the potential sources of that funding.

Powers and duties of an authority. AB 2050 establishes the governing board, powers, and duties of an authority, in a manner similar to existing municipal water districts. AB 2050 provides for the appointment of an initial board of an authority, comprising a representative from

each consolidated system and a representative from the board of supervisors. It also provides for staggered elections of board members every two years thereafter. The formation plan approved by LAFCO must provide for a transition plan to result in a five-member board within a reasonable period of time. The transition plan must also provide for the creation of electoral districts with equal populations. Once elected, board members serve four-year terms.

AB 2050 requires a board member to be a resident of the area served by the authority and, to the extent practicable, to represent a division with equal population being served by the authority. Board members can be compensated up to \$250 per day, for up to 10 days per month, and may be reimbursed for their expenses, as provided in existing law.

AB 2050 requires the board to hold meetings, exercise and perform all powers, privileges, and duties of an authority, designate a depository to have custody of the funds of the authority, appoint officers, and hire employees. AB 2050 provides that the board may act by ordinance, resolution, or motion, and specifies other procedures for the operation of the district. AB 2050 also provides that anyone convicted of an infraction for a violation of an authority's ordinances to be subject to a fine of up to \$50 for a first violation, \$100 for a second violation within the same year, and \$250 for subsequent violations in the same year.

AB 2050 specifies the powers of an authority, including to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water, including sewage and stormwater, for the beneficial use of the authority. The authority may also set water rates and restrict the use of authority water during times of water shortages. AB 2050 makes a violation of such a restriction a misdemeanor. The authority may also issue revenue bonds backed by water charges without voter approval, in a manner similar to other water districts.

AB 2050 requires the board to levy fees or other charges to fund the operation and maintenance of the authority within 18 months of formation.

Funding. AB 2050 requires SWRCB, upon appropriation by the Legislature from the General Fund, or, to the extent funds are available from bond revenues or other sources, to provide funding for the administrator and for formation and startup costs for up to three fiscal years after formation of the authority. Specifically, the bill allocates up to:

- \$11.7 million to LAFCOs to carry out the formations of authorities;
- \$15.0 million to fund administrators;
- \$13.3 million to an authority in the first three years of its operation, up to 33 percent of the expected rate of revenue to the authority in its first year, 20 percent in its second, and 10 percent in its third;
- \$5.3 million for a working capital fund for an authority in the first year after formation, up to 25 percent of its expected rate of revenue; and
- \$5.4 million for the preparation of distressed business valuations.

AB 2050 defines its terms, incorporates relevant cross references into the Cortese-Knox-Hertzberg Act, and includes findings and declarations to support its purposes.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, “recently, the State Water Resources Control Board identified over 300 water systems that chronically serve contaminated drinking water or fail to provide a reliable water service to over one million Californians, mostly in rural California. In the wealthiest state in the wealthiest nation on the planet, this is not acceptable. AB 2050 addresses this problem by granting the State Board the authority to consolidate these failing water systems. Traditional consolidations rely on a bordering larger host agency to absorb the failing system. AB 2050 provides an alternate solution by merging small noncompliant water systems into a larger, more robust public water system that can take advantage of improved economies of scale, streamlined managerial functions, and enhanced financial capacity. The merged systems will be formed as independent special districts and provided with new internal and external financing opportunities, and increased transparency, including an elected Board of Directors. This will lead to more sustainable water systems that can effectively deliver safe and affordable drinking water. AB 2050 provides a valuable tool so that we can ensure all Californians drink, cook, and bathe in safe water.”

2. Where’s the beef? The Legislature already has established several ways of improving drinking water quality by installing better management. Most directly, SB 552 allows SWRCB to contract with a qualified administrator to take over management of failing systems. In addition, SB 88 allowed SWRCB to merge failing systems into functioning ones that possess strong ratepayer bases. However, SB 88 raised concerns that ratepayers for the receiving water system may have to subsidize those residents newly merged into the system. AB 2050 provides an alternative process where only failing systems are consolidated, with the result that less cross-subsidization occurs. But consolidating multiple failing systems, even with a competent interim administrator, may simply compound the problem. For example, a 2011 report by the Legislative Analyst’s Office on the efficiency of special districts noted that “consolidation of two poorly managed districts would have resulted in the formation of a larger poorly managed district. Therefore, although poor management can be related in some fashion to district size, consolidation may not solve the issue.” Accordingly, AB 2050 may simply result in larger systems that remain susceptible to failure. Furthermore, it is unclear to what extent SB 88 is likely to result in subsidization: it requires SWRCB to replace lost capacity and pay for necessary infrastructure, and Article XIII D of the California Constitution further prohibits charging ratepayers more than the proportional cost of service to the parcel. Costs necessary to maintain the system as a whole may be shared among classes of ratepayers, which could be interpreted to be subsidization, but such subsidization already exists within water systems: California courts have found that Article XIII D does not require accounting for where individual molecules of water flow. Moreover, any such sharing of costs among disadvantaged communities and higher income communities may be justified and even necessary to ensure that all Californians have access to safe drinking water, per the state’s Human Right to Water policy. AB 2050 avoids any concerns related to cost-sharing from strong systems to weak ones, but do these concerns outweigh the benefits of competent long-term management that can be provided by using existing methods to consolidate a failing system into a functional one?

