

SAN MATEO

**LOCAL AGENCY FORMATION COMMISSION**

455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

April 10, 2015

Assemblymember Chad Mayes
California State Assembly
State Capitol, Room 4144
Sacramento, CA 95814

RE: AB 851 (Mayes) – Local Government: Organizations: Disincorporations -- SUPPORT

Dear Assemblymember Mayes:

San Mateo Local Agency Formation Commission (LAFCo) is pleased to support Assembly Bill 851. The bill makes long overdue updates to the statutes relating to disincorporations of cities.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act) establishes a Local Agency Formation Commission (LAFCo) in each California County to oversee proposed changes of organization for cities and districts throughout the state. Further, LAFCo is the entity that receives and processes proposals and applications for disincorporations. The statutes within the Act addressing the disincorporation process have not been updated since their creation in 1963.

The longer-term effects of the recession, the demise of redevelopment agencies, and the elimination of motor vehicle in-lieu fees for newly incorporated cities with SB 89 (2011, Committee of Budget and Fiscal Review) are having a substantial financial impact on cities throughout the State. In many instances this domino effect has rendered a number of cities insolvent. Many of those cities find themselves either having filed for bankruptcy or considering that path. As a last resort, some cities are considering disincorporation as an option.

A city can be disincorporated either through State legislative statute or by going through a local process. Prior to the Act, 17 cities have disincorporated, each of which ended up reincorporating at a later time. Since the inception of the Act, only two cities have disincorporated. The City of Hornitos was disincorporated by State statute in 1973, and the City of Cabazon in 1972, who went through the disincorporation process as prescribed in the Act.

Much has changed in State law since 1972 when the statutes were last used and there is no current precedent for a disincorporation. As LAFCos are approached by cities inquiring about the disincorporation process, the Commissions and LAFCo staff determined that the statutes are out of date and in some cases no longer legal. As the agency that is required to process the proposal or application for disincorporation, LAFCo has a vested interest in ensuring the processes are up to date, legal, consistent across codes, and fair and reasonable for all entities involved.

This bill brings the statutes into compliance with the mandates of Propositions 13 and 218 and uses the incorporation provisions as a template to propose changes in the disincorporation process. Further, the bill:

- Clarifies the expectation for assignment of responsibility for debt that will continue in existence after disincorporation;
- 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;
- 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; and
- Retains LAFcos' existing authority to impose terms and conditions on a proposed disincorporation as well as the election requirements necessary for approval of disincorporation.

This bill is not intended to promote the use of the disincorporation process, nor is it intended to encourage cities to consider this as an option to relieve their fiscal emergencies. The ultimate success or failure of a proposal for disincorporation remains with the registered voters of the City proposed to be disincorporated. The process of taking the final decision to a vote of the people will not change. This bill merely clarifies the required process to get to that point.

Because AB 851 provides the necessary clean-up of outdated statutes relating to the process of disincorporation, San Mateo LAFco supports this bill. We thank you for authoring this important legislation and look forward to continuing to work with you, your staff, and stakeholders in creating a piece of legislation that works for all interested parties.

Sincerely,



Linda Craig
Chair

cc: Members, Assembly Local Government Committee
Misa Lennox, Associate Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus



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455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

April 10, 2015

Senator Robert Hertzberg
California State Senate
State Capitol, Room 4038
Sacramento, CA 95814

RE: SB 239 (Hertzberg) – Local Services: Contracts: Fire Protection Services -- OPPOSE

Dear Senator Hertzberg:

San Mateo Local Agency Formation Commission (LAFCo) has reviewed your bill (SB 239), which establishes an entirely new hybrid process pursuant to which LAFCos will consider the extension, by contract or agreement, of fire protection services outside a public agency's boundaries. Based on our review, we must respectfully oppose the bill at this time. Simply put, we find the current version of SB 239 flawed in various respects as follows:

1. Is Unnecessary in Light of Current Statutory Provisions/Amends the Wrong Provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH): The bill amendments, which not only revises several provisions in CKH, but also proposes to add entire new sections to CKH (including an entire new Article) related to the extension of fire services, by contract or agreement, outside a public agency's boundaries, are unnecessary. Specifically, Government Code section 56133, in CKH, already fully addresses the provision of all types of out of area service extensions by local public agencies and empowers LAFCos to independently consider all relevant factors associated with such requests prior to rendering a decision. LAFCo fails to see 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.

In sum, while LAFCo believes that Government Code section 56133 fully addresses the issue of out of area services, any new provisions deemed necessary to specifically address the provision of out of area fire protection services should be included in 56133 instead of the statutory revisions and additions provided for in SB 239.

