



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

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
Fax: (707) 251-1053
www.napa.lafco.ca.gov

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

Agenda Item 5c (Consent/Information)

TO: Local Agency Formation Commission
PREPARED BY: Brendon Freeman, Executive Officer
MEETING DATE: June 3, 2019
SUBJECT: Legislative Report

BACKGROUND AND SUMMARY

This item is being presented to the Commission for information purposes only. The Commission's *Legislative Policy* ("Policy") is included as Attachment One. The Commission's *Legislative Platform* ("Platform") is included as Attachment Two.

The Legislative Committee (Chair Mohler and Commissioner Dillon) met on February 15, 2019, and reviewed proposed legislation affecting LAFCOs. The Legislative Committee determined no formal positions were warranted for full Commission consideration. Following the meeting of the Legislative Committee, additional bills were introduced by the Legislature and tracked by the California Association of LAFCOs (CALAFCO).

In the event that proposed legislation cannot be considered by the full Commission due to timing, the Policy provides a mechanism for staff to submit position letters if the Chair reviews and approves the letter prior to its submittal.

Following the Commission's April 4, 2019, meeting, CALAFCO requested urgent positions from all LAFCOs to oppose Assembly Bill (AB) 600 and support AB 1822. A summary of each bill and any submitted position letters follows.

AB 600 (Chu) – Oppose

This bill relates to disadvantaged communities. The bill text as amended April 11, 2019, is included as Attachment Three. The bill has several problems and warrants an oppose position based on Platform No. 1.1 and No. 1.3. The submitted opposition letter, which was approved by the Chair, is included as Attachment Four. The bill was amended again on April 29, 2019, included as Attachment Five. CALAFCO again recommended opposition and requested new letters be submitted to the bill's author due to the persistence of these problems. The second submitted opposition letter for this bill, which was approved by the Chair, is included as Attachment Six.

Kenneth Leary, Vice Chair
Councilmember, City of American Canyon

Margie Mohler, Commissioner
Councilmember, Town of Yountville

Scott Sedgley, Alternate Commissioner
Councilmember, City of Napa

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

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

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

Gregory Rodeno, Chair
Representative of the General Public

Vacant, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

AB 1822 (Committee on Local Government) – Support

This is the CALAFCO sponsored omnibus bill, which makes seven changes that are technical and non-substantive in nature. The bill text is included as Attachment Seven. While there is no direct nexus between this bill and the Platform, staff believes this bill is advantageous and warrants a support position given it would improve existing sections of State law. The submitted support letter, which was approved by the Chair, is included as Attachment Eight.

ATTACHMENTS

- 1) Legislative Policy
- 2) Legislative Platform
- 3) AB 600 Text (as Amended April 11, 2019)
- 4) Submitted Letter of Opposition to AB 600 (as Amended April 11, 2019)
- 5) AB 600 Text (as Amended April 29, 2019)
- 6) Submitted Letter of Opposition to AB 600 (as Amended April 29, 2019)
- 7) AB 1822 Text
- 8) Submitted Letter of Support for AB 1822



LOCAL AGENCY FORMATION COMMISSION OF NAPA

Legislative Policy (Adopted: December 4, 2017)

- 1) The Local Agency Formation Commission (LAFCO) of Napa County (“the Commission”) shall establish a standing committee to review proposed legislation (“Legislative Committee”). At the beginning of each two-year legislative session, the Commission shall appoint (or re-appoint) two members to the Legislative Committee, in addition to LAFCO’s Executive Officer. Meetings of the Legislative Committee must be noticed in accordance with the Ralph M. Brown Act.
- 2) The Legislative Committee shall, at least annually, review the California Association of LAFCOs’ legislative platform as well as the Commission’s adopted legislative platform if applicable and determine what action is needed in terms of adopting or amending a local legislative platform. The Legislative Committee shall present recommendations to the full Commission with respect to actions related to the local legislative platform.
- 3) The Legislative Committee shall, at least annually, review proposed legislation affecting LAFCO. The Executive Officer shall continue monitoring proposed legislation and present recommendations to the full Commission with respect to formal positions on proposed legislation.
- 4) In the event that proposed legislation affecting LAFCO cannot be considered by the full Commission due to timing, the Executive Officer is authorized to submit written correspondence to the legislation’s author regarding the Commission’s position if the position is consistent with the adopted legislative platform of the Commission. The Chair, or the Vice-Chair if the Chair is unavailable, shall review and approve the written correspondence prior to it being submitted by the Executive Officer.
- 5) All submitted correspondence pursuant to this policy will be included on the next available Commission agenda.



LOCAL AGENCY FORMATION COMMISSION OF NAPA

Legislative Platform

(Adopted: February 5, 2018)

The following core guiding principles underlie the Local Agency Formation Commission (LAFCO) of Napa County's activities. Each of these principles is centered on Napa LAFCO having in-depth, active communication with respect to all relevant constituents.

- Municipal Service Reviews based on local agency, Napa County, & LAFCO needs
- Re-writing policies (on a schedule) to be comprehensive, effective, and transparent
- Forecasting issues relating to local services and boundaries, as well as State legislation
- Active involvement of agency constituents in problem-solving local agency sustainability
- Engagement with local city/town general plan updates
- Active with local agencies in managing housing growth and related issues including transportation

The following serves as Napa LAFCO's Legislative Platform for purposes of informing actions relating to proposed legislation.

1. LAFCO Purpose and Authority

- 1.1 Support legislation which enhances Napa LAFCO's authority and powers to carry out the legislative findings and authority in Government Code §56000 et seq., and oppose legislation which diminishes Napa LAFCO's authority.
- 1.2 Support authority for Napa LAFCO to establish local policies to apply Government Code §56000 et seq. based on local needs and conditions, and oppose any limitations to that authority.
- 1.3 Oppose additional Napa LAFCO responsibilities which require expansion of current local funding sources. Oppose unrelated responsibilities which dilute Napa LAFCO's ability to meet its primary mission.
- 1.4 Support alignment of responsibilities and authority of Napa LAFCO and regional agencies which may have overlapping responsibilities in orderly growth, preservation, and service delivery, and oppose legislation or policies which create conflicts or hamper those responsibilities.
- 1.5 Oppose grants of special status to any individual agency or proposal to circumvent the Napa LAFCO process.
- 1.6 Support individual commissioner responsibility that allows each commissioner to independently vote his or her conscience on issues affecting his or her own jurisdiction.
- 1.7 Support the independence of Napa LAFCO from local agencies.
- 1.8 Support recognition of Napa LAFCO's spheres of influence by other agencies involved in determining and developing long-term growth and infrastructure plans.

2. Agricultural, Watershed, and Open Space Protection

- 2.1. Support legislation which clarifies Napa LAFCO's authority to identify, encourage, and ensure the preservation of agricultural, watershed, and open space lands.
- 2.2. Support policies which encourage cities, counties and special districts to direct development away from agricultural, watershed, and open space lands.
- 2.3. Support policies and tools which protect agricultural, watershed, and open space lands.
- 2.4. Support the continuance of the Williamson Act and restoration of program funding through State subvention payments.
- 2.5. Support the recognition and use of spheres of influence as a management tool to provide better planning of growth and development, and to preserve agricultural, watershed, and open space lands.

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY MARCH 25, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 600

Introduced by Assembly Member Chu

February 14, 2019

An act to amend Sections 56301, 56375, 56425, and 65302.10 of, to add Sections 56070.5 and 56378.1 to, and to add Chapter 5 (commencing with Section 56440) to Part 2 of Division 3 of Title 5 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 600, as amended, Chu. Local government: organization: disadvantaged unincorporated communities.

(1) The Planning and Zoning Law requires a city or county to prepare and adopt a comprehensive, long-term general plan that includes various mandatory elements, including a housing element for the preservation, improvement, and development of housing. That law also requires a city or county, on or before the due date for the next adoption of its housing element, to review and update the land use element of its general plan based on available data, including, but not limited to, the data and analysis of unincorporated island, fringe, or legacy communities inside or near its boundaries, as provided. That law requires the updated land use element to include, among other things, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies for each identified community.

This bill would define the term “needs or deficiencies” for these purposes to mean both deficient services and lack of services, as specified.

(2) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 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.