3. Sure, but will it work? Consolidations can be an effective strategy to improve drinking water quality, as evidenced by the state’s experience with numerous voluntary consolidations and those ordered or encouraged by SB 88. They can provide significant economies of scale: staff costs can be reduced and capital costs lowered on a per capita basis as those assets are shared among a larger ratepayer base. AB 2050 is likely to assist with staff costs and other soft costs of running a water system—those can be shared across far-flung communities relatively easily, and the

communities can pool funds to hire competent management. It is less clear if it will be cost-effective to physically consolidate many of the failing systems due to the distances between them. Particularly given that water delivery is a capital-intensive service, managerial consolidations may be insufficient to remedy the problem on a large scale.

In addition, AB 2050 only allows for the formation of an authority where five or more systems in a county are failing, under the assumption that an authority composed of fewer systems will lack the economies of scale to fix the problems. While this is a reasonable assumption, this requirement may artificially limit some beneficial consolidations. AB 2050 smartly requires the proposal for the formation of an authority to be reviewed and approved by the applicable LAFCO, which is well suited to evaluate the viability of the new entity. The Committee may wish to consider amending AB 2050 to remove the requirement that an authority contain five systems and instead allow LAFCO to exercise discretion when presented with a proposal for the merger of any number of systems.

4. Cash rules everything around me. AB 2050 comes with a hefty price tag: the bill itself provides for, upon appropriation of the Legislature, over \$50 million in administrative costs and assistance to the new authorities for formation and startup costs. Some funds for drinking water are available from recent water bonds, but these funds are best used to support capital assets with a life that matches the long payback period of the bonds—not to support staff or otherwise administer programs. Accordingly, AB 2050 may require General Fund or other pay-as-you-go funding to support its implementation. In addition, the problem for some failing systems is that the system's customers lack the income to adequately fund their operations and maintenance—a problem that cannot be ameliorated with bond funds. Such systems may need ongoing financial assistance from the state to provide safe, affordable water to its residents. The Legislature recently put forward an alternative approach in SB 623 (Monning, 2017), which would levy a charge on water delivery statewide and increase the state's existing charge on fertilizer sales to provide ongoing financial assistance to communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards. Providing assistance directly to failing systems may present a complementary or more effective means of addressing the state's water issues.

5. Tying two stones together and hoping they'll float. Liability for the past misdeeds of failing systems is frequently a concern in consolidation efforts. To address those concerns, on two occasions the Legislature has granted limited immunity from liability. SB 1130 (Roth, 2014) protected several water systems, including the sponsor of this measure, from liability for claims from customers of a failing system that those agencies absorbed. Subsequently, SB 88 also provided liability protection to any receiving water system that has a failing system consolidated into it. These liability protections are important to ensure that the customers of a functional system do not have to bear the risk of being liable for claims that they had no part in. AB 2050, however, explicitly provides that liability from the failing systems transfers to the newly created authority. This transfer of liability may impair the effectiveness of the bill for two reasons. First, this liability may discourage functional systems from voluntarily joining an authority. Second, should the authority be found liable based on the actions of one of its constituent systems, the other systems that merged into the authority would be on the hook for payment of claims. Given that these systems were in a fragile state to begin with, this liability may push not just the responsible system but the other participating systems further into financial unsustainability. The Committee may wish to consider amending AB 2050 to provide the same liability protections as are provided in SB 88.

6. Incoming! The Senate Environmental Quality Committee passed AB 2050 at its June 20th meeting on a vote of 6 to 1. The Senate Governance and Finance Committee is hearing the bill as the committee of second reference.

7. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. The authorities created by AB 2050 can restrict the use of its water during drought or other times of water shortage by ordinance, violation of which is a misdemeanor. By creating a new crime, AB 2050 also creates a new state-mandated program. But the bill disclaims the state's responsibility for reimbursing local governments for enforcing these new crimes. That's consistent with the California Constitution, which says that the state does not have to reimburse local governments for the costs of new crimes (Article XIII B, 6[a][2]). AB 2050 also provides that if the bill creates other mandates, reimbursement must be provided pursuant to procedures in existing law.

Assembly Actions

Assembly Environmental Safety and Toxic Materials Committee:	5-2
Assembly Local Government Committee:	6-1
Assembly Appropriations Committee:	12-1
Assembly Floor:	56-19

Support and Opposition (6/25/18)

Support: California Municipal Utilities Association (co-sponsor); Eastern Municipal Water District (co-sponsor); Association of California Water Agencies; California Association of Local Agency Formation Commissions; CalMutuals; California Special Districts Association; California State Association of Counties; Calleguas Municipal Water District; Camrosa Water District; City of Riverside; City of Sacramento; Cucamonga Valley Water District; Economic Development Coalition; Elsinore Valley Municipal Water District; Inland Empire Utilities Agency; Irvine Ranch Water District; Jurupa Community Services District; Las Virgenes Municipal Water District; Long Beach Water Department; Mesa Water District; Metropolitan Water District of Orange County; Metropolitan Water District of Southern California; Monterey Peninsula Water Management District; Municipal Water District of Orange County; Murrieta/Wildomar Chamber of Commerce; Northern California Water Association; Orange County Water District; Regional Water Authority; Rural County Representatives of California; San Diego County Water Authority; San Diego Local Agency Formation Commission; Santa Ana Watershed Project Authority; Santa Clara Valley Water District; Santa Margarita Water District; Silicon Valley Leadership Group; Three Valleys Municipal Water District; Western Municipal Water District.

Opposition: Clean Water Action; Howard Jarvis Taxpayers Association; Leadership Counsel for Justice and Accountability.

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