2. Would Unnecessarily Categorize the Provision of Extraterritorial Fire Protection Services as a "Change of Organization" under CKH and Unnecessarily Require the Same Level of Review Currently Required Only for Incorporations: Not only will the bill amendments make LAFCos' review of the provision of extraterritorial fire protection services under contract or agreement a "change of organization" under CKH, thereby triggering the tax exchange negotiation requirements of Revenue and Taxation Code section 99 and compliance with CEQA, but also will require LAFCos' reviews to entail activities currently only reserved for proposals involving incorporations. Specifically, the bill amendments introduced last week require LAFCos to undertake a comprehensive fiscal analysis---an analysis used by LAFCos to analyze whether the creation of an entirely new city is fiscally feasible. We want to point out that in great many instances the provision of any service (including fire protection services) outside an agency's boundaries involves extension of services to a very limited area---sometimes just a few

homes/properties or neighborhoods. In light of this, LAFCo finds that requiring this level of review for provision of fire protection services outside an agency's boundaries excessive. The bill completely fails to demonstrate how the proposed requirements will be synthesized with all relevant code sections in CKH or the Revenue and Taxation Code thus creating future conflicts to its implementation.

3. Would for the First Time Require State Agencies to Obtain LAFCOs Approval Authority: LAFCOs are charged with "discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances." (Government Code section 56301, emphasis added.) Under CKH, the term "local agency" is defined as including only a county, city or district. While LAFCOs actions certainly at times involve interaction with public agencies of all types, including the State of California and its state agencies, SB 239 would for the first time require 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.
4. Would Remove Discretion From Elected and Appointed Boards of Public Agencies Throughout the State as Well as From State Agencies by Requiring Pre-Approval of Recognized Employee Associations That are Already Fully Protected by the Meyers Miliias Brown Act (MMBA): The State legislature has provided for LAFCOs to exist in each of the 58 counties for the purpose of promoting the efficient delivery of services and encouraging the orderly formation and development of local agencies. This structure ensures that all decisions are made in a transparent and orderly fashion and by locally elected and appointed officials representing the very agencies and voters affected by those decisions. To abrogate this critical function for a single category of services is not only inconsistent with CKH, but also obstructs the democratic process. Additionally, the rights of recognized employee associations is fully covered by the MMBA, which already requires local agencies to "meet and confer" over decisions made by the agency that may result in changed work conditions. SB 239 would require each and every possible contract or agreement involving the provision of extraterritorial fire protection services to be "pre-approved" by the affected labor associations, not only prior to moving forward with any such contract or agreement, but also prior to seeking LAFCo approval. LAFCo fails to see why such "pre-approval" is appropriate or necessary when the interests of labor are already protected by the MMBA.

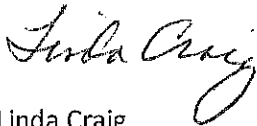
LAFCo is gravely concerned about the precedent being set in SB 239 by inappropriately and exclusively allowing fire protection services labor associations this kind of approval.

Furthermore, removing local control and authority of agency Boards and LAFCo decisions goes against one of LAFCo's core policies of preserving its authority and ability to make decisions and enact recommendations related to the delivery of services and the agencies providing those services.

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LAFCo remains committed to supporting legislation that maintains and/or enhances the ability of LAFCos throughout the state to fulfill the legislative goals behind CKH, and specifically the efficient provision of government services. We appreciated the opportunity to meet with your staff and the bill's sponsor. However, we believe that the current statutory provisions governing the review and/or approval of the provision of services outside an agency's boundaries more than fully provide LAFCos with the means to completely evaluate the feasibility, both from a fiscal and service level perspective. As a result, we must respectfully oppose SB 239.

Sincerely,



Linda Craig
Chair

cc: Members, Senate Local Governance and Finance Committee
Assemblymember Rich Gordon, Assembly Local Government Committee
Brian Weinberger, Consultant, Senate Local Governance and Finance Committee
Ryan Eisberg, Consultant, Senate Republican Caucus
Christy Bouma, CA Professional Firefighters Association

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April 10, 2015

Assemblymember Cheryl Brown
California State Assembly
State Capitol Room 2136
Sacramento, CA 95814

RE: AB 448 (Brown) -- Local Government Finance: Property Tax Revenue Allocations: Vehicle License Fee Adjustments -- SUPPORT

Dear Assemblymember Brown:

San Mateo Local Agency Formation Commission (LAFCo) is pleased to support AB 448, authored by you. The bill reinstates allocations to cities that recently annexed inhabited areas, consistent with the allocation formula those communities relied upon when making the decision to annex the affected territory. Furthermore the bill declares the act as an urgency statute which will take effect immediately.