This bill would require, on or before January 1, 2021, each city, county, and qualified special district, as defined, to submit to the commission an accessibility plan to secure safe drinking water, wastewater services, stormwater ~~protection~~, *drainage*, and structural fire protection in unincorporated island, fringe, or legacy communities identified in the updated land use element described above. The bill would require the ~~accessibility plan to, among other things, identify the city, county, or special district~~ *commission to determine the entity* best positioned to provide adequate water or wastewater services to the affected ~~territory and territory. The bill would require the accessibility plan to include, among other things,~~ an identification of actions by the commission that are necessary to enable ~~the city, county, or special district~~ *that entity* to provide those services. ~~The bill would require the accessibility plan to include services and an analysis of costs and benefits of improved water or wastewater services for residents in each affected territory, and territory. The bill would prohibit the costs and fees for services extended to those territories through implementation of the accessibility plan from exceeding the costs and fees charged to existing water and wastewater system customers, cost of providing the service, as specified. The bill, on or before January 1, 2021, would require a city or each county to, on or before January 1, 2021, to submit a map of the county that identifies disadvantaged unincorporated communities that lack safe drinking water or adequate wastewater, along with the adopted accessibility plan, to the Office of Planning and Research, the State Water Resources Control Board, and any relevant regional quality control board, as specified.~~

The bill would require the commission to, within ~~two~~ 5 years of the approval of an accessibility plan, hold a noticed public hearing and review the status of every disadvantaged unincorporated community that is subject to the accessibility plan.

By increasing the duties of local officials, this bill would impose a state-mandated local program.

(3) The act sets forth the powers and duties of a local agency formation commission, including initiating proposals by resolution of application for, among other things, the formation of a new district or districts and specified reorganizations.

This bill would additionally authorize the commission to initiate the reorganization or extension of services involving a disadvantaged unincorporated community, as specified. The bill would require the commission to initiate a change of organization or reorganization or service extension if the commission determines that service needs identified in an accessibility plan remain unaddressed ~~two~~ 2 years after the approval of the accessibility plan.

(4) Existing law prohibits the commission from approving an annexation to a city of any territory greater than 10 acres where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community into the subject city has been filed.

This bill would also prohibit the commission from approving an annexation under these circumstances to a qualified special district. The bill would define the term “qualified special district” for these purposes to mean a special district with more than 500 service connections that provides drinking water or wastewater services.

The bill would also specify that these provisions apply to the annexation of 2 or more contiguous territories within 2 years of each other that are individually less than 10 acres but are cumulatively more than 10 acres.

(5) Under existing law, an application to annex a contiguous disadvantaged community is not required if the commission finds that a majority of the registered voters within the disadvantaged unincorporated community are opposed to the annexation, as specified.

This bill would instead provide that an application to annex a contiguous disadvantaged community is not required if the commission finds that a majority of the residents within the disadvantaged unincorporated community are opposed to the annexation, as specified. This bill would additionally provide that an application to annex a contiguous disadvantaged community is not required if the commission finds that a majority of the residents within the affected disadvantaged unincorporated community would prefer to address the service deficiencies through an extraterritorial service extension.

The bill would also prohibit the commission from approving an annexation to a city or to a qualified special district of any territory if the city or qualified special district has failed to take steps necessary to implement an accessibility plan, as specified.

(6) The act requires the commission to develop and determine the sphere of influence of each city and each special district within the county and enact policies designed to promote the logical and orderly development of areas within each sphere. The act requires the commission, in order to prepare and update spheres of influence in accordance with this requirement, to conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission, as provided. The act requires the commission to prepare a written statement of its determinations with respect to, among other things, the present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies, as provided.

This bill would prohibit the commission from adopting, amending, or updating a sphere of influence update that removes a disadvantaged community from the sphere of influence of a city or a special district or that fails to include a disadvantaged community that is contiguous to the proposed sphere of influence, unless the commission makes specified findings. The bill would also prohibit the commission from approving, amending, or updating a sphere of influence for a city or a special district that has not taken action pursuant to an accessibility plan that was adopted ~~within the previous 2 years~~, *as described above*.

(7) The act additionally states that the purpose of the commission is, among other things, to encourage the efficient provision of government services, as specified.

This bill would also state that the purpose of a local agency formation commission is to encourage the equitable provision of government services, as specified.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 56070.5 is added to the Government
2 Code, to read:

3 56070.5. “Qualified special district” means a special district
4 that contains more than 500 service connections and that provides
5 drinking water or wastewater services.

6 SEC. 2. Section 56301 of the Government Code is amended
7 to read:

8 56301. Among the purposes of a commission are discouraging
9 urban sprawl, preserving open-space and prime agricultural lands,
10 encouraging the efficient and equitable provision of government
11 services, and encouraging the orderly formation and development
12 of local agencies based upon local conditions, circumstances, and
13 considerations of equity. One of the objects of the commission is
14 to make studies and to obtain and furnish information which will
15 contribute to the logical and reasonable development of local
16 agencies in each county and to shape the development of local
17 agencies so as to advantageously provide for the present and future
18 needs of each county and its communities. When the formation of
19 a new government entity is proposed, a commission shall make a
20 determination as to whether existing agencies can feasibly provide
21 the needed service or services in a more efficient and accountable
22 manner. If a new single-purpose agency is deemed necessary, the
23 commission shall consider reorganization with other single-purpose
24 agencies that provide related services.

25 SEC. 3. Section 56375 of the Government Code is amended
26 to read:

27 56375. The commission shall have all of the following powers
28 and duties subject to any limitations upon its jurisdiction set forth
29 in this part:

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

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

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

37 (B) The dissolution of a district.

38 (C) A merger.

- 1 (D) The establishment of a subsidiary district.
2 (E) The formation of a new district or districts.
3 (F) The reorganization or extension of services involving a
4 disadvantaged unincorporated community that is initiated pursuant
5 to Section 56378.1.
6 (G) A reorganization that includes any of the changes specified
7 in subparagraph (A), (B), (C), (D), (E), or (F).
8 (H) The dissolution of an inactive district pursuant to Section
9 56879.
- 10 (3) A commission may initiate a proposal described in paragraph
11 (2) only if that change of organization or reorganization is
12 consistent with a recommendation or conclusion of a study
13 prepared pursuant to Section 56378, 56425, or 56430, and the
14 commission makes the determinations specified in subdivision (b)
15 of Section 56881.
- 16 (4) A commission shall not disapprove an annexation to a city,
17 initiated by resolution, of contiguous territory that the commission
18 finds is any of the following:
- 19 (A) Surrounded or substantially surrounded by the city to which
20 the annexation is proposed or by that city and a county boundary
21 or the Pacific Ocean if the territory to be annexed is substantially
22 developed or developing, is not prime agricultural land as defined
23 in Section 56064, is designated for urban growth by the general
24 plan of the annexing city, and is not within the sphere of influence
25 of another city.
- 26 (B) Located within an urban service area that has been delineated
27 and adopted by a commission, which is not prime agricultural land,
28 as defined by Section 56064, and is designated for urban growth
29 by the general plan of the annexing city.
- 30 (C) An annexation or reorganization of unincorporated islands
31 meeting the requirements of Section 56375.3.
- 32 (5) As a condition to the annexation of an area that is
33 surrounded, or substantially surrounded, by the city to which the
34 annexation is proposed, the commission may require, where
35 consistent with the purposes of this division, that the annexation
36 include the entire island of surrounded, or substantially surrounded,
37 territory.
- 38 (6) A commission shall not impose any conditions that would
39 directly regulate land use density or intensity, property
40 development, or subdivision requirements.

1 (7) The decision of the commission with regard to a proposal
2 to annex territory to a city shall be based upon the general plan
3 and rezoning of the city. When the development purposes are not
4 made known to the annexing city, the annexation shall be reviewed
5 on the basis of the adopted plans and policies of the annexing city
6 or county. A commission shall require, as a condition to
7 annexation, that a city rezone the territory to be annexed or present
8 evidence satisfactory to the commission that the existing
9 development entitlements on the territory are vested or are already
10 at build-out, and are consistent with the city's general plan.
11 However, the commission shall not specify how, or in what
12 manner, the territory shall be rezoned.

13 (8) (A) Except for those changes of organization or
14 reorganization authorized under Section 56375.3, and except as
15 provided by subparagraphs (B) and (C), a commission shall not
16 approve an annexation to a city or to a qualified special district of
17 any territory greater than 10 acres, or as determined by commission
18 policy, where there exists a disadvantaged unincorporated
19 community that is contiguous to the area of proposed annexation,
20 unless an application to annex the disadvantaged unincorporated
21 community to the subject city or qualified special district has been
22 filed with the executive officer.

23 (B) An application to annex a contiguous disadvantaged
24 community shall not be required if any of the following apply:

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

27 (ii) The commission finds, based upon written evidence, that a
28 majority of the residents within the affected territory are opposed
29 to annexation.

30 (iii) The commission finds, based upon written evidence, that
31 a majority of the residents within the affected disadvantaged
32 unincorporated community would prefer to address service
33 deficiencies through an extraterritorial service extension.

34 (C) This paragraph shall apply to the annexation of two or more
35 contiguous areas that take place within five years of each other
36 and that are individually less than 10 acres but cumulatively more
37 than 10 acres.

38 (9) Except for those changes of organization or reorganization
39 authorized under Section 56375.3, a commission shall not approve
40 an annexation to a city or to a qualified special district of any

1 territory if the city or applicable county has failed to take steps
2 necessary to implement an accessibility plan pursuant to Section
3 56440.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (o) If the proposal includes the incorporation of a city, as defined
38 in Section 56043, or the formation of a district, as defined in
39 Section 2215 of the Revenue and Taxation Code, the commission
40 shall determine the property tax revenue to be exchanged by the

1 affected local agencies pursuant to Section 56810. If the proposal
2 includes the disincorporation of a city, as defined in Section 56034,
3 the commission shall determine the property tax revenue to be
4 exchanged by the affected local agencies pursuant to Section
5 56813.

6 (p) To authorize a city or district to provide new or extended
7 services outside its jurisdictional boundaries pursuant to Section
8 56133.

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

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

25 SEC. 4. Section 56378.1 is added to the Government Code, to
26 read:

27 56378.1. Within ~~two~~ *five* years of the approval or approval
28 with conditions of an accessibility plan pursuant to Section 56440,
29 the commission shall hold a noticed public hearing and review the
30 status of every disadvantaged unincorporated community that is
31 subject to the accessibility plan. If the commission determines that
32 the service needs remain unaddressed, the commission shall initiate
33 a change of organization, reorganization, or service extension
34 pursuant to this chapter.

35 SEC. 5. Section 56425 of the Government Code is amended
36 to read:

37 56425. (a) In order to carry out its purposes and responsibilities
38 for planning and shaping the logical and orderly development and
39 coordination of local governmental agencies subject to the
40 jurisdiction of the commission to advantageously provide for the

1 present and future needs of the county and its communities, the
2 commission shall develop and determine the sphere of influence
3 of each city and each special district, as defined by Section 56036,
4 within the county and enact policies designed to promote the logical
5 and orderly development of areas within the sphere.

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

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

31 (d) If no agreement is reached pursuant to subdivision (b), the
32 application may be submitted to the commission and the
33 commission shall consider a sphere of influence for the city
34 consistent with the policies adopted by the commission pursuant
35 to this section.

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

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

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

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

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

8 (5) For an update of a sphere of influence of a city or special
9 district that provides public facilities or services related to sewers,
10 municipal and industrial water, or structural fire protection, that
11 occurs pursuant to subdivision (g) on or after July 1, 2012, the
12 present and probable need for those public facilities and services
13 of any disadvantaged unincorporated communities within the
14 existing sphere of influence.

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

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

20 (h) In determining a sphere of influence, the commission may
21 assess the feasibility of governmental reorganization of particular
22 agencies and recommend reorganization of those agencies when
23 reorganization is found to be feasible and if reorganization will
24 further the goals of orderly development and efficient and
25 affordable service delivery. The commission shall make all
26 reasonable efforts to ensure wide public dissemination of the
27 recommendations.

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

32 (j) When adopting, amending, or updating a sphere of influence
33 for a special district, the commission may require existing districts
34 to file written statements with the commission specifying the
35 functions or classes of services provided by those districts.

36 (k) The commission shall not adopt, amend, or update a sphere
37 of influence update that does either of the following:

38 (1) Removes a disadvantaged community from the sphere of
39 influence of a city or a special district unless the commission makes
40 a finding, based upon written evidence, that the removal of the

1 disadvantaged community from the sphere of influence of the city
 2 or special district will result in improved service delivery to the
 3 community.

4 (2) Fails to include a disadvantaged community that is
 5 contiguous to the proposed sphere of influence unless the
 6 commission makes a finding, based upon written evidence, that
 7 the exclusion of the disadvantaged community from the proposed
 8 sphere of influence will result in improved access to safe drinking
 9 water or wastewater access.

10 (l) The commission shall not amend or update a sphere of
 11 influence for a city or special district that has not taken action
 12 pursuant to the accessibility plan adopted pursuant to Section
 13 ~~56440, two or more years prior to the amendment or update of the~~
 14 ~~sphere of influence.~~ 56440.

15 SEC. 6. Chapter 5 (commencing with Section 56440) is added
 16 to Part 2 of Division 3 of Title 5 of the Government Code, to read:

17

18

CHAPTER 5. ACCESSIBILITY PLANS

19

20 56440. (a) (1) On or before January 1, 2021, each city, county,
 21 and qualified special district shall develop an accessibility plan to
 22 secure safe drinking water, wastewater services, stormwater
 23 ~~protection, drainage,~~ and structural fire protection in communities
 24 identified in the land use element of the city or county updated
 25 pursuant to paragraph (b) of Section 65302.10.

26 (2) *The commission shall determine which entity is best*
 27 *positioned to provide adequate water or wastewater services to*
 28 *the affected territory.*

29 ~~(2)~~

30 (3) Each city, county, and qualified special district shall consult
 31 with the commission, the State Water Resources Control Board,
 32 relevant cities, relevant special districts, relevant mutual water
 33 companies, relevant investor-owned utilities, and county
 34 environmental health departments in developing the accessibility
 35 plan.

36 ~~(3)~~

37 (4) The accessibility plan shall include a timeline with
 38 intermediary steps necessary to secure necessary infrastructure
 39 and services within five years.

40 ~~(4)~~

1 (5) The accessibility plan shall include all of the following:

2 ~~(A) The city, county, or special district best positioned to provide~~
3 ~~the adequate water or wastewater services to the affected territory.~~

4 ~~(B)~~

5 (A) Any actions and alternatives necessary to be taken by the
6 commission, if any, to enable the ~~city, county, or special district~~
7 ~~identified in subparagraph (A)~~ *entity determined pursuant to*
8 *paragraph (2)* to provide services to the affected territory.

9 ~~(C)~~

10 (B) Any actions to be taken by any local agency that the
11 commission believes are necessary to establish services to the
12 disadvantaged unincorporated community.

13 ~~(D)~~

14 (C) An analysis of costs and benefits of improved water or
15 wastewater services for residents in each affected territory.

16 ~~(E)~~

17 (D) An analysis of local, state, and federal funding sources
18 available to implement the accessibility plan.

19 ~~(5) (A) The~~

20 (6) (A) *The* city, county, or qualified special district shall submit
21 the accessibility plan to the commission.

22 (B) The commission shall wholly approve the accessibility plan
23 or approve the accessibility plan with conditions or modifications
24 at a noticed hearing within 90 days of the submission of the
25 accessibility plan to the commission.

26 (b) Commencing on or before February 1, 2022, each city,
27 county, and qualified special district shall provide an annual
28 progress report with respect to its accessibility plan at a noticed
29 public hearing. The city, county, or relevant special district shall
30 also post the annual progress report on its internet website.

31 (c) (1) Costs and fees for services provided to the affected
32 territory through implementation of the accessibility plan shall not
33 exceed the cost ~~and fees charged to existing water and wastewater~~
34 ~~system customers of the applicable service provider.~~ *of providing*
35 *the service.*

36 (2) Fees and conditions related to service provision to the
37 affected territory through implementation of the accessibility plan
38 shall ~~not be more onerous than~~ *be consistent with* fees and
39 conditions placed on other new customers or service recipients.

1 (d) On or before January 1, 2021, ~~the city or~~ *each* county shall
2 submit a map of the county that identifies disadvantaged
3 unincorporated communities that lack safe drinking water or
4 adequate wastewater, along with the adopted accessibility plan
5 prepared in electronic format with the Office of Planning and
6 Research, the State Water Resources Control Board, and any
7 relevant regional quality control board. The Office of Planning
8 and Research, State Water Resources Control Board, and the city
9 or county shall each post the map on its respective internet website.

10 SEC. 7. Section 65302.10 of the Government Code is amended
11 to read:

12 65302.10. (a) As used in this section, the following terms shall
13 have the following meanings:

14 (1) “Community” means an inhabited area within a city or
15 county that is comprised of no less than 10 dwellings adjacent or
16 in close proximity to one another.

17 (2) “Disadvantaged unincorporated community” means a fringe,
18 island, or legacy community in which the median household
19 income is 80 percent or less than the statewide median household
20 income.

21 (3) “Fringe community” means any inhabited and
22 unincorporated territory that is within a city’s sphere of influence.

23 (4) “Island community” means any inhabited and unincorporated
24 territory that is surrounded or substantially surrounded by one or
25 more cities or by one or more cities and a county boundary or the
26 Pacific Ocean.

27 (5) “Legacy community” means a geographically isolated
28 community that is inhabited and has existed for at least 50 years.