It was most unfortunate that AB 1521 (Fox, 2014), which was unanimously passed by the Legislature, was ultimately vetoed by the Governor.

The LAFCo Board believes the VLF gap created by SB 89, one of the 2011 budget bills, created a financial disincentive for future city incorporations and annexations of inhabited territory. Further, it created severe fiscal penalties for those communities which chose to annex inhabited territories, particularly unincorporated islands. In several previous legislative acts the Legislature had directed LAFCos to work with cities to annex unincorporated inhabited islands. SB 89 also created severe penalties for those communities which have recently voted to incorporate themselves.

Reinstating revenues for annexations and incorporations is consistent with the LAFCo legislative policy of providing communities with local governance and efficient service delivery options, including the ability to incorporate or annex.

Because AB 448 reinstates a critical funding component to inhabited annexations, LAFCo supports this bill.

Thank you for carrying this important legislation.

Sincerely,

A handwritten signature in black ink that reads "Linda Craig". The signature is written in a cursive, flowing style.

Linda Craig
Chair

cc: Members, Assembly Local Government Committee
Misa Lennox, Associate Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus

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April 10, 2015

Honorable Brian Maienschein, Chair
Assembly Local Government Committee
California State Assembly
State Capitol, Room 4139
Sacramento, CA 95814

RE: AB 1532 (Committee on Local Government) – Local Government: Omnibus -- SUPPORT

Dear Assemblymember Maienschein:

San Mateo Local Agency Formation Commission (LAFCo) is pleased to support the Assembly Local Government Committee Bill AB 1532 which makes technical, non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act).

This annual bill includes technical changes to the Act which governs the work of LAFCos throughout the State. These changes are necessary as commissions implement the Act and small inconsistencies are found or clarifications are needed to make the law as unambiguous as possible. AB 1532 makes several minor technical changes, corrects obsolete and incorrect code references, and makes minor updates to outdated sections. LAFCo is grateful to the members of our Legislative Committee and to your Committee and staff, all of whom worked diligently on this language to ensure there are no substantive changes while creating a significant increase in the clarity of the Act for all stakeholders.

This legislation helps insure the Cortese-Knox-Hertzberg Act remains a vital and practical law that is consistently applied around the state. We appreciate your Committee's authorship and support of this bill, and your support of the mission of LAFCos. I am happy to provide any additional information needed.

Sincerely,

A handwritten signature in black ink that reads "Linda Craig". The signature is written in a cursive style.

Linda Craig
Chair

cc: Members, Assembly Local Government Committee
Misa Lennox, Associate Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus

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April 10, 2015

Senator Richard Roth
California State Senate
State Capitol, Room 4034
Sacramento, CA 95814

RE: SB 25 (Roth) – Local Government Finance: Property Tax Revenue Allocation: Vehicle License Fee Adjustments – SUPPORT

Dear Senator Roth:

San Mateo Local Agency Formation Commission (LAFCo) is pleased to support your bill SB 25. The bill reinstates allocations to recently incorporated cities consistent with the allocation formula those communities relied upon when making the decision to incorporate the affected territory.

It was most unfortunate that your bill SB 69 (2014), which was unanimously passed by the Legislature, was ultimately vetoed by the Governor.

The VLF gap created by SB 89, one of the 2011 budget bills, created a financial disincentive for future city incorporations and annexations of inhabited territory. Further, it created severe fiscal penalties for those communities which chose to annex inhabited territories, particularly unincorporated islands. In several previous legislative acts the Legislature had directed LAFCos to work with cities to annex unincorporated inhabited islands. SB 89 also created severe penalties for those communities which have recently voted to incorporate themselves. While SB 25 does not eliminate these disincentives and penalties for future incorporations, it makes whole the cities incorporated since 2004, and avoids the likely disincorporation or bankruptcies of these cities.

Reinstating revenues for incorporations is consistent with the State law creating LAFCos to assist communities with local governance and efficient service delivery options, including the ability to incorporate.

Because SB 25 reinstates a critical funding component to cities incorporated between January 1, 2004 and January 1, 2012, San Mateo LAFCo supports this bill.

Thank you for continuing to carry this important legislation.

Sincerely,

A handwritten signature in cursive script that reads 'Linda Craig'.

Linda Craig
Chair

cc: Members, Senate Local Governance and Finance Committee
Assemblymember Rich Gordon, Assembly Local Government Committee
Brian Weinberger, Consultant, Senate Local Governance and Finance Committee
Ryan Eisberg, Consultant, Senate Republican Caucus