29 (b) On or before the due date for the next adoption of its housing
30 element pursuant to Section 65588, each city or county shall review
31 and update the land use element of its general plan, based on
32 available data, including, but not limited to, the data and analysis
33 developed pursuant to Section 56430, of unincorporated island,
34 fringe, or legacy communities inside or near its boundaries. The
35 updated land use element shall include all of the following:

36 (1) In the case of a city, an identification of each island or fringe
37 community within the city’s sphere of influence that is a
38 disadvantaged unincorporated community. In the case of a county,
39 an identification of each legacy community within the boundaries
40 of the county that is a disadvantaged unincorporated community,

1 but not including any area within the sphere of influence of any
2 city. This identification shall include a description of the
3 community and a map designating its location.

4 (2) For each identified community, an analysis of water,
5 wastewater, stormwater drainage, and structural fire protection
6 needs or deficiencies. For purposes of this section, “needs or
7 deficiencies” includes both deficient services and lack of services.
8 The analysis required by this paragraph shall consider the impacts
9 of climate change on specified services.

10 (3) An analysis, based on then existing available data, of benefit
11 assessment districts or other financing alternatives that could make
12 the extension of services to identified communities financially
13 feasible.

14 (c) On or before the due date for each subsequent revision of
15 its housing element pursuant to Section 65588, each city and county
16 shall review, and if necessary amend, its general plan to update
17 the analysis required by this section.

18 SEC. 8. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 a local agency or school district has the authority to levy service
21 charges, fees, or assessments sufficient to pay for the program or
22 level of service mandated by this act, within the meaning of Section
23 17556 of the Government Code.



Local Agency Formation Commission of Napa County

Subdivision of the State of California

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

April 19, 2019

The Honorable Kansen Chu
California State Assembly
State Capital Room 3126
Sacramento, CA 95814

Subject: *Oppose AB 600 (as amended April 11, 2019)*

Dear Assembly Member Chu:

The Local Agency Formation Commission (LAFCO) of Napa County (“Napa LAFCO”) joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose your bill **AB 600**. LAFCOs are aware of and concerned about the disparity of local public services, especially for residents and properties located within disadvantaged unincorporated communities (DUCs). All Californians deserve adequate and safe drinking water and wastewater facilities. We support your efforts to address these problems, which persist in many counties, however **AB 600** in its current version does not represent a collective stakeholder dialogue with reasonable and systemic solutions to the problem.

Annexation Concerns

Changes proposed to Government Code Section 56375 pose several problems. First, the proposed changes in §56375(a)(8)(A) and (B) seem to confuse the annexation of territory into an incorporated city and the annexation of territory into a special district. When the Legislature created LAFCOs in 1963, one of the primary missions was and still is to ensure orderly growth and development. This is done in a variety of ways including the authority to adopt spheres of influence for local agencies and approve annexations. To ensure orderly growth, when LAFCO approves a service extension outside the jurisdictional boundary but within the sphere of influence, they do so in anticipation of a later change of organization (annexation), pursuant to §56133(b). Changes to §56375(a)(8)(A) add the exclusion of annexation into a qualified special district.

Further, changes to §56375(a)(8)(B) create an inconsistent exception for protest proceedings, which takes away rights that have been long-established in governmental reorganizations in California. The residents of the DUC are afforded the right to file protests for boundary changes but other residents living within a larger annexation boundary that are not part of the DUC would lose their right to protest.

Removes LAFCO Discretion

When considering a change of organization pursuant to §56133, LAFCO has the discretion to consider the unique local circumstances and conditions that exist. This is an important and basic construct within the legislatively stated purpose of LAFCOs. This bill removes that discretion and authority through proposed changes to §56375(a)(9), §56425(k)(1) and (2), and §56425(l).

Margie Mohler, Chair
Councilmember, Town of Yountville

Scott Sedgley, Commissioner
Councilmember, City of Napa

Kenneth Leary, Alternate Commissioner
Councilmember, City of American Canyon

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

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

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

Gregory Rodeno, Commissioner
Representative of the General Public

Erik Lawrence, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

Oppose AB 600 (as amended April 11, 2019)

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Requires LAFCO Action that Conflicts with Other Proposed Changes and for Which there is no Existing Authority

It appears that by requiring LAFCO to initiate a change of organization, reorganization, or service extension pursuant to changes proposed in §56378.1, there is a conflict with changes proposed in §56375(a)(8)(B). One section requires the LAFCO to initiate the action and the other section prohibits the action under certain conditions.

More importantly, LAFCOs currently do not have authority to initiate the actions prescribed in the bill. There is no existing authority to initiate an annexation or extension of service. LAFCO is authorized only to initiate action to consolidate or dissolve districts.

Lack of Clarity

The bill proposes changes to §56301 by adding “considerations of equity” as an additional basis upon which LAFCOs fulfill their purposes. Yet the bill does not define “considerations of equity”, which leads to a wide open interpretation. Each LAFCO will create their own local policies related to “considerations of equity”.

Accessibility Plans

The bill requires LAFCO, within five years of the approval of an accessibility plan (pursuant to §56440), to hold a noticed public hearing for the purposes of reviewing the status of every DUC that is subject to an accessibility plan. This has the potential of being a vast number of public hearings and comprehensive reviews without the necessary resources to execute such a requirement.

Additionally, the bill requires LAFCO to initiate a change of organization, reorganization or service extension should the commission determine the needs of the DUC remain unaddressed. LAFCO-initiated actions are costly to the LAFCO (as there is no funding source to support the action) and like all other changes of organization or reorganization, are subject to protest proceedings. Further, a service extension without annexation would not be a likely LAFCO-initiated action.

The required contents of the accessibility plan are confusing. First, §56440(a)(5)(A) states: *“Any actions and alternatives necessary to be taken by the commission, if any, to enable the entity determined pursuant to paragraph (2) to provide services to the affected territory.”* How is a county, city, or special district best positioned and informed to prescribe to the LAFCO commission what actions the LAFCO should be taking?

Second, §56440(a)(6)(B) requires the commission to approve or approve with conditions the accessibility plan. Once again there is a divestiture in LAFCO authority. Further, we fail to see LAFCOs’ authority to enforce any conditions that may be applied to the accessibility plan.

Third, §56440(a)(2) requires the commission to determine which entity is best positioned to provide adequate water or wastewater services to the affected territory. Without a thorough study of surrounding service providers, this will be difficult to determine.

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One Size Does Not Fit All

We are concerned that the bill has unintended consequences in the ability to provide necessary services to an existing DUC. For example, if it is reasonable to extend services to a particular DUC but not to others, this bill prevents the extension of services to the area that can reasonably be serviced. The same is true for those areas currently contained within a city's sphere, where it may make better sense to have another service provider providing the service. These changes are complicated by the fact the bill interchangeably uses the term "disadvantaged community" and "disadvantaged unincorporated community".

Who Pays for All of these Actions?

The studies, analysis, preparation of recommendations regarding underserved disadvantaged communities and public hearings on all accessibility plans and potential subsequent actions initiated by LAFCO that would be required, all impose unfunded mandates on counties, cities, qualified special districts, and LAFCOs. By law, LAFCO is forced to pass their costs on to cities, counties, and (in 30 counties) special districts, which are the agencies that fund the commissions.

We support workable and sustainable policy solutions to the disparities in service delivery to disadvantaged communities. However, a major obstacle remains the infrastructure and operational funding for these services. We believe that addressing the needs of disadvantaged communities through the planning process and finding tools to support the infrastructure deficiencies and implementation actions remain a very important part of the solution.

For all of the reasons noted above, Napa LAFCO is opposed to **AB 600**. Please contact me should you have any questions.

Sincerely yours,



Brendon Freeman

Executive Officer

(707) 259-8645

bfreeman@napa.lafco.ca.gov

cc: Members, Assembly Local Government Committee
Jimmy MacDonald, Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Pamela Miller, Executive Director, CALAFCO
Margie Mohler, Napa LAFCO Chair

AMENDED IN ASSEMBLY APRIL 29, 2019

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY MARCH 25, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 600

Introduced by Assembly Member Chu

February 14, 2019

An act to amend Sections 56301, 56375, 56425, and 65302.10 of, to add Sections 56070.5 and 56378.1 to, and to add Chapter 5 (commencing with Section 56440) to Part 2 of Division 3 of Title 5 of, Section 56375 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 600, as amended, Chu. Local government: organization: disadvantaged unincorporated communities.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 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. Existing law prohibits a local agency formation commission from approving an annexation to a city of any territory greater than 10 acres where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community into the subject city has been filed. Under existing law, an application to annex a contiguous disadvantaged community is not required if, among other things, the commission finds that a majority of the registered voters within the

disadvantaged unincorporated community are opposed to the annexation, as specified.

This bill would additionally provide that an application to annex a contiguous disadvantaged community is not required if the commission finds that a majority of the registered voters within the affected disadvantaged unincorporated community would prefer to address the service deficiencies through an extraterritorial service extension.

This bill would also provide that the existing approval prohibition and the exemptions to the application requirement, as so expanded, apply to the annexation of two or more contiguous areas that take place within 5 years of each other and that are individually less than 10 acres but cumulatively more than 10 acres.

~~(1) The Planning and Zoning Law requires a city or county to prepare and adopt a comprehensive, long-term general plan that includes various mandatory elements, including a housing element for the preservation, improvement, and development of housing. That law also requires a city or county, on or before the due date for the next adoption of its housing element, to review and update the land use element of its general plan based on available data, including, but not limited to, the data and analysis of unincorporated island, fringe, or legacy communities inside or near its boundaries, as provided. That law requires the updated land use element to include, among other things, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies for each identified community.~~

~~This bill would define the term “needs or deficiencies” for these purposes to mean both deficient services and lack of services, as specified.~~

~~(2) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 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.~~

~~This bill would require, on or before January 1, 2021, each city, county, and qualified special district, as defined, to submit to the commission an accessibility plan to secure safe drinking water, wastewater services, stormwater drainage, and structural fire protection in unincorporated island, fringe, or legacy communities identified in the updated land use element described above. The bill would require the commission to determine the entity best positioned to provide adequate water or wastewater services to the affected territory. The bill would require the accessibility plan to include, among other things, an~~

identification of actions by the commission that are necessary to enable that entity to provide those services and an analysis of costs and benefits of improved water or wastewater services for residents in each affected territory. The bill would prohibit the costs and fees for services extended to those territories through implementation of the accessibility plan from exceeding the cost of providing the service, as specified. The bill, on or before January 1, 2021, would require each county to submit a map of the county that identifies disadvantaged unincorporated communities that lack safe drinking water or adequate wastewater, along with the adopted accessibility plan, to the Office of Planning and Research, the State Water Resources Control Board, and any relevant regional quality control board, as specified.

The bill would require the commission to, within 5 years of the approval of an accessibility plan, hold a noticed public hearing and review the status of every disadvantaged unincorporated community that is subject to the accessibility plan.

By increasing the duties of local officials, this bill would impose a state-mandated local program.

(3) The act sets forth the powers and duties of a local agency formation commission, including initiating proposals by resolution of application for, among other things, the formation of a new district or districts and specified reorganizations.

This bill would additionally authorize the commission to initiate the reorganization or extension of services involving a disadvantaged unincorporated community, as specified. The bill would require the commission to initiate a change of organization or reorganization or service extension if the commission determines that service needs identified in an accessibility plan remain unaddressed 2 years after the approval of the accessibility plan.

(4) Existing law prohibits the commission from approving an annexation to a city of any territory greater than 10 acres where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community into the subject city has been filed.

This bill would also prohibit the commission from approving an annexation under these circumstances to a qualified special district. The bill would define the term “qualified special district” for these purposes to mean a special district with more than 500 service connections that provides drinking water or wastewater services.

~~The bill would also specify that these provisions apply to the annexation of 2 or more contiguous territories within 2 years of each other that are individually less than 10 acres but are cumulatively more than 10 acres.~~

~~(5) Under existing law, an application to annex a contiguous disadvantaged community is not required if the commission finds that a majority of the registered voters within the disadvantaged unincorporated community are opposed to the annexation, as specified.~~

~~This bill would instead provide that an application to annex a contiguous disadvantaged community is not required if the commission finds that a majority of the residents within the disadvantaged unincorporated community are opposed to the annexation, as specified. This bill would additionally provide that an application to annex a contiguous disadvantaged community is not required if the commission finds that a majority of the residents within the affected disadvantaged unincorporated community would prefer to address the service deficiencies through an extraterritorial service extension.~~

~~The bill would also prohibit the commission from approving an annexation to a city or to a qualified special district of any territory if the city or qualified special district has failed to take steps necessary to implement an accessibility plan, as specified.~~

~~(6) The act requires the commission to develop and determine the sphere of influence of each city and each special district within the county and enact policies designed to promote the logical and orderly development of areas within each sphere. The act requires the commission, in order to prepare and update spheres of influence in accordance with this requirement, to conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission, as provided. The act requires the commission to prepare a written statement of its determinations with respect to, among other things, the present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies, as provided.~~

~~This bill would prohibit the commission from adopting, amending, or updating a sphere of influence update that removes a disadvantaged community from the sphere of influence of a city or a special district or that fails to include a disadvantaged community that is contiguous to the proposed sphere of influence, unless the commission makes specified findings. The bill would also prohibit the commission from approving, amending, or updating a sphere of influence for a city or a~~

special district that has not taken action pursuant to an accessibility plan that was adopted as described above.

~~(7) The act additionally states that the purpose of the commission is, among other things, to encourage the efficient provision of government services, as specified.~~

~~This bill would also state that the purpose of a local agency formation commission is to encourage the equitable provision of government services, as specified.~~

~~(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: yes-no.~~

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

1 SECTION 1. ~~Section 56070.5 is added to the Government~~
2 ~~Code, to read:~~

3 ~~56070.5. “Qualified special district” means a special district~~
4 ~~that contains more than 500 service connections and that provides~~
5 ~~drinking water or wastewater services.~~

6 SEC. 2. ~~Section 56301 of the Government Code is amended~~
7 ~~to read:~~

8 ~~56301. Among the purposes of a commission are discouraging~~
9 ~~urban sprawl, preserving open-space and prime agricultural lands,~~
10 ~~encouraging the efficient and equitable provision of government~~
11 ~~services, and encouraging the orderly formation and development~~
12 ~~of local agencies based upon local conditions, circumstances, and~~
13 ~~considerations of equity. One of the objects of the commission is~~
14 ~~to make studies and to obtain and furnish information which will~~
15 ~~contribute to the logical and reasonable development of local~~
16 ~~agencies in each county and to shape the development of local~~
17 ~~agencies so as to advantageously provide for the present and future~~
18 ~~needs of each county and its communities. When the formation of~~
19 ~~a new government entity is proposed, a commission shall make a~~
20 ~~determination as to whether existing agencies can feasibly provide~~
21 ~~the needed service or services in a more efficient and accountable~~
22 ~~manner. If a new single-purpose agency is deemed necessary, the~~

1 ~~commission shall consider reorganization with other single-purpose~~
 2 ~~agencies that provide related services.~~

3 ~~SEC. 3.~~

4 *SECTION 1.* Section 56375 of the Government Code is
 5 amended to read:

6 56375. The commission shall have all of the following powers
 7 and duties subject to any limitations upon its jurisdiction set forth
 8 in this part:

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

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

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

16 (B) The dissolution of a district.

17 (C) A merger.

18 (D) The establishment of a subsidiary district.

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

20 ~~(F) The reorganization or extension of services involving a~~
 21 ~~disadvantaged unincorporated community that is initiated pursuant~~
 22 ~~to Section 56378.1.~~

23 ~~(G)~~

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

26 ~~(H)~~

27 (G) The dissolution of an inactive district pursuant to Section
 28 56879.

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

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

38 (A) Surrounded or substantially surrounded by the city to which
 39 the annexation is proposed or by that city and a county boundary
 40 or the Pacific Ocean if the territory to be annexed is substantially

1 developed or developing, is not prime agricultural land as defined
2 in Section 56064, is designated for urban growth by the general
3 plan of the annexing city, and is not within the sphere of influence
4 of another city.

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

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

11 (5) As a condition to the annexation of an area that is
12 surrounded, or substantially surrounded, by the city to which the
13 annexation is proposed, the commission may require, where
14 consistent with the purposes of this division, that the annexation
15 include the entire island of surrounded, or substantially surrounded,
16 territory.

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

20 (7) The decision of the commission with regard to a proposal
21 to annex territory to a city shall be based upon the general plan
22 and rezoning of the city. When the development purposes are not
23 made known to the annexing city, the annexation shall be reviewed
24 on the basis of the adopted plans and policies of the annexing city
25 or county. A commission shall require, as a condition to
26 annexation, that a city rezone the territory to be annexed or present
27 evidence satisfactory to the commission that the existing
28 development entitlements on the territory are vested or are already
29 at build-out, and are consistent with the city's general plan.
30 However, the commission shall not specify how, or in what
31 manner, the territory shall be rezoned.

32 (8) (A) Except for those changes of organization or
33 reorganization authorized under Section 56375.3, and except as
34 provided by ~~subparagraphs (B) and (C)~~, *subparagraph (B)*, a
35 commission shall not approve an annexation to a city ~~or to a~~
36 ~~qualified special district~~ of any territory greater than 10 acres, or
37 as determined by commission policy, where there exists a
38 disadvantaged unincorporated community that is contiguous to
39 the area of proposed annexation, unless an application to annex

1 the disadvantaged unincorporated community to the subject city
2 ~~or qualified special district~~ has been filed with the executive officer.

3 (B) An application to annex a contiguous disadvantaged
4 community shall not be required if any of the following apply:

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

7 (ii) The commission finds, based upon written evidence, that a
8 majority of the ~~residents~~ *registered voters* within the affected
9 territory are opposed to annexation.

10 (iii) The commission finds, based upon written evidence, that
11 a majority of the ~~residents~~ *registered voters* within the affected
12 disadvantaged unincorporated community would prefer to address
13 service deficiencies through an extraterritorial service extension.

14 (C) This paragraph shall apply to the annexation of two or more
15 contiguous areas that take place within five years of each other
16 and that are individually less than 10 acres but cumulatively more
17 than 10 acres.

18 ~~(9) Except for those changes of organization or reorganization~~
19 ~~authorized under Section 56375.3, a commission shall not approve~~
20 ~~an annexation to a city or to a qualified special district of any~~
21 ~~territory if the city or applicable county has failed to take steps~~
22 ~~necessary to implement an accessibility plan pursuant to Section~~
23 ~~56440.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (o) If the proposal includes the incorporation of a city, as defined
17 in Section 56043, or the formation of a district, as defined in
18 Section 2215 of the Revenue and Taxation Code, the commission
19 shall determine the property tax revenue to be exchanged by the
20 affected local agencies pursuant to Section 56810. If the proposal
21 includes the disincorporation of a city, as defined in Section 56034,
22 the commission shall determine the property tax revenue to be
23 exchanged by the affected local agencies pursuant to Section
24 56813.

25 (p) To authorize a city or district to provide new or extended
26 services outside its jurisdictional boundaries pursuant to Section
27 56133.

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

33 (r) To approve with or without amendment, wholly, partially,
34 or conditionally, or disapprove pursuant to this section the
35 annexation of territory served by a mutual water company formed
36 pursuant to Part 7 (commencing with Section 14300) of Division
37 3 of Title 1 of the Corporations Code that operates a public water
38 system to a city or special district. Any annexation approved in
39 accordance with this subdivision shall be subject to the state and
40 federal constitutional prohibitions against the taking of private

1 property without the payment of just compensation. This
2 subdivision shall not impair the authority of a public agency or
3 public utility to exercise eminent domain authority.

4 SEC. 4. Section 56378.1 is added to the Government Code, to
5 read:

6 ~~56378.1. Within five years of the approval or approval with~~
7 ~~conditions of an accessibility plan pursuant to Section 56440, the~~
8 ~~commission shall hold a noticed public hearing and review the~~
9 ~~status of every disadvantaged unincorporated community that is~~
10 ~~subject to the accessibility plan. If the commission determines that~~
11 ~~the service needs remain unaddressed, the commission shall initiate~~
12 ~~a change of organization, reorganization, or service extension~~
13 ~~pursuant to this chapter.~~

14 SEC. 5. Section 56425 of the Government Code is amended
15 to read:

16 56425. (a) In order to carry out its purposes and responsibilities
17 for planning and shaping the logical and orderly development and
18 coordination of local governmental agencies subject to the
19 jurisdiction of the commission to advantageously provide for the
20 present and future needs of the county and its communities, the
21 commission shall develop and determine the sphere of influence
22 of each city and each special district, as defined by Section 56036,
23 within the county and enact policies designed to promote the logical
24 and orderly development of areas within the sphere.

25 (b) Prior to a city submitting an application to the commission
26 to update its sphere of influence, representatives from the city and
27 representatives from the county shall meet to discuss the proposed
28 new boundaries of the sphere and explore methods to reach
29 agreement on development standards and planning and zoning
30 requirements within the sphere to ensure that development within
31 the sphere occurs in a manner that reflects the concerns of the
32 affected city and is accomplished in a manner that promotes the
33 logical and orderly development of areas within the sphere. If an
34 agreement is reached between the city and county, the city shall
35 forward the agreement in writing to the commission, along with
36 the application to update the sphere of influence. The commission
37 shall consider and adopt a sphere of influence for the city consistent
38 with the policies adopted by the commission pursuant to this
39 section, and the commission shall give great weight to the

1 agreement to the extent that it is consistent with commission
2 policies in its final determination of the city sphere.

3 (e) ~~If the commission's final determination is consistent with~~
4 ~~the agreement reached between the city and county pursuant to~~
5 ~~subdivision (b), the agreement shall be adopted by both the city~~
6 ~~and county after a noticed public hearing. Once the agreement has~~
7 ~~been adopted by the affected local agencies and their respective~~
8 ~~general plans reflect that agreement, then any development~~
9 ~~approved by the county within the sphere shall be consistent with~~
10 ~~the terms of that agreement.~~

11 (d) ~~If no agreement is reached pursuant to subdivision (b), the~~
12 ~~application may be submitted to the commission and the~~
13 ~~commission shall consider a sphere of influence for the city~~
14 ~~consistent with the policies adopted by the commission pursuant~~
15 ~~to this section.~~

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

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

21 (2) ~~The present and probable need for public facilities and~~
22 ~~services in the area.~~

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

25 (4) ~~The existence of any social or economic communities of~~
26 ~~interest in the area if the commission determines that they are~~
27 ~~relevant to the agency.~~

28 (5) ~~For an update of a sphere of influence of a city or special~~
29 ~~district that provides public facilities or services related to sewers,~~
30 ~~municipal and industrial water, or structural fire protection, that~~
31 ~~occurs pursuant to subdivision (g) on or after July 1, 2012, the~~
32 ~~present and probable need for those public facilities and services~~
33 ~~of any disadvantaged unincorporated communities within the~~
34 ~~existing sphere of influence.~~

35 (f) ~~Upon determination of a sphere of influence, the commission~~
36 ~~shall adopt that sphere.~~

37 (g) ~~On or before January 1, 2008, and every five years thereafter,~~
38 ~~the commission shall, as necessary, review and update each sphere~~
39 ~~of influence.~~

1 ~~(h) In determining a sphere of influence, the commission may~~
2 ~~assess the feasibility of governmental reorganization of particular~~
3 ~~agencies and recommend reorganization of those agencies when~~
4 ~~reorganization is found to be feasible and if reorganization will~~
5 ~~further the goals of orderly development and efficient and~~
6 ~~affordable service delivery. The commission shall make all~~
7 ~~reasonable efforts to ensure wide public dissemination of the~~
8 ~~recommendations.~~

9 ~~(i) When adopting, amending, or updating a sphere of influence~~
10 ~~for a special district, the commission shall establish the nature,~~
11 ~~location, and extent of any functions or classes of services provided~~
12 ~~by existing districts.~~

13 ~~(j) When adopting, amending, or updating a sphere of influence~~
14 ~~for a special district, the commission may require existing districts~~
15 ~~to file written statements with the commission specifying the~~
16 ~~functions or classes of services provided by those districts.~~

17 ~~(k) The commission shall not adopt, amend, or update a sphere~~
18 ~~of influence update that does either of the following:~~

19 ~~(1) Removes a disadvantaged community from the sphere of~~
20 ~~influence of a city or a special district unless the commission makes~~
21 ~~a finding, based upon written evidence, that the removal of the~~
22 ~~disadvantaged community from the sphere of influence of the city~~
23 ~~or special district will result in improved service delivery to the~~
24 ~~community.~~

25 ~~(2) Fails to include a disadvantaged community that is~~
26 ~~contiguous to the proposed sphere of influence unless the~~
27 ~~commission makes a finding, based upon written evidence, that~~
28 ~~the exclusion of the disadvantaged community from the proposed~~
29 ~~sphere of influence will result in improved access to safe drinking~~
30 ~~water or wastewater access.~~

31 ~~(l) The commission shall not amend or update a sphere of~~
32 ~~influence for a city or special district that has not taken action~~
33 ~~pursuant to the accessibility plan adopted pursuant to Section~~
34 ~~56440.~~

35 ~~SEC. 6. Chapter 5 (commencing with Section 56440) is added~~
36 ~~to Part 2 of Division 3 of Title 5 of the Government Code, to read:~~

CHAPTER 5. ACCESSIBILITY PLANS

1
2
3 56440. (a) (1) On or before January 1, 2021, each city, county,
4 and qualified special district shall develop an accessibility plan to
5 secure safe drinking water, wastewater services, stormwater
6 drainage, and structural fire protection in communities identified
7 in the land use element of the city or county updated pursuant to
8 paragraph (b) of Section 65302.10:
9 (2) The commission shall determine which entity is best
10 positioned to provide adequate water or wastewater services to the
11 affected territory:
12 (3) Each city, county, and qualified special district shall consult
13 with the commission, the State Water Resources Control Board,
14 relevant cities, relevant special districts, relevant mutual water
15 companies, relevant investor-owned utilities, and county
16 environmental health departments in developing the accessibility
17 plan:
18 (4) The accessibility plan shall include a timeline with
19 intermediary steps necessary to secure necessary infrastructure
20 and services within five years:
21 (5) The accessibility plan shall include all of the following:
22 (A) Any actions and alternatives necessary to be taken by the
23 commission, if any, to enable the entity determined pursuant to
24 paragraph (2) to provide services to the affected territory.
25 (B) Any actions to be taken by any local agency that the
26 commission believes are necessary to establish services to the
27 disadvantaged unincorporated community.
28 (C) An analysis of costs and benefits of improved water or
29 wastewater services for residents in each affected territory.
30 (D) An analysis of local, state, and federal funding sources
31 available to implement the accessibility plan.
32 (6) (A) The city, county, or qualified special district shall submit
33 the accessibility plan to the commission:
34 (B) The commission shall wholly approve the accessibility plan
35 or approve the accessibility plan with conditions or modifications
36 at a noticed hearing within 90 days of the submission of the
37 accessibility plan to the commission:
38 (b) Commencing on or before February 1, 2022, each city,
39 county, and qualified special district shall provide an annual
40 progress report with respect to its accessibility plan at a noticed

1 public hearing. The city, county, or relevant special district shall
2 also post the annual progress report on its internet website.

3 (e) (1) ~~Costs and fees for services provided to the affected~~
4 ~~territory through implementation of the accessibility plan shall not~~
5 ~~exceed the cost of providing the service.~~

6 (2) ~~Fees and conditions related to service provision to the~~
7 ~~affected territory through implementation of the accessibility plan~~
8 ~~shall be consistent with fees and conditions placed on other new~~
9 ~~customers or service recipients.~~

10 (d) ~~On or before January 1, 2021, each county shall submit a~~
11 ~~map of the county that identifies disadvantaged unincorporated~~
12 ~~communities that lack safe drinking water or adequate wastewater,~~
13 ~~along with the adopted accessibility plan prepared in electronic~~
14 ~~format with the Office of Planning and Research, the State Water~~
15 ~~Resources Control Board, and any relevant regional quality control~~
16 ~~board. The Office of Planning and Research, State Water Resources~~
17 ~~Control Board, and the city or county shall each post the map on~~
18 ~~its respective internet website.~~

19 SEC. 7. ~~Section 65302.10 of the Government Code is amended~~
20 ~~to read:~~

21 65302.10. (a) ~~As used in this section, the following terms shall~~
22 ~~have the following meanings:~~

23 (1) ~~“Community” means an inhabited area within a city or~~
24 ~~county that is comprised of no less than 10 dwellings adjacent or~~
25 ~~in close proximity to one another.~~

26 (2) ~~“Disadvantaged unincorporated community” means a fringe,~~
27 ~~island, or legacy community in which the median household~~
28 ~~income is 80 percent or less than the statewide median household~~
29 ~~income.~~

30 (3) ~~“Fringe community” means any inhabited and~~
31 ~~unincorporated territory that is within a city’s sphere of influence.~~

32 (4) ~~“Island community” means any inhabited and unincorporated~~
33 ~~territory that is surrounded or substantially surrounded by one or~~
34 ~~more cities or by one or more cities and a county boundary or the~~
35 ~~Pacific Ocean.~~

36 (5) ~~“Legacy community” means a geographically isolated~~
37 ~~community that is inhabited and has existed for at least 50 years.~~

38 (b) ~~On or before the due date for the next adoption of its housing~~
39 ~~element pursuant to Section 65588, each city or county shall review~~
40 ~~and update the land use element of its general plan, based on~~

1 available data, including, but not limited to, the data and analysis
2 developed pursuant to Section 56430, of unincorporated island,
3 fringe, or legacy communities inside or near its boundaries. The
4 updated land use element shall include all of the following:

5 (1) In the case of a city, an identification of each island or fringe
6 community within the city's sphere of influence that is a
7 disadvantaged unincorporated community. In the case of a county,
8 an identification of each legacy community within the boundaries
9 of the county that is a disadvantaged unincorporated community,
10 but not including any area within the sphere of influence of any
11 city. This identification shall include a description of the
12 community and a map designating its location.

13 (2) For each identified community, an analysis of water,
14 wastewater, stormwater drainage, and structural fire protection
15 needs or deficiencies. For purposes of this section, "needs or
16 deficiencies" includes both deficient services and lack of services.
17 The analysis required by this paragraph shall consider the impacts
18 of climate change on specified services.

19 (3) An analysis, based on then existing available data, of benefit
20 assessment districts or other financing alternatives that could make
21 the extension of services to identified communities financially
22 feasible.

23 (e) On or before the due date for each subsequent revision of
24 its housing element pursuant to Section 65588, each city and county
25 shall review, and if necessary amend, its general plan to update
26 the analysis required by this section.

27 SEC. 8. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 a local agency or school district has the authority to levy service
30 charges, fees, or assessments sufficient to pay for the program or
31 level of service mandated by this act, within the meaning of Section
32 17556 of the Government Code.



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

Attachment Six

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
Fax: (707) 251-1053
www.napa.lafco.ca.gov

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

May 10, 2019

The Honorable Kansen Chu
California State Assembly
State Capital Room 3126
Sacramento, CA 95814

Subject: *Oppose AB 600 (as amended April 29, 2019)*

Dear Assembly Member Chu:

The Local Agency Formation Commission (LAFCO) of Napa County (“Napa LAFCO”) joins the California Association of Local Agency Formation Commissions (CALAFCO) to remain opposed to your bill, **Assembly Bill (AB) 600**. LAFCOs are aware of and concerned about the disparity of local public services, especially for residents and properties located within disadvantaged unincorporated communities (DUCs). All Californians deserve adequate and safe drinking water and wastewater facilities. We support your efforts to address these problems, which persist in many counties, however **AB 600** in its current version does not represent a collective stakeholder dialogue with reasonable and systemic solutions to the problem.

AB 600 allows for an extension of service in lieu of annexation and we remain greatly concerned about extension of service without annexation. One of the primary statutory purposes of LAFCO is to ensure orderly growth. In Napa County, we do currently have a pilot program in place under Government Code Section 56133.5 that allows for extension of service outside jurisdictional boundaries and spheres of influence if a high threshold of specific criteria is met. Separate from §56133.5, extending services on an individual basis or by service category without annexation generally undermines the very purpose of jurisdictional boundaries and spheres of influence, and also conflicts with Government Code Section 56133(b).

Another of LAFCOs’ statutory purposes is to ensure the effective and efficient provision of municipal services. Ultimately, the annexation of a DUC does not ensure they will receive adequate, safe drinking water. The reality is there are engineering and financial issues that must be solved in order to ensure effective and efficient provision of services, and this bill does not address those ongoing issues. We endeavor to ensure local circumstances and conditions are taken into consideration, and this bill offers a “one size fits all” approach that may not be effective in many instances.

Kenneth Leary, Vice Chair
Councilmember, City of American Canyon

Margie Mohler, Commissioner
Councilmember, Town of Yountville

Scott Sedgley, Alternate Commissioner
Councilmember, City of Napa

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

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

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

Gregory Rodeno, Chair
Representative of the General Public

Vacant, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

Oppose AB 600 (as amended April 29, 2019)

April 19, 2019

Page 2 of 2

AB 600 adds Subsection (8)(C) to Government Code Section 56375. As written, this section creates confusion and contradicts §56375(8)(A). We believe the intent is to prohibit LAFCO from approving the annexation of two or more contiguous disadvantaged communities within five years that are individually less than ten acres but cumulatively more than ten acres. If so, this language conflicts with §56375(8)(A), which allows for LAFCOs' policies to guide commissions in determining the size of the area to be annexed. Further, the term "paragraph" as used in this section creates uncertainty as to what section or subsection is actually being addressed.

We support workable and sustainable policy solutions to the disparities in service delivery to disadvantaged communities. However, a major obstacle remains the infrastructure and operational funding for these services. We believe that addressing the needs of disadvantaged communities through the planning process and finding tools to address the infrastructure deficiencies and implementation actions remain a very important part of the solution.

For all of the reasons noted above, Napa LAFCO remains opposed to **AB 600**. Please contact me should you have any questions.

Sincerely yours,



Brendon Freeman

Executive Officer

(707) 259-8645

bfreeman@napa.lafco.ca.gov

cc: Jimmy MacDonald, Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Pamela Miller, Executive Director, CALAFCO
Gregory Rodeno, Napa LAFCO Chair

AMENDED IN ASSEMBLY APRIL 8, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1822

Introduced by Committee on Local Government

March 11, 2019

An act to amend Sections 56074, 56133, 56663, 57077, and ~~57013~~ 57103 of, and to add Section 56074.5 to, the Government Code, and to repeal Sections 1 and 2 of Chapter 805 of the Statutes of 2004, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1822, as amended, Committee on Local Government. Local Government: omnibus.

(1) 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. Existing law requires a commission to develop and determine the sphere of influence of each city and each special district within the county and enact policies designed to promote the logical and orderly development of areas within each sphere. Existing law requires the commission, in order to prepare and update spheres of influence in accordance with this requirement, to conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission, as specified. Existing law defines "sphere of influence" to mean a plan for the probable physical boundaries and service area of a local agency. Existing law defines the term "service" for purposes of the act to mean a specific

governmental activity established within, and as a part of, a general function of the special district, as specified.

This bill would revise the definition of the term “service” for these purposes to mean a specific governmental activity established within, and as a part of, a ~~general~~ function of the local agency. This bill would also define the term “service review,” for purposes of the act, to mean an analysis conducted by the commission documenting and analyzing the services in a particular geographic region or jurisdictional area, pursuant to the process described above.

(2) Existing law authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the applicable local agency formation commission. Existing law, if consistent with adopted policy, authorizes the commission to authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory if specified conditions are met.

This bill would eliminate the requirement that the authorization by the commission be consistent with adopted policy.

(3) Existing law requires the commission, after adoption of a resolution making determinations on an application for a change of organization or reorganization by the commission, to follow specified procedures to conduct protest proceedings. Existing law authorizes the commission to waive protest proceedings under certain circumstances for, among other things, a change of organization that consists of the formation of a county service area that would otherwise require the conduct of protest proceedings.

This bill would specify that the commission may waive protest proceedings following commission approval for a change of organization that consists of the formation of a county service area, as specified.

~~(2)~~

(4) Existing law requires the commission to order a change of organization or reorganization subject to confirmation of the voters if the change of organization or reorganization consists of an incorporation or disincorporation, as specified.

This bill would additionally require the commission to order a change of organization or reorganization subject to confirmation of the voters

if the change of organization or reorganization consists of a consolidation of two or more cities.

(3)

(5) Existing law subjects any order in any resolution adopted by a commission ordering the dissolution of a local hospital district to conformation by the voters, as specified. Existing law, notwithstanding that provision, authorizes a commission, if a change of organization consists of the dissolution of a district that is consistent with a specified prior action of the commission, to order the dissolution either without an election or protest proceedings if the dissolution meets certain requirements.

This bill would make clarifying changes to the above provisions.

(4)

(6) Existing law prohibits the commission in the County of Ventura, on or before December 31, 2007, from imposing a condition that requires the City of Simi Valley to initiate proceedings on a proposal for a change of organization or reorganization unless the territory that would be affected is contiguous and physically related to the affected territory.

This bill would repeal this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 56074 of the Government Code is
2 amended to read:

3 56074. "Service" means a specific governmental activity
4 established within, and as a part of, a ~~general~~ function of a local
5 agency.

6 SEC. 2. Section 56074.5 is added to the Government Code, to
7 read:

8 56074.5. "Service review" means an analysis conducted by
9 the commission documenting and analyzing the services in a
10 particular geographic region or jurisdictional area pursuant to *the*
11 *requirements of* Section 56430.

12 SEC. 3. *Section 56133 of the Government Code is amended to*
13 *read:*

14 56133. (a) A city or district may provide new or extended
15 services by contract or agreement outside its jurisdictional

1 boundary only if it first requests and receives written approval
2 from the commission.

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

7 ~~If consistent with adopted policy, the~~ *The* commission may
8 authorize a city or district to provide new or extended services
9 outside its jurisdictional boundary and outside its sphere of
10 influence to respond to an existing or impending threat to the health
11 or safety of the public or the residents of the affected territory, if
12 both of the following requirements are met:

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

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

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

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

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

1 already being provided by an existing public service provider and
2 where the level of service to be provided is consistent with the
3 level of service contemplated by the existing service provider.

4 (2) The transfer of nonpotable or nontreated water.

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

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

14 (5) A local publicly owned electric utility, as defined by Section
15 9604 of the Public Utilities Code, providing electric services that
16 do not involve the acquisition, construction, or installation of
17 electric distribution facilities by the local publicly owned electric
18 utility, outside of the utility's jurisdictional boundary.

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

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

23 *SEC. 4. Section 56663 of the Government Code is amended to*
24 *read:*

25 56663. For a change of organization consisting of an annexation
26 or a detachment, or a reorganization consisting solely of
27 annexations or detachments, or both, or the formation of a county
28 service area that would otherwise require the conduct of protest
29 ~~proceedings~~, *proceedings after commission approval pursuant to*
30 *subdivision (d) of Section 56881*, the commission may waive
31 protest proceedings pursuant to Part 4 (commencing with Section
32 57000) if all of the following have occurred:

33 (a) The mailed notice pursuant to Section 56157 has been given
34 to landowners and registered voters within the affected territory.

35 (b) The mailed notice discloses to the registered voters and
36 landowners that unless written opposition to the proposal is
37 received before the conclusion of the commission proceedings on
38 the proposal, the commission intends to waive protest proceedings.
39 The notice shall disclose that there is potential for the extension

1 or continuation of any previously authorized charge, fee,
2 assessment, or tax by the local agency in the affected territory.

3 (c) Written opposition to the proposal from landowners or
4 registered voters within the affected territory is not received before
5 the conclusion of the commission proceedings on the proposal.

6 ~~SEC. 3.~~

7 *SEC. 5.* Section 57077 of the Government Code is amended
8 to read:

9 57077. If a change of organization consists of an incorporation,
10 disincorporation, or consolidation of two or more cities, or if a
11 reorganization includes an incorporation, disincorporation, or
12 consolidation of two or more cities, the commission shall order
13 the change of organization or reorganization subject to confirmation
14 of the voters. A protest proceeding shall not be conducted.

15 ~~SEC. 4.~~

16 *SEC. 6.* Section 57103 of the Government Code is amended
17 to read:

18 57103. Any order in any resolution adopted by the commission
19 on or after January 1, 1986, ordering the dissolution of a local
20 hospital district, organized pursuant to Division 23 (commencing
21 with Section 32000) of the Health and Safety Code, is subject to
22 confirmation by the voters unless dissolution of the local hospital
23 district meets the requirements set forth in subdivision (c) of
24 Section 57077.1.

25 ~~SEC. 5.~~

26 *SEC. 7.* Section 1 of Chapter 805 of the Statutes of 2004 is
27 repealed.

28 ~~SEC. 6.~~

29 *SEC. 8.* Section 2 of Chapter 805 of the Statutes of 2004 is
30 repealed.



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

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

April 22, 2019

Honorable Cecilia Aguiar-Curry, Chair
Assembly Local Government Committee
California State Assembly
State Capitol, Room 5144
Sacramento, CA 95814

Subject: *Support of AB 1822: Local Government Omnibus Bill (as amended April 8, 2019)*

Dear Chair Aguiar-Curry:

The Napa Local Agency Formation Commission (LAFCO) is pleased to join the California Association of Local Agency Formation Commissions (CALAFCO) in support for **Assembly Bill 1822** (amended April 8, 2019), which makes technical, non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH).

This annual bill includes technical changes to CKH, which governs the work of LAFCOs. These changes are necessary as LAFCOs implement CKH and inconsistencies are discovered or clarifications are needed to make the law as unambiguous as possible. AB 1822 currently makes minor technical corrections to language used in CKH. Napa LAFCO is grateful to your Committee, staff, and CALAFCO, all of whom worked diligently on this language to ensure there are no substantive changes while creating a significant increase in the clarity of CKH for all stakeholders.

This legislation helps ensure CKH remains a vital and practical law that is consistently and effectively applied throughout California. We appreciate your Committee's authorship and support of this bill, and your support of the mission of LAFCOs. Please feel free to contact me should you have any questions about Napa LAFCO's position.

Sincerely yours,

Brendon Freeman
Executive Officer
(707) 259-8645

bfreeman@napa.lafco.ca.gov

cc: Members, Assembly Local Government Committee
Jimmy MacDonald, Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Pamela Miller, Executive Director, CALAFCO
Margie Mohler, Napa LAFCO Chair

Margie Mohler, Chair
Councilmember, Town of Yountville

Scott Sedgley, Commissioner
Councilmember, City of Napa

Kenneth Leary, Alternate Commissioner
Councilmember, City of American Canyon

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County of Napa Supervisor, 3rd District

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

Gregory Rodeno, Commissioner
Representative of the General Public

Erik Lawrence, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer