

LAFCO MEMORANDUM

SANTA BARBARA LOCAL AGENCY FORMATION COMMISSION
105 East Anapamu Street • Santa Barbara CA 93101 • (805) 568-3391 + Fax (805) 568-2249

August 1, 2024 (Agenda)

TO: Each Member of the Commission

FROM: Mike Prater
Executive Officer

SUBJECT: **Report on the 2024 CALAFCO Legislative Committee Meetings – May 10 & June 14, 2024**

This is an Informational Report. No Action is Necessary

DISCUSSION

The CALAFCO Legislative Committee convened three meetings May 10 & June 14, 2024. Your Executive Officer participated by ZOOM. A copy of the Meeting Agendas is attached as **Attachment A**.

A number of the listed bills, have progressed through the legislative process since the July 12, 2024 meeting. Staff will verbally update the Commission on the status of these bills at the meeting.

Attachments

Attachment A – CALAFCO Legislative Committee Agenda- May 10 & June 14, 2024

Please contact the LAFCO office if you have any questions.



CALAFCO Legislative Committee **MEETING AGENDA**

Friday, May 10, 2024 ♦ 9:00 am – 11:00 am
Virtual via Zoom

<https://us02web.zoom.us/j/86390927812>
Meeting ID: 863 9092 7812
Phone: 669-900-6833

	<i>R. LaRoche</i>	<u>Page</u>
1. 9:00 A.M. Convene and Roll Call	<i>R. LaRoche</i>	
2. Approve Minutes of the March 22, 2024 meeting	<i>R. LaRoche</i>	3
3. Legislation Affecting LAFCOs	<i>R. LaRoche</i>	5
Priority One Bills:		
CALAFCO Sponsored Bills:		
a. AB 3277 (ALGC) Omnibus Bill – Ad Valorem Tax Calculation		9
b. SB 1209 (Cortese) - Indemnification Bill		13
Priority Two Bills: NONE		
Priority Three Bills:		
c. AB 805 (Arambula) Sewer service: disadvantaged communities <i>Position: Support, If Amended</i>		15
<i>Brown Act (Watching):</i>		
d. AB 817 (Pacheco) Open meetings: teleconferencing: subsidiary body		27
e. AB 2302 (Addis) Open meetings: local agencies: teleconferences		31
f. AB 2715 (Boerner) Ralph M. Brown Act: closed sessions		37
g. SB 537 (Becker) Open meetings: local agencies: teleconferences (inactive)		41
4. Tabled Discussion Regarding 56133 Proposal	<i>R. LaRoche</i>	61
5. Receive the List of Tracked Bills		75
6. CALAFCO Items for next meeting		
7. Good of the Order		
8. Adjournment to June 14, 2024 at 9:00 a.m. – to be held virtually		

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CALAFCO Legislative Committee
DRAFT ACTION MEETING MINUTES

Date:	March 22, 2024				
Location:	Held virtually				
Present:					
BOARD MEMBERS:					
<input type="checkbox"/>	CONNELLY, Bill (N)	<input checked="" type="checkbox"/>	McGILL, Michael (Co)	<input checked="" type="checkbox"/>	PAQUE, Anita (Ce)
<input checked="" type="checkbox"/>	GUTIERREZ, Yxstian (S)	<input checked="" type="checkbox"/>	McGREGOR, Derek (S, Alt)	<input type="checkbox"/>	ROOT ASKEW, Wendy (Co, Alt)
<input checked="" type="checkbox"/>	JONES, Gay (Ce, Alt)	<input checked="" type="checkbox"/>	MOHLER, Margie (A/L, Alt)	<input checked="" type="checkbox"/>	SUSMAN, Josh (N, Alt)
				<input type="checkbox"/>	WALLACE, Tamara (A/L, Alt)
STAFF APPOINTMENTS:					
<input checked="" type="checkbox"/>	ALSOP, Clark	<input checked="" type="checkbox"/>	LUCAS, Steve (No, Butte)	<input checked="" type="checkbox"/>	ROMO, Adriana (So, L.A.)
<input type="checkbox"/>	BELL, Gary	<input checked="" type="checkbox"/>	LaROCHE, René	<input type="checkbox"/>	SANTSCHÉ, Colette (No, Humboldt)
<input checked="" type="checkbox"/>	BRAMFITT, Mark (Co, Sonoma)	<input checked="" type="checkbox"/>	LUOMA, Kai (Co, Ventura)	<input checked="" type="checkbox"/>	SERRANO, Joe (Co Alt, Santa Cruz)
<input checked="" type="checkbox"/>	BROWNE, Scott	<input checked="" type="checkbox"/>	LYTLE-PINHEY, Sara (Ce, Stan.)	<input checked="" type="checkbox"/>	SPAUNHURST, Brian (Ce Alt, Fresno)
<input checked="" type="checkbox"/>	de SOUSA, Paula	<input checked="" type="checkbox"/>	McINTYRE, Michelle (Ce, Placer)	<input type="checkbox"/>	STEPHENSON, Jennifer (No, Plumas)
<input checked="" type="checkbox"/>	GRAF, Paula (So, Imperial)	<input checked="" type="checkbox"/>	MUMPOWER, Priscilla (So, Alt, S.D.)		
ADVISORY COMMITTEE:					
<input checked="" type="checkbox"/>	CRAIG, Crystal	<input checked="" type="checkbox"/>	LEROMNIMON, Carolanne	<input type="checkbox"/>	BRAVO, Tara
<input type="checkbox"/>	CRAWFORD, Christine	<input type="checkbox"/>	SANCHEZ, Erica	<input checked="" type="checkbox"/>	FENDER, Brandon
<input type="checkbox"/>	FITZROY, Rob	<input checked="" type="checkbox"/>	TAPIA, Luis	<input type="checkbox"/>	SIMON, Jim
<input type="checkbox"/>	HIGHTOWER, J.D				
GUESTS:	Jonathan Brinkmann (Monterey), Dawn Mittleman (Napa), Paul Novak (Los Angeles), Mike Prater (Santa Barbara), and Jeren Seibel (Marin)				
RECORDER:	René LaRoche				

1. Welcome, Roll Call

9:01 AM: The meeting was called to order by René LaRoche after the quorum was established.

2. Approval of the Minutes of the February 16, 2024 meeting

The minutes were unanimously approved as presented upon motion of Mike McGill, with a second by Margie Mohler.

3. Receive an Update Regarding CALAFCO Legislative Proposals

LaRoche gave the staff reports, with assistance from Paul Novak, Los Angeles LAFCO on SB 1209 (Cortese). Discussion ensued regarding SB 1209.

Under motion of Mohler, with a second by McGill, CALAFCO was unanimously authorized to: 1) Negotiate with CBIA to change the word approval to determination; 2) Seek universal or comprehensive indemnification without limitations, similar to what counties and cities currently have; and 3) If needed, negotiate language to limit the provision to third party claims.

3. (ADDENDUM): New Legislation: H.R. 7525 (the Special District Grant Accessibility Act)

LaRoche gave the staff report. Under motion of Josh Susman, with a second by Anita Paque, the committee unanimously approved a position of support.

4. Tabled Discussion Regarding 56133 Proposal

LaRoche provided an overview of past events, and outlined the recommendation contained in the staff report to narrow the focus to a noticing requirement. Steve Lucas, Butte LAFCO, discussed his support of a noticing requirement. Discussion ensued regarding the merits of the suggestion. The committee asked for sample language to consider before deciding on a shift in focus. Scott Browne and Steve Lucas committed to working on some language to bring to the May meeting.

5. Receive the List of Tracked Bills

LaRoche reported that AB 2557 (Ortega), AB 2596 (Lee), and AB 3152 (Jones-Sawyer) have been gutted and amended to different areas of law, and will be removed from the tracking list as they are no longer of concern to LAFCOs.

6. Items for next meeting

No new items were offered.

7. Good of the Order

None.

8. Adjournment to May 10, 2024, meeting at 9:00 a.m. – to be held virtually

10:23 AM: Chair LaRoche adjourned the meeting, noting that there is no meeting in April due to the Staff Workshop.

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 3277

Introduced by Committee on Local Government

February 27, 2024

An act to amend Section 56810 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 3277, as introduced, Committee on Local Government. Local agency formation commission: districts: property tax.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes the sole and exclusive authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. Existing law requires proceedings for the formation of a district to be conducted as authorized by the principal act of the proposed district, and authorizes the local agency formation commission in each county to serve as the conducting authority, as specified. Existing law requires a commission to determine the amount of property tax revenue to be exchanged by an affected local agency, as specified, if the proposal includes the formation of a district, as defined.

This bill would, instead, require a commission to determine the amount of property tax revenue to be exchanged by an affected local agency if the proposal includes the formation of a district and the applicant is seeking a share of the 1% ad valorem property taxes. By adding to the duties of a local agency formation commission, the bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:****SECTION 1.** Section 56810 of the Government Code is amended to read:

56810. (a) (1) If the proposal includes the incorporation of a city, as defined in Section 56043, the commission shall determine the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section and Section 56815.

(2) If the proposal includes the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, *and if the applicant is seeking a share of the 1 percent ad valorem property taxes*, the commission shall determine the amount of property tax to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs that were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost that was funded by any revenues of that agency that are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount described in the previous sentence by the annual tax increment according to the procedures set forth in Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the new city or district receives its initial allocation of property taxes.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.

(d) If the proposal would transfer all of an affected agency's service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985–86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, "prior fiscal year" means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available preceding the issuance of the certificate of filing.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section shall be commenced within three years of the effective date of the city's incorporation or the district's formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.

(j) The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56815.

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

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 1209

Introduced by Senator Cortese

February 15, 2024

An act to add Section 56383.5 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1209, as introduced, Cortese. Local agency formation commission: indemnification.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. The act continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, as specified.

This bill would authorize a LAFCO to require, as a condition for, among other things, processing a change of organization or reorganization, that the applicant agrees to defend, indemnify, and hold harmless the LAFCO, its agents, officers, and employees from and against any claim, action, or proceeding, as specified, arising from or relating to the action or determination by the LAFCO.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

Bill Text**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:****SECTION 1.** Section 56383.5 is added to the Government Code, to read:

56383.5. The commission may require, as a condition for processing a change of organization or reorganization, a sphere amendment or a sphere update, or any other action or determination requested from the commission, that the applicant agrees to defend, indemnify, and hold harmless the commission, its agents, officers, and employees from any claim, action, or proceeding against the commission, its agents, officers, or employees arising from or relating to the action or determination by the commission.

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AMENDED
IN
ASSEMBLY
JANUARY 22, 2024

AMENDED
IN
ASSEMBLY
MARCH 09, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 805

Introduced by Assembly Member Arambula

February 13, 2023

An act to amend Sections ~~116682 and 116686 of the Health and Safety Code, relating to drinking water~~, 13288 and 13442 of, and to add Section 13289.5 to, the Water Code, relating to water quality, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 805, as amended, Arambula. ~~Drinking water consolidation; sewer service.~~ *Sewer service; disadvantaged communities.*

~~Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems and imposes on the State Water Resources Control Board various responsibilities and duties. The act authorizes the state board to order consolidation with, or extension of service from, a receiving water system in either of the following circumstances: (1) a public water system or state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, or is an at-risk water system, or (2) a disadvantaged community, in whole or in part, is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water, or are at-risk domestic wells.~~

~~This bill would authorize the state board, if sufficient funds are available, to order consolidation of sewer service along with an order of consolidation of drinking water systems when both of the receiving and subsumed water systems provide sewer service and after the state board engages in certain activities, including, but not limited to, consulting with the relevant regional water board and the receiving water system and conducting outreach to ratepayers and residents served by the receiving and subsumed water systems, as provided.~~

~~Existing law authorizes the state board, if sufficient funds are available, to contract with, or provide a grant to, an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of these services to a designated water system to assist with the provision of an adequate supply of affordable, safe drinking water.~~

~~The bill would also authorize the state board to require the administrator to provide administrative, technical, legal, or managerial services for any sewer service provided by the designated water system.~~

Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality in accordance with the Porter-Cologne Water Quality Control Act and the federal Clean Water Act. Existing law authorizes a regional board to order the provision of sewer service by a receiving sewer system, as defined, to a disadvantaged community served by an inadequate onsite sewage treatment system, as defined.

This bill would authorize the state board to require a sewer service provider to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services to assist a designated sewer system with the provision of adequate sewer service, as defined. The bill would also authorize the state board to order a designated sewer system to accept those services, including full management and control of all aspects of the designated sewer system, from an administrator. The bill would define "designated sewer system" for these purposes as a sewer system

that serves a disadvantaged community and that the state board finds to be either an inadequate sewage treatment system or a sewer system that has demonstrated difficulty in maintaining technical, managerial, and financial capacity to prevent fraud and mismanagement, or a sewer system that voluntarily accepts financial assistance for the provision of adequate sewer service.

The bill would require the state board to take specified actions before determining that a sewer service provider is a designated sewer system, including providing the sewer service provider an opportunity to show that it has taken steps to timely address its failure to provide adequate sewer service, conducting a public meeting, and providing an opportunity for public comment. The bill would authorize the state board to grant specified authority over the designated sewer system to the administrator, including the authority to expend money for various purposes and to set and collect sewer rates and fees, subject to approval by the state board. The bill would require the state board to work with the administrator and the communities served by the designated sewer system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver adequate sewer service so that the services of the administrator are no longer necessary.

Existing law creates the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund and continuously appropriates moneys in the account to the state board for specified purposes, including providing grants for cleaning up a waste, abating the effects of a waste on waters of the state, or addressing an urgent drinking water need, as provided.

This bill would authorize the state board to also use moneys in the account to provide grants to administrators to provide administrative, technical, operational, legal, or managerial services to a sewer service provider. By expanding the purposes for which moneys in a continuously appropriated account may be spent, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Digest Key

Vote: **majority 2/3** Appropriation: **no** Fiscal Committee: **yes** Local Program: **no**

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 13288 of the Water Code is amended to read:*

13288. For purposes of this chapter, the following definitions apply:

(a) "Adequate sewer service" means sanitary sewer service provided by a sewer service provider that does not have the potential to cause a violation of water quality objectives, impair present or future beneficial uses of water, cause pollution, nuisance, or contamination of waters of the state, or unreasonably degrade the waters of the state.

(b) "Administrator" means a person whom the state board has determined is competent to perform the administrative, technical, operational, legal, or managerial services required for purposes of this chapter, pursuant to criteria set forth in the handbook described in subdivision (h) of Section 13289.5.

(a)

(c) "Affected residence" means a residence within a disadvantaged community that may be subject to provision of sewer service pursuant to this chapter.

(b)

(d) "Affected resident" means a resident or a property owner of an affected residence.

(c)

(e) "Annexation" has the same meaning as set forth in Section 56017 of the Government Code.

(f) "Designated sewer system" means a sewer system that serves a disadvantaged community and that the state board finds to be either an inadequate sewage treatment system or a sewer system that has demonstrated difficulty in maintaining technical, managerial, and financial capacity to prevent fraud and mismanagement. "Designated sewer system" also includes a voluntary participant.

(d)

(g) "Disadvantaged community" means a disadvantaged community as defined in Section 79505.5.

(e)

(h) "Extension of service" has the same meaning as set forth in Section 56133 of the Government Code.

(f)

(i) "Inadequate onsite sewage treatment system" means an onsite sewage treatment system that has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, or to cause pollution, nuisance, or contamination of waters of the state.

(j) "Inadequate sewage treatment system" means a sewer system that has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, or to cause pollution, nuisance, or contamination of waters of the state.

(g)

(k) (1) "Onsite sewage treatment system" means an onsite sewage treatment system, as defined in Section 13290, that is not operated by a local agency, as defined in Section ~~56064~~ 56054 of the Government Code, or a utility regulated by the Public Utilities Commission.

(2) "Onsite sewage treatment system" includes, but is not limited to, a septic tank, cesspool, leach field, and seepage pit.

(h)

(l) "Provision of sewer service" means the provision of sanitary sewer service, including the collection or treatment of sewage, to a disadvantaged community by any of the following processes:

(1) Annexation where the receiving sewer system is a special district.

(2) Extension of service where the receiving sewer system is a city, county, or special district.

(3) Additional sewer service provided within city, county, or special district boundaries.

(i)

(m) "Receiving sewer system" means the sewer system that provides service to a disadvantaged community pursuant to this chapter.

(n) "Sewer service provider" means any local agency that provides sanitary sewer service.

(j)

(o) "Special district" means a special district as defined in Section 56036 of the Government Code.

(p) "Voluntary participant" means the owner of an onsite sewage treatment system or sewer service provider who has agreed to accept financial assistance for the provision of adequate sewer service.

SEC. 2. Section 13289.5 is added to the Water Code, immediately following Section 13289, to read:

13289.5. (a) (1) For a designated sewer system, the state board may do any of the following:

(A) (i) Require a sewer service provider to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services, or any combination of those services, to assist the designated sewer system with the provision of adequate sewer service.

(ii) To fulfill the requirements of this section, a sewer service provider may contract with more than one administrator, but only one administrator may be used to provide services to a given designated sewer system. An administrator that is not designated or approved by the state board shall not be used for purposes of this section.

(iii) An administrator may provide services to more than one designated sewer system.

(B) Order a designated sewer system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated sewer system, from an administrator selected by the state board.

(C) Order a designated sewer system to accept administrative, technical, operational, legal, or managerial services from an administrator appointed by the state board for full oversight of construction or development projects related to an

annexation or extension of service, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated sewer system.

(2) In performing its duties pursuant to paragraph (1), the state board may use criteria from the handbook adopted pursuant to subdivision (g) of Section 116686 of the Health and Safety Code.

(b) The state board shall do all of the following before determining that a sewer service provider is a designated sewer system:

(1) Provide the sewer service provider with notice and an opportunity to show that the sewer service provider has taken steps to timely address its failure to provide adequate sewer service.

(2) (A) Conduct a public meeting in a location as close as feasible to the affected community.

(B) The state board shall make reasonable efforts to provide a 30-day notice of the public meeting to affected ratepayers, renters, and property owners.

(C) The state board shall provide representatives of the sewer service provider, affected ratepayers, renters, and property owners with an opportunity to present oral and written comments at the public meeting.

(D) The state board shall provide an opportunity for public comment at the meeting.

(3) Provide the public with an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2).

(c) The state board shall make financial assistance available to an administrator of a designated sewer system, as appropriate and to the extent that funding is available.

(d) The authority granted to an administrator by the state board pursuant to subdivision (a) may include, but is not limited to, the authority to do all of the following:

(1) Expend available money for capital infrastructure improvements that the designated sewer system needs to provide adequate sewer service.

(2) Set and collect user sewer rates and fees, subject to approval by the state board. The state board shall consider affordability when approving sewer rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII D of the California Constitution.

(3) Expend available money for operation and maintenance costs of the designated sewer system.

(4) Expend available money necessary for an annexation or extension of service, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.

(e) The state board shall work with the administrator of a designated sewer system and the communities served by that designated sewer system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver adequate sewer service so that the services of the administrator are no longer necessary.

(f) A designated sewer system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated sewer system and provide adequate sewer service.

(g) A designated sewer system shall be responsible for funding the activities of an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of those services, to the designated sewer system. The state board shall not be responsible for providing funding for those activities.

(h) Before ordering a designated sewer system to accept administrative, technical, operational, legal, or managerial services from an administrator pursuant to subdivision (a), the state board shall develop standards, terms, and procedures, to be incorporated in the handbook adopted pursuant to subdivision (g) of Section 116686 of the Health and Safety Code, consistent with the process provided in subdivision (a) of Section 116760.43 of the Health and Safety Code, for all of the following:

(1) Ensuring compliance with subdivision (f).

(2) Providing opportunity for public comment on the selection of an administrator and the services to be provided.

(3) Providing public access to budgets, ownership and financial information, and other documents and records related to the provision of sewer service to affected residences and to the management of the designated sewer system by the administrator.

(4) *Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated sewer system for significant decisions or actions made on behalf of the designated sewer system, including, but not limited to, establishing operating budgets, altering sewer rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.*

(5) *Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.*

(6) *Ensuring an administrator acts in the best interests of the community served.*

(7) *Development and approval of a post-administrator sewer service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.*

(i) *An administrator appointed pursuant to this section for a designated sewer system shall not be liable for claims by past or current ratepayers, or by those affected by the sewer service provided by the designated sewer system, in either of the following circumstances:*

(1) *If good faith, reasonable effort, and ordinary care were used by the administrator to assume possession of, or to operate, the sewer service provider.*

(2) *For any injury or damages that occurred before the commencement of the operation period.*

(j) *This section does not limit or supersede any other law authorizing claims against the state board or providing a defense to liability, and shall not be construed to create any new or expanded basis for liability.*

(k) *Nothing in this section shall be construed to do any of the following:*

(1) *Relieve a sewer service provider or any other entity from complying with any provision of federal or state law, including those pertaining to water quality.*

(2) *Impair any cause of action by the Attorney General, a district attorney, a city attorney, or other public prosecutor, or impair any other action or proceeding brought by, or on behalf of, a regulatory agency.*

(3) *Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.*

(4) *Relieve any person or entity from liability for action or inaction in bad faith, or without reasonable effort or ordinary care.*

(l) *Nothing in this section shall absolve, indemnify, or protect a prior operator, designated sewer system, or individual from liability based on an act or failure to act prior to the operation period.*

(m) *Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.*

(n) *This section does not apply to a charter city, charter county, or charter city and county.*

(o) *For purposes of this section, an administrator is authorized to act on behalf of an affected residence to the same extent, and in the same manner, as a designated sewer system with the consent of the affected residence.*

SEC. 3. *Section 13442 of the Water Code is amended to read:*

13442. (a) Upon application by an eligible entity, as described in subdivision (b), the state board may approve the payment of grant moneys from the account to that entity to assist in cleaning up a waste, abating the effects of a waste on waters of the state, *addressing actions required pursuant to Section 13289.5*, or addressing an urgent drinking water need without regard to whether the need for drinking water is a result of the discharge of waste.

(b) An entity is eligible to apply for funding pursuant to this section if that entity has authority to undertake the activity described in subdivision (a) for which it seeks moneys and the entity is any of the following:

(1) A public agency.

(2) A tribal government that is on the California Tribal Consultation List maintained by the Native American Heritage Commission and is a disadvantaged community, as defined in Section 79505.5, that agrees to waive tribal sovereign immunity for the explicit purpose of regulation by the state board pursuant to this division.

(3) A not-for-profit organization serving a disadvantaged community, as defined in Section 79505.5.

(4) A community water system, as defined in Section 116275 of the Health and Safety Code, that serves a disadvantaged community, as defined in Section 79505.5.

(5) An administrator, as defined in Section 13288.

(c) An eligible entity shall not become liable to the state board for repayment of moneys paid to the entity under this section and expended in accordance with the state board's approval of payment, but this shall not be a defense to an action brought pursuant to subdivision (c) of Section 13304 for the recovery of moneys paid under this section.

(d) Projects using moneys that are paid to an eligible entity pursuant to this section shall be exempt from state contracting and procurement requirements set forth in the Government Code and the Public Contract Code to the extent necessary to take immediate action to protect public health and safety.

(e) The state board may adopt guidelines for the allocation and administration of these moneys that shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:*

In order to authorize the State Water Resources Control Board to take appropriate action as soon as possible to ensure that adequate, sanitary sewer service is provided to communities, it is necessary for this act to take effect immediately.

SECTION 1. ~~Section 116682 of the Health and Safety Code is amended to read:~~

~~116682.(a)(1)The state board, in circumstances described in subparagraph (A) or (B), may order consolidation with a receiving water system as provided in this section and Section 116684. The consolidation may be physical or operational. The state board may also order the extension of service to an area within a disadvantaged community that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The consolidation shall occur within six months of the initiation of the extension of service. The state board may set timelines and performance measures to facilitate completion of consolidation:~~

~~(A)A public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, or is an at-risk water system.~~

~~(B)A disadvantaged community, in whole or in part, is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water, or are at-risk domestic wells.~~

~~(2)No later than July 1, 2020, the state board shall develop and adopt a policy that provides a process by which members of a disadvantaged community may petition the state board to consider ordering consolidation. The state board shall adopt the policy in a policy handbook consistent with the process provided for in subdivision (a) of Section 116760.43.~~

~~(b)Before ordering consolidation or extension of service as provided in this section, the state board shall do all of the following:~~

~~(1)Encourage voluntary consolidation or extension of service.~~

~~(2)Consider other enforcement remedies specified in this article.~~

~~(3)Consult with, and fully consider input from, the relevant local agency formation commission regarding the provision of water service in the affected area, the recommendations for improving service in a municipal service review, whether the consolidation or extension of service is cost effective, and any other relevant information.~~

~~(4)Consult with, and fully consider input from, the Public Utilities Commission when the consolidation would involve a water corporation subject to the commission's jurisdiction. If a receiving water system is regulated by the Public Utilities Commission, the state board shall inform the commission at least 60 days before the consolidation order, and upon issuance of the order the commission shall open a proceeding to determine cost allocation, ratemaking, and commission public participation requirements for the consolidation process.~~

~~(5)Consult with, and fully consider input from, the local government with land use planning authority over the affected area, particularly regarding any information in the general plan required by Section 65302.10 of the Government Code.~~

~~(6)Consult with, and fully consider input from, the potentially receiving water system and all public water systems in the chain of distribution of the potentially receiving water system. The input from the potentially receiving water system may include, but is not limited to, information related to the classification of the potentially subsumed water system as an at-risk water system or a state small water system or of at-risk domestic wells.~~

~~(7)Consult with, and fully consider input from, any groundwater sustainability agency in a basin that provides groundwater supply, in whole or in part, to the affected area.~~

~~(8)(A) Notify the potentially receiving water system and the potentially subsumed water system, if any, and establish a reasonable deadline of no less than six months, unless a shorter period is justified, for the potentially receiving water system and the potentially subsumed water system, if any, to negotiate consolidation or another means of providing an adequate supply of safe drinking water.~~

~~(B) During this period, the state board shall provide technical assistance and work with the potentially receiving water system and the potentially subsumed water system to develop a financing package that benefits both the receiving water system and the subsumed water system.~~

~~(C) Upon a showing of good cause, the deadline may be extended by the state board at the request of the potentially receiving water system, potentially subsumed water system, the local agency formation commission with jurisdiction over the potentially subsumed water system, or the Public Utilities Commission.~~

~~(9) Consider the affordability of the anticipated monthly rates for drinking water service to residential customers of the potentially subsumed water system.~~

~~(10)(A) Hold at least one public meeting at the initiation of this process in a place as close as feasible to the affected areas. The state board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers. The 30-day notice shall include information about water quality concerns in the area, relevant information about health effects of water contaminants, and information about opportunities for consolidation or extension of service to address water quality issues. The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, the potentially receiving water system, and the public an opportunity to present oral and written comments.~~

~~(B) The state board shall provide an opportunity to submit comments by mail or electronically during the notice period and for at least one week after the meeting.~~

~~(C) The state board shall review comments received during the meeting and received by mail and electronically during the notice period and for one week after the public meeting.~~

~~(11) If the potentially subsumed water system to be consolidated into the receiving water system is an at-risk water system, the state board shall do all of the following:~~

~~(A) Conduct outreach to ratepayers and residents served by the at-risk water system, including identifiable local community groups. These outreach efforts shall gauge community support for consolidation of the at-risk water system. The state board shall consider the results of this outreach when deciding whether to order consolidation of the at-risk water system.~~

~~(B) Consider any petition submitted pursuant to paragraph (2) of subdivision (a) by members of a disadvantaged community served by the at-risk water system.~~

~~(C)(i) If the potentially subsumed water system contends during the initial written comment period set forth in subparagraph (B) of paragraph (10) that it is not an at-risk water system, the state board shall consider during a public meeting any information provided by the potentially subsumed water system in support of its contention that it is not an at-risk water system.~~

~~(ii) The state board shall make reasonable efforts to provide a 30-day notice of the public meeting described in clause (i) to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers.~~

~~(c) If a consolidation or other means of providing an adequate supply of safe drinking water has not been negotiated by the potentially receiving water system and the potentially subsumed water system before the expiration of the deadline set by the state board pursuant to paragraph (8) of subdivision (b), the state board shall do the following:~~

~~(1) Consult with the potentially receiving water system and the potentially subsumed water system, if any.~~

~~(2)(A) If the consolidation has not concluded within six months following the first public meeting held pursuant to paragraph (10) of subdivision (b), conduct a public meeting in a location as close as feasible to the affected communities. The meeting shall be held after the state board has made the findings described in subdivision (d).~~

~~(B) The state board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, property owners to receive water service through service extension or in the area of the subsumed water system, and the public, and to all affected local government agencies and drinking water service providers.~~

~~(C) The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, and the potentially receiving water system an opportunity to present oral and written comments.~~

~~(D) The meeting shall provide an opportunity for public comment.~~

~~(3)The state board shall make reasonable efforts to ensure that a receiving water system and a subsumed water system are informed on a regular basis of progress regarding actions taken pursuant to this section.~~

~~(d)Before ordering consolidation or extension of service, the state board shall find all of the following:~~

~~(1)The potentially subsumed water system has consistently failed to provide an adequate supply of safe drinking water or it is at risk of doing so, as determined by the state board.~~

~~(2)Reasonable efforts to negotiate voluntary consolidation or extension of service were made.~~

~~(3)Consolidation of the receiving water system and subsumed water system or extension of service is appropriate and technically and economically feasible. In making this finding, the state board shall consider how many owners of dwelling units served by domestic wells in the service area have provided, or are likely to provide, written consent to extension of service. The state board need not find that any specific percentage of the owners of dwelling units served by domestic wells in the service area are likely to consent to the consolidation or extension of service to serve their dwelling unit.~~

~~(4)There is no pending local agency formation commission process that is likely to resolve the problem in a reasonable amount of time.~~

~~(5)Concerns regarding water rights and water contracts of the subsumed and receiving water systems have been adequately addressed.~~

~~(6)Consolidation or extension of service is an effective and cost-effective means to provide an adequate supply of safe drinking water.~~

~~(7)The capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving the current customers of the subsumed water system, infill sites within the community served by the subsumed water system, residents of disadvantaged communities in existence as of the date of consolidation and that are located along the service line connecting the subsumed water system and the receiving water system, and vacant lots within the community served by the subsumed water system that are zoned to allow residential use and have no more than one other vacant lot between that parcel and an infill parcel, including capacity needed for services such as firefighting.~~

~~(e)Upon ordering consolidation or extension of service, the state board shall do all of the following:~~

~~(1)As necessary and appropriate, as determined by the state board, compensate the receiving water system for any capacity lost as a result of the consolidation or extension of service either by paying the water system's capacity charge set out in the water system's adopted rate structure or by providing additional capacity needed as a result of the consolidation or extension of service, and by paying legal fees. When the receiving water system is compensated for capacity lost by payment of a capacity charge, the capacity charge shall be paid only to the extent that it does not exceed the reasonable cost of providing the service in accordance with Section 66043 of the Government Code. If capacity beyond what is needed for consolidation is provided by a project funded through the state board, the state board shall retain an option to use that capacity for future consolidations, without paying additional capacity charges, for five years, unless it releases that option in writing. Funding pursuant to this paragraph is available for the general purpose of providing financial assistance for the infrastructure needed for the consolidation or extension of service and does not need to be specific to each individual consolidation project. The state board shall provide appropriate financial assistance for the water infrastructure needed for the consolidation or extension of service. The state board's existing financial assistance guidelines and policies shall be the basis for the financial assistance.~~

~~(2)Ensure payment of standard local agency formation commission fees caused by state board-ordered consolidation or extension of service.~~

~~(3)Adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system, as determined by the Public Utilities Commission or the state board.~~

~~(4)Coordinate with the appropriate local agency formation commission and other relevant local agencies to facilitate the change of organization or reorganization.~~

~~(5)If ordering consolidation or extension of service between two water systems, consider any existing domestic wells within the service area that could also be subject to consolidation or extension of service pursuant to this section.~~

~~(6)If ordering consolidation or extension of service to a community containing residences served by domestic wells, promptly take all reasonable steps to obtain written consent to the consolidation or extension of service from an owner of each residence served by a domestic well.~~

~~(f)If funds are appropriated for this purpose, the state board may make funds available for the purposes of subdivision (e), as necessary and appropriate, to the receiving water system, the subsumed water system, or an administrator providing full oversight of construction or development projects related to a consolidation or extension of service.~~

~~(g)(1) For purposes of this section, fees, charges, and terms and conditions that may be imposed on new and existing customers of a receiving water system shall be subject to the following limitations:~~

~~(A) The consolidated water system shall not increase charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customers receive a corresponding benefit.~~

~~(B) Except as provided in paragraph (2), fees or charges imposed on a customer of a subsumed water system shall not exceed the costs of the service.~~

~~(C) Except as provided in paragraph (2), the receiving water system shall not charge any fees to, or place conditions on, customers of the subsumed water system that it does not charge to, or impose on, new customers that are not subject to the consolidation with the receiving water system.~~

~~(2)(A) Notwithstanding subparagraph (B) or (C) of paragraph (1), if costs incurred by the receiving water system in completing the consolidation or extension of service are not otherwise recoverable as provided in subparagraph (B) of this paragraph, the receiving water system may charge fees to customers of the subsumed water system to recover those costs.~~

~~(B) A receiving water system shall not charge a fee pursuant to subparagraph (A) for costs that are otherwise recoverable from the state, the federal government, programs administered by local agencies, parties responsible for causing contamination that the consolidation or extension of service is designed to address, or other sources, as determined by the state board.~~

~~(h) The state board shall not, pursuant to this section, fund public works or upgrades unrelated to the delivery of an adequate supply of affordable, safe drinking water, including, but not limited to, the installation of streetlights, sidewalks, curbs, and gutters. A local agency's decision whether to provide these public works or upgrades shall not delay the consolidation or extension of service.~~

~~(i) When a public water system is operated by a local educational agency, the state board may order a receiving water system to consolidate or extend service to a public water system operated by a local educational agency pursuant to this section if both the following additional conditions are met:~~

~~(1) The local educational agency serves students from one or more census blocks that are disadvantaged communities.~~

~~(2) The state board obtains a written determination from the local educational agency that the state board's analysis in the financing package, developed pursuant to subparagraph (B) of paragraph (8) of subdivision (b), indicates that consolidating or extending service would not result in additional unacceptable costs to the local educational agency and would result in safe drinking water being available to the local educational agency.~~

~~(j) An order pursuant to this section shall not require consolidation or extension of service to a residence served solely by a domestic well until an owner of the affected residence provides written consent to the consolidation or extension of service. Any domestic well owner within the consolidation or extended service area that does not provide written consent shall be ineligible, until the consent is provided, for any future water-related grant funding from the state other than funding to mitigate a well failure, disaster, or other emergency.~~

~~(k) A finding that a disadvantaged community, in whole or in part, is substantially reliant on at-risk domestic wells shall be based on the maps created pursuant to paragraph (1) of subdivision (a) of Section 116772 and inspection or testing of the domestic wells showing an imminent risk of failing to provide an adequate supply of safe drinking water.~~

~~(f) The state board may prioritize consolidation of an at-risk water system that has historically been overburdened by pollution and industrial development or faced other environmental justice hurdles.~~

~~(m) Division 3 (commencing with Section 56000) of Title 5 of the Government Code does not apply to an action taken by the state board pursuant to this section.~~

~~(n) If sufficient funding is available, the state board may order consolidation of sewer service along with an order of consolidation of drinking water pursuant to this section, when both the subsumed water system and receiving water system provide sewer service, after doing all of the following:~~

~~(1) Consulting with, and fully considering input from, the relevant regional water board.~~

~~(2) Consulting with, and fully considering input from, the receiving water system.~~

~~(3) Conducting outreach to ratepayers and residents served by the receiving water system and subsumed water system, including identifiable local community groups. These outreach efforts shall gauge community support for consolidation of the subsumed water system. The state board shall consider the results of this outreach when deciding whether to order consolidation of the sewer services of the subsumed water system.~~

~~SEC. 2. Section 116686 of the Health and Safety Code is amended to read:~~

~~116686.(a)(1)To provide an adequate supply of affordable, safe drinking water to disadvantaged communities, voluntary participants, and public water systems that have demonstrated difficulty in maintaining technical, managerial, and financial capacity and to prevent fraud, waste, and abuse, the state board may do any of the following, if sufficient funding is available:~~

~~(A)(i)Contract with, or provide a grant to, an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of those services, to a designated water system to assist the designated water system with the provision of an adequate supply of affordable, safe drinking water, which services may include steps necessary to enable consolidation:~~

~~(ii)To fulfill the requirements of this section, the state board may contract with more than one administrator, but only one administrator may be assigned to provide services to a given designated water system:~~

~~(iii)An administrator may provide services to more than one designated water system:~~

~~(B)Order a designated water system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated water system, from an administrator selected by the state board:~~

~~(C)Order a designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator appointed by the state board for full oversight of construction or development projects related to a consolidation or extension of service, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated water system:~~

~~(2)In performing its duties pursuant to paragraph (1), the state board may use criteria from the handbook adopted pursuant to subdivision (g):~~

~~(3)When contracting with, or ordering a designated water system to accept, an administrator pursuant to paragraph (1), the state board may also require the administrator to provide administrative, technical, legal, or managerial services for any sewer service provided by the designated water system:~~

~~(b)Unless the state board has already held a public meeting pursuant to subdivision (b) of Section 116682, the state board shall do all of the following to determine that a public water system or state small water system is a designated water system:~~

~~(1)Provide the public water system or state small water system with notice and an opportunity to show either of the following:~~

~~(A)That the public water system or state small water system has neither consistently failed to provide an adequate supply of affordable, safe drinking water nor is it an at-risk water system:~~

~~(B)That the public water system or state small water system has taken steps to timely address its failure to provide an adequate supply of affordable, safe drinking water and that it is not an at-risk water system:~~

~~(2)(A)Conduct a public meeting in a location as close as feasible to the affected community:~~

~~(B)The state board shall make reasonable efforts to provide a 30-day notice of the public meeting to affected ratepayers, renters, and property owners:~~

~~(C)The state board shall provide representatives of the public water system or state small water system, affected ratepayers, renters, and property owners with an opportunity to present oral and written comments at the public meeting:~~

~~(D)The state board shall provide at the meeting an opportunity for public comment:~~

~~(3)Provide the public with an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2):~~

~~(4)If the public water system is operated by a local educational agency, obtain the local educational agency's agreement, in writing, to the appointment of an administrator:~~

~~(c)The state board shall make financial assistance available to an administrator of a designated water system, as appropriate and to the extent that funding is available:~~

~~(d)The authority granted to an administrator by the state board pursuant to subdivision (a) may include, but shall not be limited to, the authority to do all of the following:~~

~~(1)Expend available moneys for capital infrastructure improvements that the designated water system needs to provide an adequate supply of affordable, safe drinking water or to execute a consolidation ordered pursuant to Section 116682:~~

~~(2)Set and collect user water rates and fees, subject to approval by the state board. The state board shall consider affordability when approving water rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII D of the California Constitution.~~

~~(3) Expend available moneys for operation and maintenance costs of the designated water system.~~

~~(4) Expend available moneys necessary to achieve consolidation, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.~~

~~(e) The state board shall work with the administrator of a designated water system and the communities served by that designated water system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver an adequate supply of affordable, safe drinking water so that the services of the administrator are no longer necessary.~~

~~(f) A designated water system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated water system and provide an adequate supply of affordable, safe drinking water or provision of sewer service.~~

~~(g) Before ordering a designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator pursuant to subdivision (a), the state board shall develop standards, terms, and procedures in a handbook adopted consistent with the process provided for in subdivision (a) of Section 116760.43 for all of the following:~~

~~(1) Ensuring compliance with subdivision (f).~~

~~(2) Providing opportunity for public comment on the selection of an administrator and the services to be provided.~~

~~(3) Providing public access to budgets, ownership and financial information, and other documents and records related to the provision of water service to the designated water system or affected residences and to the management of the designated water system by the administrator.~~

~~(4) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated water system for significant decisions or actions made on behalf of the designated water system, including, but not limited to, establishing operating budgets, altering water rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.~~

~~(5) Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.~~

~~(6) Ensuring an administrator acts in the best interests of the community served.~~

~~(7) Development and approval of a post-administrator drinking water service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.~~

~~(h) An administrator appointed pursuant to this section for a designated water system shall not be liable for claims by past or existing ratepayers, or those who consumed water provided through the designated water system, if good faith, reasonable effort, and ordinary care were used by the administrator to assume possession of, or to operate, the designated water system.~~

~~(i) An administrator appointed pursuant to this section for a designated water system shall not be liable for claims by past or existing ratepayers, or those who consumed water provided through the designated water system, for any injury or damages that occurred before the commencement of the operation period.~~

~~(j) This section does not limit or supersede any other law authorizing claims against the state board or providing a defense to liability, and shall not be construed to create any new or expanded basis for liability.~~

~~(k) Nothing in this section shall be construed to do any of the following:~~

~~(1) Relieve a water district, water wholesaler, or any other entity from complying with any provision of federal or state law, including those pertaining to drinking water quality.~~

~~(2) Impair any cause of action by the Attorney General, a district attorney, a city attorney, or other public prosecutor, or impair any other action or proceeding brought by, or on behalf of, a regulatory agency.~~

~~(3) Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.~~

~~(4) Relieve any person or entity from liability for action or inaction in bad faith, or without reasonable effort or ordinary care.~~

~~(l) Nothing in this section shall absolve, indemnify, or protect a prior operator, designated water system, or individual from liability based on an act or failure to act prior to the operation period.~~

~~(m) Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with~~

~~Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section:~~

~~(n)For purposes of this section, a local government, as defined in Article XIII C of the California Constitution, that sets water rates in accordance with Article XIII D of the California Constitution shall be deemed to be providing affordable water:~~

~~(o)This section does not apply to a charter city, charter county, or charter city and county:~~

~~(p)(1)For purposes of this section, an administrator is authorized to act on behalf of an affected residence to the same extent, and in the same manner, as a designated water system with the consent of the affected residence:~~

~~(2)For purposes of this section, where an administrator is authorized to act on behalf of a designated public water system, it may also act on behalf of a voluntary participant:~~

~~(q)The Legislature finds and declares that the funding provided to a state small water system, affected residence, public water system, voluntary participant, or administrator for purposes of this section serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution:~~

~~(r)For purposes of this section, the following terms have the following meanings:~~

~~(1)“Administrator” means a person whom the state board has determined is competent to perform the administrative, technical, operational, legal, or managerial services required for purposes of this section, pursuant to criteria set forth in the handbook adopted pursuant to subdivision (g). Notwithstanding any other law, a privately owned public utility may serve as an administrator for purposes of this section:~~

~~(2)“Designated water system” means any of the following:~~

~~(A)A public water system or state small water system that has been ordered to consolidate pursuant to Section 116682.~~

~~(B)A public water system or state small water system that serves a disadvantaged community and that the state board finds consistently fails to provide an adequate supply of affordable, safe drinking water.~~

~~(C)An at-risk water system:~~

~~(3)“Voluntary participant” means the owner of a domestic well or state small water system who has agreed to accept financial assistance pursuant to Chapter 4.6 (commencing with Section 116765) for the provision of an adequate and affordable supply of safe drinking water:~~

AMENDED
IN
ASSEMBLY
JANUARY 17, 2024

AMENDED
IN
ASSEMBLY
MARCH 16, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 817

Introduced by Assembly Member Pacheco
(Coauthor: Assembly Member Wilson)

February 13, 2023

An act to add *and repeal* Section 54953.05 ~~to~~ *of* the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 817, as amended, Pacheco. Open meetings: teleconferencing: subsidiary body.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, each legislative body of a local agency to provide notice of the time and place for its regular meetings and an agenda containing a brief general description of each item of business to be transacted. The act also requires that all meetings of a legislative body be open and public, and that all persons be permitted to attend unless a closed session is authorized. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

Existing ~~law, until January 1, 2024,~~ *law* authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency ~~or in other situations related to public health that exempt a legislative body from the general requirements~~ (emergency provisions) ~~and impose~~ *and, until January 1, 2026, in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met (nonemergency provisions).* Existing *law imposes* different requirements for notice, agenda, and public participation, as ~~prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment. prescribed, when a legislative body is using alternate teleconferencing provisions. The nonemergency provisions impose restrictions on remote participation by a member of the legislative body and require the legislative body to specific means by which the public may remotely hear and visually observe the meeting.~~

~~Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body.~~

This ~~bill~~ *bill, until January 1, 2026,* would authorize a subsidiary body, as defined, to use *similar* alternative teleconferencing provisions ~~similar to the emergency provisions indefinitely and without regard to a state of emergency. and would impose requirements for notice, agenda, and public participation, as prescribed.~~ In order to use teleconferencing pursuant to this act, the bill would require the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote, before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

This bill would make legislative findings to that effect.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953.05 is added to the Government Code, to read:

54953.05. (a) (1) The definitions in Section 54953, as that section may be amended from time to time, apply for purposes of this section.

(2) For purposes of this section, "subsidiary body" means a legislative body that meets all of the following:

(A) Is described in subdivision (b) of Section 54952.

(B) Serves exclusively in an advisory capacity.

(C) Is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements.

(b) A subsidiary body may use teleconferencing without complying with paragraph (3) of subdivision (b) of Section 54953, if the subsidiary body complies with all of the following:

(1) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the subsidiary body.

(2) Each member of the subsidiary body shall participate through both audio and visual technology.

(3) The subsidiary body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the subsidiary body:

(A) A two-way audiovisual platform.

(B) A two-way telephonic service and a live webcasting of the meeting.

(4) The subsidiary body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(5) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the subsidiary body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(6) The agenda shall identify and include an opportunity for all persons to attend and address the subsidiary body directly pursuant to Section 54954.3 via a call-in option or via an internet-based service option.

(7) In the event of a disruption that prevents the subsidiary body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the subsidiary body's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the subsidiary body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the subsidiary body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(8) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the subsidiary body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(9) The subsidiary body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the subsidiary body and offer comment in real time.

(A) A subsidiary body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to paragraph (8), to provide public comment until that timed public comment period has elapsed.

(B) A subsidiary body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to paragraph (8), or otherwise be recognized for the purpose of providing public comment.

(C) A subsidiary body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to paragraph (8), until the timed general public comment period has elapsed.

(c) In order to use teleconferencing pursuant to this section, the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action shall make the following findings by majority vote before the subsidiary body uses teleconferencing pursuant to this section for the first time, and every 12 months thereafter:

(1) The legislative body has considered the circumstances of the subsidiary body.

(2) Teleconference meetings of the subsidiary body would enhance public access to meetings of the subsidiary body.

(3) Teleconference meetings of the subsidiary body would promote the attraction, retention, and diversity of subsidiary body members.

(d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds *and repeals* Section 54953.05 ~~to~~ of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Section 54953.05 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to provide opportunities for public participation in meetings of specified public agencies and to promote the attraction and retention of members of those agencies.

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL**NO. 2302**

**Introduced by Assembly Member Addis
(Coauthor: Senator Laird)**

February 12, 2024

An act to amend Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2302, as introduced, Addis. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in specified circumstances if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction, and the legislative body complies with prescribed requirements. Existing law imposes prescribed restrictions on remote participation by a member under these alternative teleconferencing provisions, including establishing limits on the number of meetings a member may participate in solely by teleconference from a remote location, prohibiting such participation for a period of more than 3 consecutive months or 20% of the regular meetings for the local agency within a calendar year, or more than 2 meetings if the legislative body regularly meets fewer than 10 times per calendar year.

This bill would revise those limits, instead prohibiting such participation for more than a specified number of meetings per year, based on how frequently the legislative body regularly meets. The bill, for the purpose of counting meetings attended by teleconference, would define a "meeting" as any number of meetings of the legislative body of a local agency that begin on the same calendar day.

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

This bill would make legislative findings to that effect.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

Bill Text**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

SECTION 1. Section 54953 of the Government Code, as amended by Section 1 of Chapter 534 of the Statutes of 2023, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in either of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (D), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 45 days after teleconferencing for the first time pursuant to subparagraph (A) or (B) of paragraph (1), and every 45 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) (A) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for ~~a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.~~ *more than the following number of meetings, as applicable:*

(i) Two meetings per year, if the legislative body regularly meets once per month or less.

(ii) Five meetings per year, if the legislative body regularly meets twice per month.

(iii) Seven meetings per year, if the legislative body regularly meets three or more times per month.

(B) For the purpose of counting meetings attended by teleconference under this paragraph, a "meeting" shall be defined as any number of meetings of the legislative body of a local agency that begin on the same calendar day.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 54953 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for remote participation by a member of a legislative body in teleconference meetings.

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AMENDED
IN
ASSEMBLY
APRIL 24, 2024

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 2715

Introduced by Assembly Member Boerner

February 14, 2024

An act to amend Section 54957 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2715, as amended, Boerner. Ralph M. Brown Act: closed sessions.

Existing law, the Ralph M. Brown Act, generally requires that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate. Existing law authorizes a legislative body to hold a closed session *with specified individuals* on, among other things, matters posing a threat to the security of essential public services, as specified.

This bill would additionally authorize a *legislative body to hold a* closed session ~~to consider or evaluate matters related to cybersecurity, as specified, provided that any action taken on those matters is done in open session. with other law enforcement or security personnel and to hold a closed session on a threat to critical infrastructure controls or critical infrastructure information, as defined, relating to cybersecurity.~~

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

This bill would make legislative findings to that effect.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54957 of the Government Code is amended to read:

54957. (a) (1) This chapter does not prevent the legislative body of a local agency from holding closed sessions with the Governor, Attorney General, district attorney, agency counsel, sheriff, or chief of police, ~~or their respective deputies, or other law enforcement or security personnel,~~ or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, **ATTACHMENT A**

wastewater treatment, natural gas service, and electric service, ~~or~~ a threat to the public's right of access to public services or public ~~facilities~~: *facilities, or a threat to critical infrastructure controls or critical infrastructure information relating to cybersecurity.*

(2) For purposes of this subdivision, the following definitions apply:

(A) "Critical infrastructure controls" means networks and systems controlling assets so vital to the local agency that the incapacity or destruction of those networks, systems, or assets would have a debilitating impact on public health, safety, economic security, or any combination thereof.

(B) "Critical infrastructure information" means information not customarily in the public domain pertaining to any of the following:

(i) Actual, potential, or threatened interference with, or an attack on, compromise of, or incapacitation of critical infrastructure controls by either physical or computer-based attack or other similar conduct, including, but not limited to, the misuse of, or unauthorized access to, all types of communications and data transmission systems, that violates federal, state, or local law or harms public health, safety, or economic security, or any combination thereof.

(ii) The ability of critical infrastructure controls to resist any interference, compromise, or incapacitation, including, but not limited to, any planned or past assessment or estimate of the vulnerability of critical infrastructure.

(iii) Any planned or past operational problem or solution regarding critical infrastructure controls, including, but not limited to, repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to interference, compromise, or incapacitation of critical infrastructure controls.

~~(b) This chapter does not prevent the legislative body of a local agency from holding closed sessions to consider or evaluate matters related to cybersecurity, including vulnerabilities of, or potential or ongoing threats to, an agency's cybersecurity provided that any action taken by the legislative body on those matters is done in open session.~~

~~(c)~~

(b) (1) Subject to paragraph (2), this chapter does not prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of their right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. This subdivision shall not limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 54957 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By authorizing closed sessions of legislative bodies relating to cybersecurity, this bill allows a legislative body to receive, confidentially discuss, and learn about cybersecurity risks, vulnerabilities, and threats facing the agency, thereby enabling the legislative body to make fully informed cybersecurity-related decisions in open session. The bill protects information and deliberations related to an agency's cybersecurity in order to protect against current or future cybersecurity attacks on the agency that can damage public facilities and services.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which amends Section 54957 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the

writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

By authorizing closed sessions of legislative bodies relating to cybersecurity, this bill allows a legislative body to receive, confidentially discuss, and learn about cybersecurity risks, vulnerabilities, and threats facing the agency, thereby enabling the legislative body to make fully informed cybersecurity-related decisions in open session. The bill protects information and deliberations related to an agency's cybersecurity in order to protect against current or future cybersecurity attacks on the agency that can damage public facilities and services.

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AMENDED
IN
ASSEMBLY
SEPTEMBER 05, 2023

AMENDED
IN
ASSEMBLY
AUGUST 14, 2023

AMENDED
IN
SENATE
APRIL 24, 2023

AMENDED
IN
SENATE
MARCH 22, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 537

Introduced by Senator Becker

February 14, 2023

An act to amend Section 54953 of, and to add and repeal Section 54953.4 of, the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 537, as amended, Becker. Open meetings: multijurisdictional, cross-county agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. These circumstances include if a member shows "just cause," including for a childcare or caregiving need of a relative that requires the member to participate remotely.

This bill would expand the circumstances of “just cause” to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.

The bill would authorize the legislative body of a multijurisdictional, cross-county agency, as specified, to use alternate teleconferencing provisions if the eligible legislative body has adopted an authorizing resolution, as specified. The bill would also require the legislative body to provide a record of attendance *of the members of the legislative body, the number of community members in attendance in the teleconference meeting*, and the number of public comments on its internet website within ~~7~~ 10 days after a teleconference meeting, as specified. The bill would require at least a quorum of members of the legislative body to participate from one or more physical locations that are open to the public and within the boundaries of the territory over which the local agency exercises jurisdiction. The bill would require a member who receives compensation for their service, as specified, on the legislative body to participate from a physical location that is open to the public. The bill would require the legislative body to identify in the agenda each member who plans to participate remotely and to include the address of the publicly accessible building from which each member will participate via teleconference. The bill would prohibit a member from participating remotely pursuant to these provisions unless the remote location is the member’s office or another location in a publicly accessible building and is more than 40 miles from the in-person location of the meeting. The bill would repeal these alternative teleconferencing provisions on January 1, 2026.

This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 557 to be operative only if this bill and AB 557 are enacted and this bill is enacted last.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

This bill would make legislative findings to that effect.

This bill would declare that it is to take effect immediately as an urgency statute.

Digest Key

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953 of the Government Code, as amended by Section 1 of Chapter 285 of the Statutes of 2022, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

- (A) All votes taken during a teleconferenced meeting shall be by rollcall.
- (B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.
- (C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a

disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items

during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(E) An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 1.5. *Section 54953 of the Government Code, as amended by Section 1 of Chapter 285 of the Statutes of 2022, is amended to read:*

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in ~~any~~ *either* of the following circumstances:

~~(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.~~

~~(B)~~

(A) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

~~(C)~~

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph ~~(B)~~, (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to

the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph ~~(F)~~; (D), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph ~~(F)~~; (D), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph ~~(F)~~; (D), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, ~~or state or local officials have imposed or recommended measures to promote social distancing~~; in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than ~~30~~ 45 days after teleconferencing for the first time pursuant to subparagraph ~~(A)~~; (B), or ~~(C)~~ (A) or (B) of paragraph (1), and every ~~30~~ 45 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

~~(B) Any of the following circumstances exist:~~

~~(i)~~

(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.

~~(ii) State or local officials continue to impose or recommend measures to promote social distancing.~~

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's

control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing ~~members of~~ the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(E) An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, ~~2024~~, 2026, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as amended by Section 2 of Chapter 285 of the Statutes of 2022, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (f).

(D) Travel while on official business of the legislative body or another state or local agency.

(E) An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(6) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(7) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(8) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(j) This section shall become operative January 1, 2024, shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2.5. *Section 54953 of the Government Code, as amended by Section 2 of Chapter 285 of the Statutes of 2022, is amended to read:*

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in ~~subdivision (d)~~ *subdivisions (d) and (e)*.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with *the requirements of* paragraph (3) of subdivision (b) ~~if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following: if the legislative body complies with the requirements of paragraph (2) of this subdivision in either of the following circumstances:~~

(A) The legislative body ~~shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:~~ *holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.*

~~(i) A two-way audiovisual platform;~~

~~(ii) A two-way telephonic service and a live webcasting of the meeting;~~

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) *A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:*

~~(B)~~

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

~~(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting;~~

~~(D)~~

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

~~(E)~~

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

~~(F)~~

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

~~(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:~~

~~(A) One of the following circumstances applies:~~

~~(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.~~

~~(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 4 (commencing with Section 56) of Part 2.6 of Division 4 of the Civil Code). For the purposes of this clause, the following requirements apply:~~

~~(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.~~

~~(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.~~

~~(B) The member shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.~~

~~(C) The member shall participate through both audio and visual technology.~~

~~(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.~~

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (D), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 45 days after teleconferencing for the first time pursuant to subparagraph (A) or (B) of paragraph (1), and every 45 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing ~~members of~~ the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

~~(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.~~

~~(2) "Just cause" means any of the following:~~

~~(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.~~

~~(B) A contagious illness that prevents a member from attending in person.~~

~~(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (f).~~

~~(D) Travel while on official business of the legislative body or another state or local agency.~~

~~(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.~~

~~(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.~~

(1) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

~~(5)~~

(2) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

~~(6) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.~~

~~(7) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.~~

~~(8) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.~~

(j) This section shall become operative January 1, ~~2024, shall remain in effect only until January 1, 2026, and as of that date is repealed: 2026.~~

SEC. 3. Section 54953.4 is added to the Government Code, to read:

54953.4. (a) For purposes of this section, the following definitions apply:

(1) "Eligible legislative body" means a board, commission, or advisory body of a multijurisdictional, cross-county agency, the membership of which board, commission, or advisory body is appointed and which board, commission, or advisory body is otherwise subject to this chapter.

(2) "Multijurisdictional" means a legislative body that includes representatives from more than one county, city, city and county, special district, or a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1.

(b) An eligible legislative body may use teleconferencing without complying with paragraph (3) of subdivision (b) of Section 54953 if the legislative body complies with this section.

(c) An eligible legislative body shall not use teleconferencing pursuant to this section unless the eligible legislative body has adopted a resolution that authorizes the eligible legislative body to use teleconferencing at a regular meeting in open session.

(d) An eligible legislative body that holds a meeting pursuant to this section shall comply with all of the following:

(1) In each notice and posting of the time or agenda of the teleconferenced meeting, the eligible legislative body shall include the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(2) In the event of a disruption that prevents the eligible legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the eligible legislative body's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the eligible legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the eligible legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(3) The eligible legislative body shall not require public comments to be submitted in advance of the meeting and shall provide an opportunity for the public to address the legislative body and offer comment in real time.

(4) (A) If an eligible legislative body provides a timed public comment period for each agenda item, the eligible legislative body shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subdivision (f), to provide public comment until that timed public comment period has elapsed.

(B) If an eligible legislative body does not provide a timed public comment period, but takes public comment separately on each agenda item, the eligible legislative body shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subdivision (f).

(C) If an eligible legislative body provides a timed general public comment period that does not correspond to a specific agenda item, the eligible legislative body shall not close the public comment period or the opportunity to register, pursuant to subdivision (f), until the timed general public comment period has elapsed.

(5) Except as provided in Section 54953.3, an eligible legislative body, within ~~seven~~ 10 days of holding a teleconference meeting, shall provide ~~both~~ all of the following on its internet website:

(A) A record of attendance of ~~both community members and the~~ members of the eligible legislative body.

(B) (i) The number of community members in attendance in the teleconference meeting.

(ii) The number of community members in attendance at the physical location of the public meeting may be provided in addition to the requirement specified in clause (i).

~~(B)~~

(C) The number of public comments in the meeting.

(6) (A) At least a quorum of the members of the eligible legislative body shall participate from one or more physical locations that are open to the public and within the boundaries of the territory over which the local agency exercises jurisdiction.

(B) Any member of the eligible legislative body who receives compensation for their service on the eligible legislative body shall participate from a physical location that is open to the public. For purposes of this subparagraph, "compensation" does not include reimbursement for traveling or other actual and necessary expenses incurred in connection with participating in person.

(C) The eligible legislative body shall identify each member of the eligible legislative body who plans to participate remotely in the agenda and shall include the address of the publicly accessible building from where they will participate via teleconference. The specific room or location within the publicly accessible building from which a member participates via teleconference is not required to be publicly accessible.

(7) The eligible legislative body shall provide a physical location from which the public may attend or comment.

(8) The eligible legislative body shall comply with all requirements of Section 54953 except paragraph (3) of subdivision (b) of that section.

(e) A member of the eligible legislative body shall not participate in a meeting remotely pursuant to this section unless they meet both of the following requirements:

(1) The location from which the member participates is more than 40 miles from the in-person location of the meeting.

(2) The member participates from their office or another location in a publicly accessible building.

(f) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of a third-party internet website or other online platform during a meeting held pursuant to this section may be required to register to log in to the teleconference if both of the following conditions are met:

(1) The internet website or online platform requires that registration.

(2) The decision to require registration is not under the control of the legislative body.

(g) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 4. The Legislature finds and declares that Sections 1, 2, and 3 of this act, which amend Section 54953 of, and add Section 54953.4 to, the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

Permitting remote participation for just cause due to a member's immunocompromised family member, as well as extending the operation of teleconferencing for legislative bodies of multijurisdictional, cross-county agencies with appointed membership, will further increase public participation, increase the pool of people who are able to serve on these bodies, including those that would otherwise have to travel long distances to attend meetings in person, and protect the health and safety of the public.

SEC. 5. *Sections 1.5 and 2.5 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 557. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 557, in which case Section 54953 of the Government Code, as amended by Sections 1 and 2 of this bill, shall remain operative only until the operative date of Assembly Bill 557, at which time Sections 1.5 and 2.5 of this bill shall become operative.*

~~SEC. 5.~~**SEC. 6.** The Legislature finds and declares that Sections 1, 2, and 3 of this act, which amend Section 54953 of, and add Section 54953.4 to, the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3

of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Permitting remote participation for just cause due to a member's immunocompromised family member, as well as extending the operation of teleconferencing for legislative bodies of multijurisdictional, cross-county agencies with appointed membership, will further increase public participation, increase the pool of people who are able to serve on these bodies, including those that would otherwise have to travel long distances to attend meetings in person, and protect the health and safety of the public.

~~SEC. 6.~~ **SEC. 7.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Virtual meetings have allowed much easier access to appointed bodies of local agencies with far more members of the public participating in each meeting. This has created greater equity in the process and fostered the health of our democracy. In-person meetings may jeopardize the health and safety of vulnerable citizens due to ongoing risks of illnesses.

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ATTACHMENT 4.A

Alternate 56133 Legislative proposal

An amendment to add a new section at Government Code Section 56133(f) that reads:

56133(f) - Prior to extending service pursuant to the exemptions in subsection 56133(e), the agency shall notify the executive officer of the local agency formation commission 60 days prior to its intention to extend services under an exemption.

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State of California

GOVERNMENT CODE

Section 56133

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

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

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

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

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

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

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

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

(2) The transfer of nonpotable or nontreated water.

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

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

(5) A local publicly owned electric utility, as defined by Section 224.3 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundary.

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

(Amended by Stats. 2022, Ch. 37, Sec. 3. (AB 2957) Effective January 1, 2023.)

C A L A F C O
LEGISLATIVE PROPOSAL REQUEST
2020 Legislative Year
DRAFT 11- 20 – 2019 (Updated)

CALAFCO will consider any proposals for improving or clarifying the Cortese-Knox-Hertzberg Act or related laws when it can be shown to provide benefit or assistance to the Mission and policy principles of CALAFCO. Requesting agencies are expected to provide sufficient explanation for proposals in order for the CALAFCO Legislative Committee to consider the proposal. Please complete the following questions as thoroughly as possible. PROPOSALS ARE DUE BY 12:00 P.M., MONDAY, NOVEMBER 4, 2019.

REMEMBER THAT PROPOSALS FOR THE OMNIBUS BILL MUST BE NON-CONTROVERSIAL, HAVE NO OPPOSITION AND BE MINOR TECHNICAL CORRECTIONS. WE CANNOT ACCEPT ANYTHING FOR THE OMNIBUS THAT DOES NOT MEET THIS CRITERIA AND PROPOSALS OF THIS NATURE FOR THE OMNIBUS WILL NOT BE FORWARDED TO THE LEGISLATIVE COMMITTEE.

PROPOSAL SUMMARY:

What Code Section (s) and specific language are proposed for change?

Amend C-K-H Government Code Section 56133:

#1

Add clarifying wording that *a commission shall determine when exemptions are applicable* for providing new or extended services under Section 56133 (e).

#2

Add reference to *“functions”* in Section 56133 so that all references to “new or extended services” will read “new or extended services or *functions*”.

Which CALAFCO Board-adopted legislative policy or priority does this proposal address? .

The proposed amendments reflect policies of CALAFCO to address good governance on behalf of applicable local agencies. Specifically:

1.1 Support legislation which enhances LAFCo authority and powers to carry out the legislative findings and authority in Government Code §56000 et seq., and oppose legislation which diminishes LAFCo authority.

2.1. Support the independence of LAFCo from local agencies.

4.3. Support orderly boundaries of local agencies and the elimination of islands within the boundaries of agencies.

5.2. Support LAFCo authority as the preferred method of local governance. Support the availability of LAFCo tools which provide options for local governance and efficient service delivery, including the authority to impose conditions that assure a proposal's conformity with LAFCo's legislative mandates.

5.3. Support the creation or reorganization of local governments in a deliberative, open process which will fairly evaluate the proposed new or successor agency's long-term financial viability, governance structure and ability to efficiently deliver proposed services.

Is this an Omnibus suggestion or stand-alone CALAFCO sponsored bill proposal?

_____ Omnibus X Stand-alone CALAFCO sponsored bill

1. **PROBLEM. The problem(s) that the proposal would address are:**

Provide a detailed explanation of the problem(s) identified that would be solved with this proposal.

Clarifying that LAFCos determine applicability of exemptions for extraterritorial service contracts in Section 56133 (e) addresses situations where some cities and districts believe absent specific language that they are not subject to LAFCo approval for outside service agreements. Additionally, Section 56133 currently refers to only "new or extended services". However, "functions" are also subject to 56133 and, thus, should be included in 56133. For instance, the definition of "District" in Section 56063 states that districts are agencies of the state formed for the local performance of "governmental or proprietary *functions* within limited boundaries and in areas outside district boundaries when authorized by the commission pursuant to Section 56133." "Functions" and "Services" are two separate things and defined differently in C-K-H. Function refers to a power, whereas; service refers to a specific activity that is performed. Both are subject to 56133 and both should be included in the section.

As further explanation, C-K-H requires LAFCos to exercise authority over functions, distinct from services, in a number of locations. For instance, when updating or

amending a sphere, “the commission shall establish the nature, location, and extent of any *functions* or classes of services provided by existing districts” (56425(i)). The Commission has authority over the “exercise of new or different *functions* or classes of services...” (56824.10). A “latent service or power” is defined as “those services, facilities, *functions*, or powers...” (Section 56050.5). Clearly, 56133 was intended to and does apply to both functions and services.

2. **SOLUTION. The proposal would address the problem in the following manner:** Describe *how* the problem would be resolved through this proposal. Include previous proposals or solutions that did not work and why they were not successful as a way to strengthen this position.

As proposed the clarifying language would eliminate ambiguity and reinforce the legislative intent of the statute for LAFCos to oversee services and functions – including exemption eligibility – the ability of cities and districts in providing extraterritorial services by contract.

3. **ORGANIZATIONAL SUPPORT.**

Besides CALAFCO, which LAFCos support the proposal? What other stakeholders may support the proposal?

Currently San Diego, Orange County, Los Angeles, Riverside, Ventura, El Dorado, Butte and Alameda LAFCos. We believe most other LAFCos will support.

4. **ARGUMENTS IN SUPPORT.**

What are the specific arguments in support of the proposal? Be as specific as possible, including data to support the argument.

Clarification as proposed was included in two earlier proposals initially supported by the CALAFCO Legislative Committee and Board of Directors in 2015. The Board ultimately ceased work on the earlier proposal given the lack of consensus by members on other and more substantive changes involving the expansion of LAFCos authority to approve outside contracts beyond spheres. Proposed for the Omnibus Bill in early 2019, these proposals were objected to by some reviewing groups. This proposal is limited to just the referenced clarifications involving the determination of exemption eligibility and adds clarifying wording regarding functions as used in other sections in CKH. Ventura and San Diego LAFCos have experienced disagreement with districts which believe it is not necessary to seek LAFCo approval for providing services or functions outside its boundaries. It is important that LAFCo have clear legislative authority to take actions or plan for services in the future.

5. ORGANIZATIONAL OPPOSITION.

What organizations, if any (LAFCOs or other stakeholders) have expressed or may express opposition to the proposal?

It may be expected that CSDA and ACWA may have concerns with the proposed clarifying language as they did when previously proposed as an Omnibus Bill item until detail discussions can be held with them. These were submitted as possible Omnibus Bill items in January 2019 but not considered non-controversial or a minor technical correction.

6. ARGUMENTS IN OPPOSITION.

What are the potential specific arguments in opposition of the proposal? Be as specific as possible, including data to support the argument.

As stated above, some agencies hold positions that LAFCo does not have clear authority to oversee some functions or services including contracting outside their territory or SOI. Financial pressures and plans for municipal services to be provided at reduced costs are resulting in more contracting between agencies and outside of urban and suburban areas. These disagreements can expect to continue if clarity in the code is not enacted.

7. CONTACT.

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November 20, 2019
Attachment – Proposed Section 56133

Proposed CKH Legislation Change
GC Section 56133

56133.

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

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

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

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

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

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

(e) This section does not apply to any of the following, as determined by the commission or the executive officer:

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

(2) The transfer of nonpotable or nontreated water.

(3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential

structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

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

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

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

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CALAFCO List of Current Bills 5/3/2024

[AB 805](#)

(Arambula D) Sewer service: disadvantaged communities.

Current Text: Amended: 1/22/2024 [html](#) [pdf](#)

Introduced: 2/13/2023

Last Amend: 1/22/2024

Status: 5/1/2024-Referred to Com. on E.Q.

Location: 5/1/2024-S. E.Q.

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

Summary: Under current law, the State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality in accordance with the Porter-Cologne Water Quality Control Act and the federal Clean Water Act. Current law authorizes a regional board to order the provision of sewer service by a receiving sewer system, as defined, to a disadvantaged community served by an inadequate onsite sewage treatment system, as defined. This bill would authorize the state board to require a sewer service provider to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services to assist a designated sewer system with the provision of adequate sewer service, as defined. The bill would also authorize the state board to order a designated sewer system to accept those services, including full management and control of all aspects of the designated sewer system, from an administrator. The bill would define "designated sewer system" for these purposes as a sewer system that serves a disadvantaged community and that the state board finds to be either an inadequate sewage treatment system or a sewer system that has demonstrated difficulty in maintaining technical, managerial, and financial capacity to prevent fraud and mismanagement, or a sewer system that voluntarily accepts financial assistance for the provision of adequate sewer service.

Position	Subject
Support if Amended	Disadvantaged Communities, Waste Water

CALAFCO Comments: 5/1/2024: Assigned to Senate Environmental Quality committee. No hearing date yet scheduled.

1/26/2024: Support, if amended, approved. Amendment requested is the inclusion of language requiring the state board to consult with the local LAFCO.

1/22/2024: Gutted and amended. No longer addresses consolidation of waste water systems but, rather, would set up a program in which the state would provide technical, managerial, administrative, and financial assistance, where applicable, to disadvantaged communities. Position changed to support if amended to include a provision requiring the state board to consult with the local LAFCO regarding the system.

As introduced, this bill would have authorized the state board, if sufficient funds are available, to order consolidation of sewer service along with an order of consolidation of drinking water systems when both of the receiving and subsumed water systems provide sewer service and after the state board engages in certain activities. It failed to meet 2023 deadlines and became a 2 year bill that cannot be acted upon until January, 2024.

[AB 817](#)

(Pacheco D) Open meetings: teleconferencing: subsidiary body.

Current Text: Amended: 1/17/2024 [html](#) [pdf](#)

Introduced: 2/13/2023

Last Amend: 1/17/2024

Status: 5/1/2024-Referred to Coms. on L. GOV. and JUD.

Location: 5/1/2024-S. L. GOV.

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

Summary: The Ralph M. Brown Act requires, with specified exceptions, each legislative body of a local agency to provide notice of the time and place for its regular meetings and an agenda containing a brief general description of each item of business to be transacted. The act also requires that all meetings of a legislative body be open and public, and that all persons be permitted to attend unless a closed session is authorized. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. Current law

authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency (emergency provisions) and, until January 1, 2026, in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met (nonemergency provisions). This bill, until January 1, 2026, would authorize a subsidiary body, as defined, to use similar alternative teleconferencing provisions and would impose requirements for notice, agenda, and public participation, as prescribed. In order to use teleconferencing pursuant to this act, the bill would require the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote, before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter.

Position

Watch

Subject

Brown Act

CALAFCO Comments: 5/3/2024: Current location is the Senate Local Government Committee, waiting on hearing date.

1/25/2024: Moved out of the Assembly and assigned to Senate Local Government Committee and the Senate Judiciary Committee.

1/17/2024: Amended to add a Sunset date of January 1, 2026.

3/16/2023: The bill was amended to speak specifically to teleconferenced meetings of subsidiary bodies, defined as a body that serves exclusively in an advisory capacity, and is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements. For qualifying bodies, this bill would remove the requirement to post an agenda at the location of the subsidiary body member who was participating from off site- providing that the legislative body that formed the subsidiary body has previously made findings noting that teleconferenced meetings of the subsidiary body would enhance public access, and would promote the attractions, retention and diversity of the subsidiary body. The superior legislative body would need to revisit the matter and repeat those finding every 12 months thereafter. This bill also reaffirms that other provisions of the Brown Act are applicable to subsidiary bodies.

Failed to meet deadlines and now a 2 year bill that cannot be acted upon until January, 2024.

AB 828

(Connolly D) Sustainable groundwater management: managed wetlands.

Current Text: Amended: 1/11/2024 [html](#) [pdf](#)

Introduced: 2/13/2023

Last Amend: 1/11/2024

Status: 5/1/2024-Referred to Com. on N.R. & W.

Location: 5/1/2024-S. N.R. & W.

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

Summary: The Sustainable Groundwater Management Act requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans, except as specified. Current law defines various terms for purposes of the act. This bill would add various defined terms for purposes of the act, including the terms "managed wetland" and "small community water system."

Position

None at this time

Subject

Water

CALAFCO Comments: 5/1/24: Referred to Senate Committee on Natural Resources and Water; waiting on hearing date.

1/29/24: Passed Assembly Floor and moved to Senate to be scheduled for policy hearing.

1/18/24: Passed out of Assembly Appropriations Committee.

1/11/24: Amended to strike provisions regarding small community water systems serving disadvantaged communities and pivots to groundwater sustainability agencies. New provisions were added to the bill that would have the effect of carving out of the existing law, until January 1, 2028, small community water systems serving disadvantaged communities from permitted public water supply wells. After January 1, 2028, that provision sunsets and the law would revert back to its current state without the carve out.

1/9/24: Passed Assembly Water, Parks and Recreation Committee.

4/17/2023: Amended to define agencies and entities required or excluded from existing 10726.4 (a) (4). Amends Water Code section 10730.2 to add language regarding fees, and amends Water Code section 10733 to address groundwater sustainability plans.

Failed to make April policy committee deadline and now cannot be acted upon until January 2024.

As introduced, would add definitions for Managed Wetlands, and Small community water system to Water Code Section 10721.

AB 930

(Friedman D) Local government: Reinvestment in Infrastructure for a Sustainable and Equitable

California (RISE) districts.

Current Text: Amended: 1/22/2024 [html](#) [pdf](#)

Introduced: 2/14/2023

Last Amend: 1/22/2024

Status: 5/1/2024-Referred to Coms. on L. GOV. and HOUSING.

Location: 5/1/2024-S. L. GOV.

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

Summary: Would authorize the legislative bodies of 2 or more cities or counties to jointly form a Reinvestment in Infrastructure for a Sustainable and Equitable California district (RISE district) in accordance with specified procedures. The bill would authorize a special district to join a RISE district, by resolution, as specified. The bill would require the Office of Planning and Research (OPR) to develop guidelines for the formation of RISE districts no later than November 30, 2026. The bill would provide for the establishment of a governing board of a RISE district with representatives of each participating local government.

Position

Neutral

Subject

Special District
Principle Acts

CALAFCO Comments: 5/1/24: Referred to Senate Local Government Committee, and Senate Housing Committee.

1/29/2024: Passed Assembly Floor vote and moved to Senate.

1/22/2024 Amended to remove section of definitions, change the word "standards" to "guidelines", and to strike section 62412 relative to the elements of a RISE development plan to be reviewed. Missed 2023 deadlines and became a 2 year bill.

This bill has a similar overtone to SB 852 Dodd in 2022 regarding the formation of climate resilience districts outside of the LAFCo process. As introduced, it focuses on the generation of funding and the governance of the expenditure of those funds. However, it should be carefully tracked in case that mission is expanded.

AB 1928

(Sanchez R) Worker classification: employees and independent contractors.

Current Text: Amended: 3/4/2024 [html](#) [pdf](#)

Introduced: 1/25/2024

Last Amend: 3/4/2024

Status: 4/25/2024-Failed Deadline pursuant to Rule 61(b)(5). (Last location was L. & E. on 2/12/2024)

Location: 4/25/2024-A. DEAD

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

Summary: Current law, as established in the case of Dynamex Operations W. v. Superior Court (2018) 4 Cal.5th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Current law requires a 3-part test, commonly known as the "ABC" test, to determine if workers are employees or independent contractors for those purposes. Current law establishes that, for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity's business, and the person is customarily engaged in an independently established trade, occupation, or business. This test is known as the "ABC" test, as described above. This bill would repeal the above-described provisions that codify the ABC test. The bill would declare that its purpose is to suspend and nullify the California Supreme Court's decision in Dynamex and provide that this decision does not apply for purposes of California law.

Position

Subject

CALAFCO Comments: Of interest to CALAFCO because of its potential effect on operations.

4/26/24 DEAD for failing to meet deadline for policy committees to hear and report to fiscal committees those bills originating in that house which had a fiscal component. (Joint Rule 61(b)(5)).

3/6/2024, Re-referred to Assembly Labor and Employment Committee.

3/4/2024, minor grammatical amendment made.

1/25/2024, bill introduced. AB 1928 would repeal the provisions that were enacted by the passage of AB 5 in 2019. Known as the Gig Worker law, AB 5 reclassified which workers could be considered as contractors. A limited number of professional categories were set aside and excluded from the law. However, those not included in the exclusions were required, under new reclassification requirements,

to be considered as employees regardless of whether they were performing the services in connection to an ongoing business. The shift required CALAFCO to amend its internal practices to re-classify its contractors to employees, resulting in increased costs, as well as extra reporting requirements.

AB 1987 (Bennett D) Local government.

Current Text: Introduced: 1/30/2024 [html](#) [pdf](#)

Introduced: 1/30/2024

Status: 1/31/2024-From printer. May be heard in committee March 1.

Location: 1/30/2024-A. PRINT

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

Summary: Current law sets forth provisions for the formation, duties, and other authorizations, among other things, relating to cities, counties, cities and counties, and other local agencies. This bill would state the intent of the Legislature to enact legislation relating to local government.

Position

None at this time

Subject

CALAFCO Comments: Spot holder bill relative to local government. Monitoring because of its topic.

AB 2302 (Addis D) Open meetings: local agencies: teleconferences.

Current Text: Introduced: 2/12/2024 [html](#) [pdf](#)

Introduced: 2/12/2024

Status: 4/15/2024-Read second time. Ordered to third reading.

Location: 4/15/2024-A. THIRD READING

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

Calendar: 5/6/2024 #42 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

Summary: The Ralph M. Brown Act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Current law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. Current law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in specified circumstances if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction, and the legislative body complies with prescribed requirements. Current law imposes prescribed restrictions on remote participation by a member under these alternative teleconferencing provisions, including establishing limits on the number of meetings a member may participate in solely by teleconference from a remote location, prohibiting such participation for a period of more than 3 consecutive months or 20% of the regular meetings for the local agency within a calendar year, or more than 2 meetings if the legislative body regularly meets fewer than 10 times per calendar year. This bill would revise those limits, instead prohibiting such participation for more than a specified number of meetings per year, based on how frequently the legislative body regularly meets.

Position

Watch

Subject

Brown Act

CALAFCO Comments: 5/6/2024: Scheduled for Assembly Third Reading.

4/10/24 passed Assembly Local Government Committee and sent to Assembly Floor. Introduced on 2/12/2024, this bill would enact changes to Brown Act provisions that allow members of legislative bodies to teleconference for meetings. Currently, the law limits teleconferencing to no more than 3 consecutive months, 20% of the regular meetings in a calendar year, or 2 meetings for bodies that meet less than 10 times in a calendar year. This bill redefines those limits as 2 meetings per year for bodies meeting monthly or less; 5 meetings per year for those meeting twice per month; or 7 meetings per year if the body meetings three times or more per month.

AB 2715 (Boerner D) Ralph M. Brown Act: closed sessions.

Current Text: Amended: 4/24/2024 [html](#) [pdf](#)

Introduced: 2/14/2024

Last Amend: 4/24/2024

Status: 5/2/2024-Read second time. Ordered to third reading.

Location: 5/2/2024-A. THIRD READING

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

Calendar: 5/6/2024 #102 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

Summary: The Ralph M. Brown Act requires that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate. Current law authorizes a legislative body to hold a closed session with specified individuals on, among other things, matters posing a threat to the security of essential public services, as specified. This bill would additionally authorize a legislative body to hold a closed session with other law enforcement or security personnel and to hold a closed session on a threat to critical infrastructure controls or critical infrastructure information, as defined, relating to cybersecurity.

Position

None at this time

Subject

Brown Act

CALAFCO Comments: 5/1/2024: Passed Assembly Local Government Committee; awaiting Assembly Floor date.

4/24/2024: Amended to include cybersecurity threats among the things that can be discussed in closed session. Provides a definition of "critical infrastructure controls" to include I.T. networks.

As introduced on 2/14/2024, would make minor changes in the Brown Act. Monitoring.

AB 2986

(Carrillo, Wendy D) Local Agency Formation Commission for the County of Los Angeles: East Los Angeles Task Force.

Current Text: Amended: 4/29/2024 [html](#) [pdf](#)

Introduced: 2/16/2024

Last Amend: 4/29/2024

Status: 4/30/2024-Re-referred to Com. on APPR.

Location: 4/25/2024-A. APPR.

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

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. The act continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and that oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, including incorporation of a city or formation of a district, as specified. This bill would require the Local Agency Formation Commission for the County of Los Angeles (LALAFCO) to establish the East Los Angeles Task Force for the purposes of identifying and evaluating the potential impacts of incorporation of, or the establishment of special districts within, East Los Angeles, as defined. The bill would require the task force to be composed of 11 members appointed by LALAFCO in consultation with the County of Los Angeles. The bill would require the task force to meet quarterly, incorporating robust community engagement, to discuss the potential impacts of incorporation or the establishment of special districts in East Los Angeles, as specified. The bill would require the task force to complete and submit a report to the Legislature on the potential impacts of city and special district incorporation in East Los Angeles, including an analysis of advantages, disadvantages, and recommendations for future actions, as specified.

Position

None at this time

Subject

Special District Consolidations

CALAFCO Comments: 4/29/2024, Amended version in print. Makes the bill contingent on appropriation of funds to reimburse LA LAFCO for the costs of the Task Force.

4/24/2024, Passed Assembly Local Government Committee hearing with amendments and re-referred to Appropriations.

3/21/2024, the bill was gutted and amended and now requires the LA LAFCO to develop an East Los Angeles Formation Task Force. Not a statewide issue.

AB 3277

(Committee on Local Government) Local agency formation commission: districts: property tax.

Current Text: Introduced: 2/27/2024 [html](#) [pdf](#)

Introduced: 2/27/2024

Status: 4/29/2024-Read third time. Passed. Ordered to the Senate. (Ayes 71. Noes 0.) In Senate. Read first time. To Com. on RLS. for assignment.

Location: 4/29/2024-S. RLS.

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

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 establishes the sole and exclusive authority and procedures for the initiation, conduct, and completion of changes of

organization and reorganization for cities and districts. Current law requires proceedings for the formation of a district to be conducted as authorized by the principal act of the proposed district, and authorizes the local agency formation commission in each county to serve as the conducting authority, as specified. Current law requires a commission to determine the amount of property tax revenue to be exchanged by an affected local agency, as specified, if the proposal includes the formation of a district, as defined. This bill would, instead, require a commission to determine the amount of property tax revenue to be exchanged by an affected local agency if the proposal includes the formation of a district and the applicant is seeking a share of the 1% ad valorem property taxes.

Position
Sponsor

Subject
Incorporation
Proceedings

CALAFCO Comments: CALAFCO's 2024 Omnibus bill.

4/29/2024, Removed from Appropriations and sent to Assembly floor where it passed. Now sits in Senate Rules waiting for committee assignment.

4/10/2024, Passed Assembly Local Government Committee and was referred to Appropriations.

SB 537

(Becker D) Open meetings: multijurisdictional, cross-county agencies: teleconferences.

Current Text: Amended: 9/5/2023 [html](#) [pdf](#)

Introduced: 2/14/2023

Last Amend: 9/5/2023

Status: 9/14/2023-Ordered to inactive file on request of Assembly Member Bryan.

Location: 9/14/2023-A. INACTIVE FILE

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

Summary: Current law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment. Current law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. These circumstances include if a member shows "just cause," including for a childcare or caregiving need of a relative that requires the member to participate remotely. This bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely. The bill would authorize the legislative body of a multijurisdictional, cross-county agency, as specified, to use alternate teleconferencing provisions if the eligible legislative body has adopted an authorizing resolution, as specified. The bill would also require the legislative body to provide a record of attendance of the members of the legislative body, the number of community members in attendance in the teleconference meeting, and the number of public comments on its internet website within 10 days after a teleconference meeting, as specified. The bill would require at least a quorum of members of the legislative body to participate from one or more physical locations that are open to the public and within the boundaries of the territory over which the local agency exercises jurisdiction.

Position
Watch

Subject
Brown Act

CALAFCO Comments: This is a spotholder bill that states an intent to expand local government's access to hold public meetings through teleconferencing and remote access.

3/22/2023: was amended and fleshed out to add teleconferencing provisions to allow legislative bodies of multijurisdictional agencies to meet remotely. Multijurisdictional agencies are defined as boards, commissions, or advisory bodies of a multijurisdictional, cross county agency, which is composed of appointed representatives from more than one county, city, city and county, special district, or a joint powers entity.

The bill is sponsored by Peninsula Clean Energy, a community choice aggregator with a board comprised of local elected officials from the County of San Mateo and its 20 cities, as well as the City of Los Banos.

4/24/2023: The bill was amended to further clarify definitions and the requirements needed for members of an eligible legislative body to meet remotely.

The bill passed Senate Judiciary on 5/2/23, and had its third reading in the Senate on 5/30/2023. 7/12/23: The bill passed the Assembly Local Government Committee.

Amended on August 14, 2023, to require eligible legislative bodies that receive compensation to

participate from a physical location that is open to the public.

9/14/2023, the bill was moved into the inactive file.

SB 768

(Caballero D) California Environmental Quality Act: State Air Resources Board: vehicle miles traveled: study.

Current Text: Amended: 1/11/2024 [html](#) [pdf](#)

Introduced: 2/17/2023

Last Amend: 1/11/2024

Status: 4/29/2024-Referred to Com. on NAT. RES.

Location: 4/29/2024-A. NAT. RES.

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

Summary: The California Environmental Quality Act (CEQA) requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. Current law requires the Office of Planning and Research to prepare, develop, and transmit to the Secretary of the Natural Resources Agency for certification and adoption proposed revisions to guidelines establishing criteria for determining the significance of transportation impacts of projects within transit priority areas to promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. Current law creates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solution to air pollution, and to systematically attack the serious problem caused by motor vehicles, which is the major source of air pollution in many areas of the state. Existing law authorizes the state board to do those acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board. This bill would require the state board, by January 1, 2026, to conduct and submit to the Legislature a study on how vehicle miles traveled is used as a metric for measuring transportation impacts pursuant to CEQA, as specified.

Position

Subject

CEQA

CALAFCO Comments: 4/29/2024: Referred to Assembly Committee on Natural Resources where it awaits a hearing date.

1/29/2024: Passed Senate.

1/16/2024: Passed Senate Appropriations Committee.

1/11/2024: Gutted and Amended. Topic now specific to a study by the state regarding vehicle miles traveled in CEQA studies. Continuing to monitor for any detrimental changes to CEQA but, at this time, bill is not a concern to CALAFCO.

1/10/2024: Passed Senate Environmental Quality Committee.

Failed to meet deadlines and now a 2 year bill that cannot be acted upon until January, 2024.

3/22/2023: The bill was amended and would add language into the Public Resource Code to provide that a public agency, in approving or carrying out certain types of projects, is not required to issue a statement of overriding consideration for significant effects on the environment identified by a project's vehicle miles traveled if the lead agency has imposed all feasible mitigation measures on the project and it finds no feasible alternatives to the project.

-Introduced as a spotholder bill that noted an intent to enact subsequent legislation that would create a new transportation impact analysis for rural areas for purposes of the California Environmental Quality Act.

SB 1209

(Cortese D) Local agency formation commission: indemnification.

Current Text: Introduced: 2/15/2024 [html](#) [pdf](#)

Introduced: 2/15/2024

Status: 3/21/2024-Read second time. Ordered to third reading.

Location: 2/29/2024-S. THIRD READING

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

Calendar: 5/6/2024 #13 SENATE SENATE BILLS -THIRD READING FILE

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, as specified. This bill would authorize a LAFCO to require, as a condition for, among other things, processing a change of organization or reorganization, that the applicant agrees to defend, indemnify, and hold harmless the LAFCO, its agents, officers, and employees from and against any claim, action,

or proceeding, as specified, arising from or relating to the action or determination by the LAFCO.

Position
Sponsor

Subject
LAFCo
Administration

CALAFCO Comments: 03/20/2024, Passed Senate Local Government Committee hearing. Now proceeds to Senate floor vote, then will move to Assembly.

CALAFCO sponsored bill in response to a 2022 appellate decision out of San Luis Obispo that held that LAFCOs could not use indemnification provisions in applications because indemnifications are a form of agreement that LAFCOs are currently not authorized to enter into. As introduced, the bill would allow LAFCOs to use provisions similar to counties and cities.

Total Measures: 13

Total Tracking Forms: 13



SUPPORTING SUSTAINABLE
COMMUNITY GROWTH

CALAFCO Legislative Committee **MEETING AGENDA**

Friday, June 14, 2024 ♦ 9:00 am – 11:00 am

Virtual via Zoom

<https://us02web.zoom.us/j/85737427717>

Meeting ID: 857 3742 7717

Phone: 669-900-6833

1. **9:00 A.M. Convene and Roll Call** *R. LaRoche*

2. **Approve Minutes of the May 10, 2024 meeting** *R. LaRoche* 3

3. **Consider an Oppose Position on Initiative 1935, the Taxpayer Protection and Government Accountability Act** *R. LaRoche* 5

4. **Legislation Affecting LAFCOs** *R. LaRoche* 27
 - Priority One Bills:**
 - CALAFCO Sponsored Bills:
 - a. AB 3277 (ALGC) Omnibus Bill – Ad Valorem Tax Calculation 33
 - b. SB 1209 (Cortese) - Indemnification Bill 35

 - Priority Two Bills:** NONE

 - Priority Three Bills:**
 - c. AB 2661 (Soria D) Electricity: Westlands Water District 37
Position: Support, If Amended
 - d. AB 805 (Arambula) Sewer service: disadvantaged communities 43
Position: Support, If Amended

 - Brown Act (Watching):**
 - e. AB 817 (Pacheco) Open meetings: teleconferencing: subsidiary body 49
 - f. AB 2302 (Addis) Open meetings: local agencies: teleconferences 53
 - g. AB 2715 (Boerner) Ralph M. Brown Act: closed sessions 57
 - h. SB 537 (Becker) Open meetings: local agencies: teleconferences (inactive) 59

5. **Tabled Discussion Regarding 56133 Proposal** *R. LaRoche* 73

6. **Receive the List of Tracked Bills** 133

7. **CALAFCO Items for next meeting**

8. **Good of the Order**

9. **Adjournment to July 12, 2024 at 9:00 a.m. – to be held virtually**

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CALAFCO Legislative Committee
DRAFT ACTION MEETING MINUTES

Date:	May 10, 2024	
Location:	Held virtually	
Present:		
BOARD MEMBERS:		
<input checked="" type="checkbox"/> CONNELLY, Bill (N)	<input checked="" type="checkbox"/> MCGILL, Michael (Co)	<input checked="" type="checkbox"/> PAQUE, Anita (Ce)
<input checked="" type="checkbox"/> GUTIERREZ, Yxstian (S)	<input type="checkbox"/> MCGREGOR, Derek (S, Alt)	<input checked="" type="checkbox"/> ROOT ASKEW, Wendy (Co, Alt)
<input checked="" type="checkbox"/> JONES, Gay (Ce, Alt)	<input checked="" type="checkbox"/> MOHLER, Margie (A/L, Alt)	<input checked="" type="checkbox"/> SUSMAN, Josh (N, Alt)
		<input type="checkbox"/> WALLACE, Tamara (A/L, Alt)
STAFF APPOINTMENTS:		
<input checked="" type="checkbox"/> ALSOP, Clark	<input checked="" type="checkbox"/> LUCAS, Steve (No, Butte)	<input checked="" type="checkbox"/> ROMO, Adriana (So, L.A.)
<input type="checkbox"/> BELL, Gary	<input checked="" type="checkbox"/> LaROCHE, René	<input type="checkbox"/> SANTSCHE, Colette (No, Humboldt)
<input checked="" type="checkbox"/> BRAMFITT, Mark (Co, Sonoma)	<input type="checkbox"/> LUOMA, Kai (Co, Ventura)	<input type="checkbox"/> SERRANO, Joe (Co Alt, Santa Cruz)
<input checked="" type="checkbox"/> BROWNE, Scott	<input checked="" type="checkbox"/> LYTLE-PINHEY, Sara (Ce, Stan.)	<input checked="" type="checkbox"/> SPAUNHURST, Brian (Ce Alt, Fresno)
<input checked="" type="checkbox"/> de SOUSA, Paula	<input type="checkbox"/> McINTYRE, Michelle (Ce, Placer)	<input checked="" type="checkbox"/> STEPHENSON, Jennifer (No, Plumas)
<input checked="" type="checkbox"/> GRAF, Paula (So, Imperial)	<input checked="" type="checkbox"/> MUMPOWER, Priscilla (So, Alt, S.D.)	
ADVISORY COMMITTEE:		
<input checked="" type="checkbox"/> CRAIG, Crystal	<input type="checkbox"/> HIGHTOWER, J.D.	<input type="checkbox"/> BRAVO, Tara
<input type="checkbox"/> CRAWFORD, Christine	<input checked="" type="checkbox"/> SANCHEZ, Erica	<input checked="" type="checkbox"/> FENDER, Brandon
<input checked="" type="checkbox"/> FITZROY, Rob	<input checked="" type="checkbox"/> TAPIA, Luis	<input type="checkbox"/> SIMON, Jim
GUESTS:	Jonathan Brinkmann (Monterey), Carolanne Ieromnimon (RSG), Dawn Mittleman (Napa), Mike Prater (Santa Barbara)	
RECORDER:	René LaRoche	

1. Welcome, Roll Call

9:03 AM: The meeting was called to order by René LaRoche after the quorum was established.

2. Approval of the Minutes of the March 22, 2024 meeting

The minutes were unanimously approved as presented upon motion of Mike McGill, with a second by Margie Mohler, and with Bill Connelly abstaining.

3. Receive an Update Regarding CALAFCO Legislative Proposals

LaRoche gave the staff reports.

3. Tabled Discussion Regarding 56133 Proposal

LaRoche provided a brief review of past events and reminded that the committee had requested the return of some alternative notification language. Steve Lucas, Butte LAFCO, gave the report regarding the draft notification language. Discussion ensued regarding the merits of a notification provision and whether proceeding strictly via local policy would be the better solution. The committee requested that copies of local policies be collected and interest in determining what LAFCOs think about 56133. The Chair noted that the previous survey should contain the requested information.

4. Receive the List of Tracked Bills

LaRoche gave the report.

5. Items for next meeting

No new items were offered.

6. Good of the Order

LaRoche advised that the Call for 2025 Legislative Proposals was currently being prepared and would be going out soon.

7. Adjournment to June 14, 2024, meeting at 9:00 a.m. – to be held virtually

10:00 AM: Chair LaRoche adjourned the meeting.

DRAFT

LEGISLATIVE COMMITTEE MEETING STAFF REPORT

Agenda Item No. 3

Initiative 1935, aka the “Taxpayer Protection and Government Accountability Act”

Meeting Date: June 14, 2024

Prepared By: René LaRoche, Chair

RECOMMENDATIONS

Consider an Oppose Position on Initiative 1935, the Taxpayer Protection and Government Accountability Act.

BACKGROUND

On February 1, 2023, the California Secretary of State announced that Initiative 1935, also known as the Taxpayer Protection and Government Accountability Act (Attachment 3.A), became eligible for the November, 2024 ballot. Sponsored primarily by the California Business Roundtable, the initiative is an anti-tax measure which would make substantial changes to the way local governments set or increase assessments, taxes, charges, and fees. Additionally, the initiative would be retroactive to January 1, 2022, which would invalidate subject actions and citizen-led ballot measures approved since then, and require them all to be repeated using the new election process and super-majority rubrics.

In response, Governor Newsom and the California State Legislature mounted a Supreme Court challenge, which was joined by a coalition of entities from around the state. Oral arguments were conducted before the California Supreme Court on May 8, 2024, and the court took the case under submission. Both parties requested a decision before June 27, 2024, which is the deadline for the Secretary of State to certify California’s general election ballot.

While the court case may be complete except for the decision, a growing coalition of opponents are readying a public campaign to oppose the measure should the initiative be allowed on the ballot. To strengthen that effort, they have requested that CALAFCO approve a formal oppose position for use in advertising and other efforts. While nothing further will be required from CALAFCO by the coalition, the hope is that local LAFCOs will follow suit by adopting resolutions in opposition, as well; which is an effort that CALAFCO will need to coordinate.

RECOMMENDATION

Given that passage of the initiative will severely impact, alter, and prevent the ability of LAFCOs to fulfill their mission and various of their mandated functions, staff is recommending that the committee recommend an Oppose position to the CALAFCO Board of Directors.

ATTACHMENTS

3. A. Initiative 1935, the Taxpayer Protection and Government Accountability Act
3. B. CalCities Press Release, dated March 13, 2024
3. C. CSAC Memo
3. D. Fact Sheet

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www.bmhjlaw.com

21-0042 Amdt. # 1

January 4, 2022

RECEIVED

JAN 04 2022

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Anabel Renteria
Initiative Coordinator
Office of the Attorney General
State of California
PO Box 994255
Sacramento, CA 94244-25550

Re: Initiative 21-0042 - Amendment Number One

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find Amendment #1 to Initiative No. 21-0042 "The Taxpayer Protection and Government Accountability Act." The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed.

I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language.

Thank you for your time and attention processing my request.

Sincerely,



Thomas W. Hiltachk

The Taxpayer Protection and Government Accountability Act

[Deleted codified text is denoted in ~~strikeout~~. Added codified text is denoted by *italics and underline*.]

Section 1. Title

This Act shall be known, and may be cited as, the Taxpayer Protection and Government Accountability Act.

Section 2. Findings and Declarations

(a) Californians are overtaxed. We pay the nation's highest state income tax, sales tax, and gasoline tax. According to the U.S. Census Bureau, California's combined state and local tax burden is the highest in the nation. Despite this, and despite two consecutive years of obscene revenue surpluses, state politicians in 2021 alone introduced legislation to raise more than \$234 *billion* in new and higher taxes and fees.

(b) Taxes are only part of the reason for California's rising cost-of-living crisis. Californians pay billions more in hidden "fees" passed through to consumers in the price they pay for products, services, food, fuel, utilities and housing. Since 2010, government revenue from state and local "fees" has more than doubled.

(c) California's high cost of living not only contributes to the state's skyrocketing rates of poverty and homelessness, they are the pushing working families and job-providing businesses out of the state. The most recent Census showed that California's population dropped for the first time in history, costing us a seat in Congress. In the past four years, nearly 300 major corporations relocated to other states, not counting thousands more small businesses that were forced to move, sell or close.

(d) California voters have tried repeatedly, at great expense, to assert control over whether and how taxes and fees are raised. We have enacted a series of measures to make taxes more predictable, to limit what passes as a "fee," to require voter approval, and to guarantee transparency and accountability. These measures include Proposition 13 (1978), Proposition 62 (1986), Proposition 218 (1996), and Proposition 26 (2010).

(e) Contrary to the voters' intent, these measures that were designed to control taxes, spending and accountability, have been weakened and hamstrung by the Legislature, government lawyers, and the courts, making it necessary to pass yet another initiative to close loopholes and reverse hostile court decisions.

Section 3. Statement of Purpose

(a) In enacting this measure, the voters reassert their right to a voice and a vote on new and higher taxes by requiring any new or higher tax to be put before voters for approval. Voters also intend that all fees and other charges are passed or rejected by the voters themselves or a governing body elected by voters and not unelected and unaccountable bureaucrats.

(b) Furthermore, the purpose and intent of the voters in enacting this measure is to increase transparency and accountability over higher taxes and charges by requiring any tax measure placed on the ballot—

either at the state or local level—to clearly state the type and rate of any tax, how long it will be in effect, and the use of the revenue generated by the tax.

(c) Furthermore, the purpose and intent of the voters in enacting this measure is to clarify that any new or increased form of state government revenue, by any name or manner of extraction paid directly or indirectly by Californians, shall be authorized only by a vote of the Legislature and signature of the Governor to ensure that the purposes for such charges are broadly supported and transparently debated.

(d) Furthermore, the purpose and intent of the voters in enacting this measure is also to ensure that taxpayers have the right and ability to effectively balance new or increased taxes and other charges with the rapidly increasing costs Californians are already paying for housing, food, childcare, gasoline, energy, healthcare, education, and other basic costs of living, and to further protect the existing constitutional limit on property taxes and ensure that the revenue from such taxes remains local, without changing or superseding existing constitutional provisions contained in Section 1(c) of Article XIII A.

(e) In enacting this measure, the voters also additionally intend to reverse loopholes in the legislative two-thirds vote and voter approval requirements for government revenue increases created by the courts including, but not limited to, *Cannabis Coalition v. City of Upland*, *Chamber of Commerce v. Air Resources Board*, *Schmeer v. Los Angeles County*, *Johnson v. County of Mendocino*, *Citizens Assn. of Sunset Beach v. Orange County Local Agency Formation Commission*, and *Wilde v. City of Dunsmuir*.

Section 4. Section 3 of Article XIII A of the California Constitution is amended to read:

Sec. 3(a) Every levy, charge, or exaction of any kind imposed by state law is either a tax or an exempt charge.

(b)(1) (a) Any change in state statute law which results in any taxpayer paying a new or higher tax must be imposed by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, and submitted to the electorate and approved by a majority vote, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property, may be imposed. Each Act shall include:

(A) A specific duration of time that the tax will be imposed and an estimate of the annual amount expected to be derived from the tax.

(B) A specific and legally binding and enforceable limitation on how the revenue from the tax can be spent. If the revenue from the tax can be spent for unrestricted general revenue purposes, then a statement that the tax revenue can be spent for "unrestricted general revenue purposes" shall be included in a separate, stand-alone section. Any proposed change to the use of the revenue from the tax shall be adopted by a separate act that is passed by not less than two-thirds of all members elected to each of the two houses of the Legislature and submitted to the electorate and approved by a majority vote.

(2) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, including a measure proposed by an elector pursuant to Article II, include:

(A) The type and amount or rate of the tax;

(B) The duration of the tax; and

(C) The use of the revenue derived from the tax.

(c) Any change in state law which results in any taxpayer paying a new or higher exempt charge must be imposed by an act passed by each of the two houses of the Legislature. Each act shall specify the type of exempt charge as provided in subdivision (e), and the amount or rate of the exempt charge to be imposed.

(d) ~~(b)~~ As used in this section and in Section 9 of Article II, "tax" means every ~~any~~ levy, charge, or exaction of any kind imposed by the State state law that is not an exempt charge, except the following:

(e) As used in this section, "exempt charge" means only the following:

~~(1) a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.~~

(1) ~~(2)~~ A reasonable charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the State of providing the service or product to the payor.

(2) ~~(3)~~ A charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(3) A levy, charge, or exaction collected from local units of government, health care providers or health care service plans that is primarily used by the State of California for the purposes of increasing reimbursement rates or payments under the Medi-Cal program, and the revenues of which are primarily used to finance the non-federal portion of Medi-Cal medical assistance expenditures.

(4) A reasonable charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

(5) A fine, or penalty, ~~or other monetary charge~~ including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or the State, as a result of a state administrative enforcement agency pursuant to adjudicatory due process, to punish a violation of law.

(6) A levy, charge, assessment, or exaction collected for the promotion of California tourism pursuant to Chapter 1 (commencing with Section 13995) of Part 4.7 of Division 3 of Title 2 of the Government Code.

(f) ~~(e)~~ Any tax or exempt charge adopted after January 1, ~~2010~~ 2022, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(g) ~~(1) ~~(d)~~~~ The State bears the burden of proving by a preponderance of the clear and convincing evidence that a levy, charge, or other exaction is an exempt charge and not a tax. The State bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor, ~~that the amount is no more than necessary to cover the reasonable costs of the governmental activity and~~

that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by state law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind as being voluntary, or paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be a factor in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(h) As used in this section:

(1) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(2) "Extend" includes, but is not limited to, doing any of the following with respect to a tax or exempt charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

(3) "Impose" means adopt, enact, reenact, create, establish, collect, increase or extend.

(4) "State law" includes, but is not limited to, any state statute, state regulation, state executive order, state resolution, state ruling, state opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by the legislative or executive branches of state government. "State law" does not include actions taken by the Regents of the University of California, Trustees of the California State University, or the Board of Governors of the California Community Colleges.

Section 5. Section 1 of Article XIII C of the California Constitution is amended, to read:

Sec. 1. Definitions. As used in this article:

(a) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(b) "Extend" includes, but is not limited to, doing any of the following with respect to a tax, exempt charge, or Article XIII D assessment, fee, or charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

~~(c) (a)~~ "General tax" means any tax imposed for general governmental purposes.

~~(d)~~ "Impose" means adopt, enact, reenact, create, establish, collect, increase, or extend.

~~(e) (b)~~ "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity, or an elector pursuant to Article II or the initiative power provided by a charter or statute.

~~(f)~~ "Local law" includes, but is not limited to, any ordinance, resolution, regulation, ruling, opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by a local government.

~~(g) (c)~~ "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

~~(h) (d)~~ "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

~~(i) (e)~~ As used in this article, and in Section 9 of Article II, "tax" means every ~~any~~ levy, charge, or exaction of any kind, imposed by a local government law that is not an exempt charge, ~~except the following:~~

~~(i)~~ As used in this section, "exempt charge" means only the following:

~~(1)~~ A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

~~(1) (2)~~ A reasonable charge imposed for a specific local government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the local government of providing the service or product.

~~(2) (3)~~ A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

~~(3) (4)~~ A reasonable charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

~~(4) (5)~~ A fine, or penalty, or other monetary charge including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or a local government administrative enforcement agency pursuant to adjudicatory due process, as a result of to punish a violation of law.

~~(5) (6)~~ A charge imposed as a condition of property development. No levy, charge, or exaction regulating or related to vehicle miles traveled may be imposed as a condition of property development or occupancy.

~~(6) (7)~~ An Assessments and property related fees assessment, fee, or charge imposed in accordance with the provisions of subject to Article XIII D, or an assessment imposed upon a business in a tourism marketing district, a parking and business improvement area, or a property and business improvement district.

(7) A charge imposed for a specific health care service provided directly to the payor and that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the health care service. As used in this paragraph, a "health care service" means a service licensed or exempt from licensure by the state pursuant to Chapters 1, 1.3, or 2 of Division 2 of the Health and Safety Code.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

Section 6. Section 2 of Article XIII C of the California Constitution is amended to read:

Sec. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) Every levy, charge, or exaction of any kind imposed by local law is either a tax or an exempt charge. All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local ~~law government, whether proposed by the governing body or by an elector,~~ may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) ~~Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).~~ (d) No local ~~law government, whether proposed by the governing body or by an elector,~~ may impose, ~~extend, or increase~~ any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(d) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, include:

(1) The type and amount or rate of the tax;

(2) the duration of the tax; and

(3) The use of the revenue derived from the tax. If the proposed tax is a general tax, the phrase "for general government use" shall be required, and no advisory measure may appear on the same ballot that would indicate that the revenue from the general tax will, could, or should be used for a specific purpose.

(e) Only the governing body of a local government, other than an elector pursuant to Article II or the initiative power provided by a charter or statute, shall have the authority to impose any exempt charge. The governing body shall impose an exempt charge by an ordinance specifying the type of exempt charge

as provided in Section 1(j) and the amount or rate of the exempt charge to be imposed, and passed by the governing body. This subdivision shall not apply to charges specified in paragraph (7) of subdivision (i) of Section 1.

(f) No amendment to a Charter which provides for the imposition, extension, or increase of a tax or exempt charge shall be submitted to or approved by the electors, nor shall any such amendment to a Charter hereafter submitted to or approved by the electors become effective for any purpose.

(g) Any tax or exempt charge adopted after January 1, 2022, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted in compliance with the requirements of this section.

(h)(1) The local government bears the burden of proving by clear and convincing evidence that a levy, charge or exaction is an exempt charge and not a tax. The local government bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor.

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by a local law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind imposed by a local law as being paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be factors in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

Section 7. Section 3 of Article XIII D of the California Constitution is amended, to read:

Sec. 3. Property Taxes, Assessments, Fees and Charges Limited

(a) No tax, assessment, fee, ~~or~~ charge, or surcharge, including a surcharge based on the value of property, shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to described in Section 1(a) of Article XIII and Section 1(a) of Article XIII A, and described and enacted pursuant to the voter approval requirement in Section 1(b) of Article XIII A.

(2) Any special non-ad valorem tax receiving a two-thirds vote of qualified electors pursuant to Section 4 of Article XIII A, or after receiving a two-thirds vote of those authorized to vote in a community facilities district by the Legislature pursuant to statute as it existed on December 31, 2021.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

Section 8. Sections 1 and 14 of Article XIII are amended to read:

Sec. 1 Unless otherwise provided by this Constitution or the laws of the United States:

(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

(b) All property so assessed shall be taxed in proportion to its full value.

(c) All proceeds from the taxation of property shall be apportioned according to law to the districts within the counties.

Sec. 14. All property taxed by state or local government shall be assessed in the county, city, and district in which it is situated. Notwithstanding any other provision of law, such state or local property taxes shall be apportioned according to law to the districts within the counties.

Section 9. General Provisions

A. This Act shall be liberally construed in order to effectuate its purposes.

B. (1) In the event that this initiative measure and another initiative measure or measures relating to state or local requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(2) In furtherance of this provision, the voters hereby declare that this measure conflicts with the provisions of the "Housing Affordability and Tax Cut Act of 2022" and "The Tax Cut and Housing Affordability Act," both of which would impose a new state property tax (called a "surcharge") on certain real property, and where the revenue derived from the tax is provided to the State, rather than retained in the county in which the property is situated and for the use of the county and cities and districts within the county, in direct violation of the provisions of this initiative.

(3) If this initiative measure is approved by the voters, but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

C. The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not

declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

D. If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(1) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(2) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(3) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(4) Nothing in this section shall prohibit the proponents of this Act, or a bona fide taxpayers association, from intervening to defend this Act.



Broad coalition representing millions of Californians sounds the alarm on dangerous taxpayer deception act

Mar 13, 2024

Measure limits voter rights, puts schools, emergency & disaster response, homelessness services at risk

Reposted from the Alliance for a Better California

FOR IMMEDIATE RELEASE

March 13, 2024

Contact: Mike Roth, mike@paschalroth.com (<mailto:mike@paschalroth.com>)

Sacramento, CA – Counties, cities, special districts, labor groups and community organizations representing millions of Californians across the state are calling out the California Business Roundtable’s deceptively titled “Taxpayer Protection and Government Accountability Act,” slated for the November 2024 ballot.

Under the guise of reform, the measure – more accurately described as the Taxpayer Deception Act – limits the ability for voters and state and local governments to fund services by making it harder to raise revenue and pass future ballot measures. It is also retroactive to January 1, 2022, invalidating more than 100 voter-approved ballot measures and new laws.

“California’s counties are strongly opposed to this dangerous initiative, which will jeopardize the core services our communities rely upon,” said **Graham Knaus, Chief Executive Officer, California State Association of Counties**. “Funded by a handful of corporate special interests, the measure would undermine voter rights by invalidating measures passed by local voters, imperil core government services for decades, and lead to endless lawsuits that will cost taxpayers.”

“The Taxpayer Deception Act would be a devastating blow to California workers,” **Executive Officer, Jay Bradshaw of the Nor Cal Carpenters Union**. “Not only would it crater local and state budgets for the upkeep and construction of our roads, freeways and bridges – it would rob hundreds of thousands of workers of the good-paying jobs that keep a roof over their head and keep our economy strong. It will also put-up roadblocks to delivering the housing that all of our communities desperately need. Voters should not be fooled by this deceptive measure, and we urge Californians to vote NO in November.”

“Working Californians are already struggling to make ends meet when paying their rent, at the gas pumps, or buying groceries. The disturbing truth about the reckless Taxpayer Deception Act is that it leaves these struggling Californians without access to critical safety net services including paid family leave, and access to housing that is affordable,” said **Sabrina Smith, CEO, California Calls**. “By retroactively nullifying more than 130 voter-approved laws, this measure unwinds decades of progress California has made towards equity, opportunity and prosperity for all – which is why each of our 31 grassroots, community based organizations across the state stand together in proud opposition.”

“This dangerous initiative funded by wealthy corporations essentially means 'lights out at city hall' for our cities,” said **League of California Cities Executive Director and CEO Carolyn Coleman**. “Preventing and reducing homelessness, planning for more housing, picking up the trash, paving streets and roads, and guaranteeing that someone will be there when you dial 911 — this is what’s at stake for residents if this measure passes.”

"Initiative 1935, the 'Taxpayer Deception Act,' is irresponsible and unconstitutional," said **Neil McCormick, Chief Executive Officer, California Special Districts Association**. "It retroactively invalidates decisions our communities have already approved, stops critical infrastructure projects in their tracks, and threatens the health, safety, and well-being of hardworking families. Local leaders representing communities of all sizes throughout the state stand united against this corporate attack on voters, and its threat to the water, fire protection, healthcare, sanitation, parks and other fundamental local services people need."

The Taxpayer Deception Act was placed on the ballot by the California Business Roundtable and California Business Properties Association and is primarily funded by multi-billion-dollar real estate interests and landlords who want to overturn the will of the voters to avoid paying their fair share.

THE TAXPAYER DECEPTION ACT THREATENS VITAL PUBLIC SERVICES, UNDERMINES THE DEMOCRATIC PROCESS & CREATES CHAOS BY:

- Cutting billions from state and local governments and forcing cuts to safety net services.
- Overturning funding for paid family leave, disability insurance, gun violence prevention, and climate programs.
- Threatening the safety of roads, freeways, and bridges by permanently eliminating billions in road repair and infrastructure funding.
- Allowing just 1/3 of voters to make local funding decisions and block ballot measures over the will of the majority.
- Exacerbating deficits and worsening unbalanced budgets.

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**Memo: Ballot Initiative #1935, “Taxpayer Protection and Government Accountability Act,”
(TPA Initiative)**

County Educational Toolkit

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Background

The “Taxpayer Protection and Government Accountability Act,” referred to as “Initiative #1935,” or the “TPA,” would revise the California Constitution to restrict the ability of the state, counties, other local agencies, and the electorate to approve or collect taxes, fees, and other revenues. Collectively, the impacts of the measure would impair essential government functions.

The measure would require voter approval of all state taxes, redefining many existing administrative fees as taxes that require voter approval and requiring voters to approve any changes to state taxes imposed by the California Legislature. It would further restrict local fee authority by limiting fee amounts to the “minimum amount necessary” to provide government services, and would require voter approval for local measures such as franchise fees. Its provisions would make it easier to challenge local revenue measures by increasing the burden of proof on local agencies while disallowing an agency’s characterization of a measure from being considered in court.

The measure would prohibit county charter amendments that provide for any revenue from being submitted to the electorate. It would also disallow local agencies from placing advisory measures on the same ballot as any general revenue measure and would raise the threshold for voter approval of local revenue measures proposed by initiative to two-thirds.

The proposed constitutional initiative is sponsored by the California Business Roundtable, an association composed of executives for the largest corporations in California. However, the measure has been funded primarily by a small few of those member corporations and, in February 2024, several of the association’s members placed an advertisement requesting the sponsors to remove the measure from the ballot.

The California Attorney General has titled the measure: “LIMITS ABILITY OF VOTERS AND STATE AND LOCAL GOVERNMENTS TO RAISE REVENUES FOR GOVERNMENT SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT.”

The official summary is as follows:

“For new or increased state taxes currently enacted by two-thirds vote of Legislature, also requires statewide election and majority voter approval. Limits voters’ ability to

pass voter-proposed local special taxes by raising vote requirement to two-thirds. Eliminates voters' ability to advise how to spend revenues from proposed general tax on the same ballot as the proposed tax. Expands definition of "taxes" to include certain regulatory fees, broadening application of tax approval requirements. Requires Legislature or local governing body set certain other fees. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: **Lower annual state and local revenues, potentially substantially lower, depending on future actions of the Legislature, local governing bodies, voters, and the courts."**

The measure would apply retroactively to any local measure or state law passed since January 1, 2022, allowing only a twelve-month period for the state or local governments to re-ratify the measures.

CSAC Efforts Related to the Measure

The CSAC Board of Directors voted to oppose the measure in March 2022.

In September 2023, Governor Gavin Newsom petitioned the California Supreme Court to review the measure, asserting that it would be a revision of the California Constitution, rather than an amendment, and therefore would require a constitutional convention to make the changes sought by the measure's sponsors. The Governor also asserted the measure would impair essential government functions.

In January 2024, CSAC, as part of a coalition of local government entities and associations, filed an amicus brief in support of the Governor and Legislature in their petition to the California Supreme Court to deem the California Business Roundtable's ballot measure as a constitutional revision that would impair essential government functions, and therefore ineligible for the November 2024 ballot.

Analysis

Under current law, local revenue authority is limited by both statute and several voter-approved constitutional provisions, including those added by Proposition 13 (1978), Proposition 218 (1996), and Proposition 26 (2010). Due to these restrictions, counties have become more dependent on state and federal funding. These restrictions, combined with other factors, cause the taxes counties rely on for general revenues not to keep pace with population and economic growth.

Changes under Ballot Initiative

The purpose of the ballot measure is to make it more difficult for counties, cities, schools, special districts, and the state to raise revenue by any means. It places new and increased restrictions on every manner of revenue measure and narrows exceptions to its most onerous requirements. Its provisions are so broad that while the proponents cite specific examples they are targeting for change, the measure would no doubt have many unintended consequences.

The effect will be to increase county costs, reduce tax and fee revenue for counties, subject *de rigueur* charges such as franchise fees to voter approval requirements, and open more government actions to legal challenges while simultaneously making those challenges more difficult to defend against. Further, as is the case with many ballot measures, it would write into the California Constitution contradictory and confusing language that cannot be changed or clarified without another future ballot measure that receives voter approval.

The fundamental provision of the proposed initiative would be to designate every levy, charge, or exaction of any kind imposed by the state or a local agency as either a tax or an “exempt charge.” Every revenue measure not defined as an exempt charge would be subject to voter approval requirements, some of which the initiative newly imposes or increases.

The list of exempt charges includes charges for the actual cost of a government service (such as utilities), charges for the regulatory costs of issuing licenses and performing related inspections and audits, charges for the lease or sale of government property, fines and penalties to punish violations of law, charges for tourism promotion, health care charges to increase Medi-Cal reimbursement rates, and, for local agencies, charges imposed as a condition of property development.

As proposed, every state and local revenue measure not defined as an exempt charge would need to be submitted to the voters for approval. Those measures would be required to include in both the title and summary and the ballot label the type and amount or rate of the tax, the duration of the tax, and the use of the revenue derived from the tax. In the case of local general taxes, the phrase “for general government use” would be required and it would be prohibited to include an advisory measure on the same ballot to determine how the electorate would like to see those revenues used.

Local voter initiatives that impose special taxes are currently subject to lower voting thresholds than those initiated by county and city governing boards. This measure would increase those thresholds from a majority vote to two-thirds.

This initiative would retroactively cancel other revenue measures passed by voters or approved between January 1, 2022, and the time this initiative goes into effect, if they do not comply with this measure’s provisions, even if they complied with all laws in effect at the time they passed. The proposed initiative would give those cancelled revenue measures twelve months to re-comply. However, local tax measures can only be put to voters at regular elections where governing board members can also be elected, unless the governing board unanimously calls a special election, and no regular elections would take place in the twelve months after the initiative would take effect.

The initiative reduces counties’ home rule authority by prohibiting certain types of amendments to county charters from even appearing before the voters. Whether they are proposed by the Board of Supervisors or by voters themselves, any charter amendment that provides for the imposition, extension, or increase of a tax, fee, charge, or exaction of any kind whatsoever would be prohibited.

One provision of the measure allows fines and penalties to be imposed by the judicial branch of government or imposed by a local administrative enforcement agency to punish violations of law, without voter approval. However, another section of the measure says that, notwithstanding any other provision of the Constitution, only the governing body of a local government acting by ordinance, or an elector exercising the initiative power, can impose any kind of charge without voter approval. The measure specifically prohibits any tax or fee regulating or related to vehicle miles traveled imposed as a condition of property development or occupancy.

For most local fees, the measure would prohibit them from exceeding the “actual cost” and defines actual cost to “the minimum amount necessary,” exposing counties to litigation and judicial second guessing about whether the county could have chosen a lower level of service or whether it could have achieved the result at a lower cost by other means.

The proposed measure would increase the burden of proof on local agencies to prove that a revenue measure is not subject to voter approval requirements—and that the amount of the charge is reasonable and does not exceed the “actual cost,” or “minimum amount necessary”—from a preponderance of evidence to clear and convincing evidence. Furthermore, the measure prohibits a court from considering how a local agency describes, or characterizes, a revenue measure in making its determination, whereas the use of the funds would be required to be a factor in that determination.

To give an example of a normal county process that would be impacted by the proposed measure, consider a county’s sale of a parcel of land, which falls directly under one of the categories of exempt charge, the one defined in proposed subparagraph (3) of paragraph (j) of Article XIII C Section 1, “a reasonable charge for...the purchase...of local government property.” To impose an exempt charge under the terms of the initiative, the governing body may be required to pass an ordinance specifying the amount of the exempt charge, in this case, the amount charged to purchase the property.

If anyone sued the county contesting whether the sale was an exempt charge or should instead have been treated as a tax, under the terms of the proposed initiative the court would be explicitly disallowed from factoring in the county’s description of the charge “as being paid in exchange for a[n]...asset.”

Instead, the court would be required to consider as a factor “the use of revenue derived from the...charge.” So while board members might think the county could use the proceeds from the sale of property for general purposes, in order to show by clear and convincing evidence that the charge was not a tax, it would need to prove to the court both that the amount of the charge was reasonable and “that the amount charged does not exceed the actual cost of providing the...product to the payor,” with the “actual cost” defined as “the minimum amount necessary to reimburse the government for the cost of providing the...product to the payor...where the amount charged is not used by the government for any purpose other than reimbursing that cost.” So, in selling, renting, or

leasing property, a county would be limited to the county's cost of providing the parcel to the buyer, instead of selling at market rate or to the person offering the highest amount.

At the state level, the measure would require all state taxes to receive voter approval, in addition to the current requirement for two-thirds approval of both houses of the Legislature, effectively revoking the Legislature's powers to levy new or increased taxes. Any increase or imposition of any non-tax charge, however minor, would require approval of the Legislature if it results in any taxpayer paying a higher amount. This requirement would apply to everything from bar exam fees to State Fair ticket prices to any charge for a map, shirt, or deck of cards for sale at a state park. And due to the restrictions on the use of revenue from exempt charges, revenue from map, shirt, and playing card sales at state parks could not be used to support the maintenance of the park, but only to reimburse the minimum amount necessary to provide that map, sticker, or deck of cards to the purchaser.

On the whole, the measure will limit local revenue, imperil existing revenue and laws, subject local governments to the risk of litigation, and limit the ability of governments to defend themselves in court.

What Can Counties Do?

CSAC encourages counties to consider taking an official position in opposition to Initiative #1935. While Boards of Supervisors can take official positions on ballot initiatives, county supervisors and county employees cannot use public resources to engage in advocacy related to ballot campaigns. Counties can, however, educate their constituents about the impacts propositions would have on the county and their community, despite whether they have taken a position on a ballot initiative. In fact, counties are well-positioned to provide information on the impacts of ballot measures in their local communities.

The line between education and advocacy can be difficult to differentiate at times, so CSAC staff encourages counties refer to helpful resources such as the [Institute for Local Government's papers and primers on ballot measure activities](#). Staff also highly recommends, especially when there is any doubt about a particular activity or communication, to consult with county counsel.

Attachments

- 1) [Full text of Ballot Initiative](#)
- 2) [Title and Summary](#)
- 3) [Fiscal Impact Estimate Report](#)

CSAC Staff Contact

For additional information, please contact Eric Lawyer, Legislative Advocate, California State Association of Counties (elawyer@counties.org or (916) 767-9403).

VOTE NO

THE TAXPAYER DECEPTION ACT



**Helps a wealthy few
Hurts the rest of us**

Join teachers, firefighters,
nurses, local governments, and
community organizations:

Vote NO in November!



TaxpayerDeceptionAct.com

VOTE NO!

HAS A HIDDEN AGENDA

Wealthy real estate corporations buried a *“retroactivity clause”* deep in their measure that lets them avoid paying their fair share.

It cancels the *‘Mansion Tax’* Los Angeles voters passed to build affordable housing and prevent homelessness.

But the greedy landlords’ hidden agenda doesn’t stop there.



HURTS VOTERS’ RIGHTS

Eliminates voters’ ability to direct how local tax money is spent and overturns more than two hundred and fifty local ballot measures already approved by voters.

The Taxpayer Deception Act HURTS ALL OF US

The independent Legislative Analyst's Office says the Taxpayer Deception Act will significantly reduce funding for the critical services we rely on.

All of these vital programs are at risk:

- Public schools
- Fire and 911 emergency response
- Public health
- Parks
- Libraries
- Paid Family Leave
- California's climate laws
- Programs that keep housing affordable
- Services to support homeless residents
- Mental health services
- Fixing potholes and bridges
- Gun violence prevention



ONLY HELPS BIG REAL ESTATE

The developers, mega landlords and other wealthy real estate corporations behind this measure are trying to pull a bait and switch.

They want us to think it protects taxpayers and consumers fed up with high taxes and prices. The truth is that their measure creates new loopholes so they will pay less, while we will be forced to pay more.

JOIN US!

Add Your Organization as a NO Endorser at TaxpayerDeceptionAct.com

Ad Paid for by Alliance for a Better California, NO on the Taxpayer Deception Act.

Sponsored by Working Families and Labor Organizations.

Ad Committee's Top Funders:

California Teachers Association

Northern California Regional Council of Carpenters

State Building & Construction Trades Council of California

Funding details at www.FPPC.ca.gov

ATTACHMENT A

LEGISLATIVE COMMITTEE MEETING STAFF REPORT

Agenda Item No. 3 Legislation Affecting LAFCOs

Meeting Date: June 14, 2024

Prepared By: René LaRoche, Chair

RECOMMENDATIONS

Consider legislation that may have an impact on LAFCOs and take positions or provide direction where appropriate.

DISCUSSION

Legislative activity, as expected, has been quite robust since the last legislative committee meeting due to a parade of successive May deadlines. Of those, May 24th was by far the most important as it marked the absolute last day for each house to pass the bills that were introduced in that house.

The first half of June represents something of a reprieve as the month's deadlines focus on the state budget. However, higher activity can be expected in the last week of June as summer recess is scheduled to begin upon adjournment on July 3rd.

Since last month, AB 2661 (Soria) Electricity: Westlands Water District has been added to the list as a Priority 3 bill, and is discussed below.

Of the remaining seven bills being monitored, AB 3277 (ALGC) and SB 1209 (Cortese), are both CALAFCO sponsored bills (and, consequently, listed in the Priority 1 list of bills.) The remaining bills being tracked are all marked as Priority 3 and include AB 805 (Arambula), which would set up technical, administrative, financial, and other assistance to certain sewer systems in disadvantage communities and which carries a support if amended position, and the same four Brown Act bills, which are all marked to watch.

Priority 1 Bills - *(Major importance & direct, significant impact or policy precedent. Resource intensive.)*

A. AB 3277 (ALGC) Local agency formation commission: districts: property tax. – CALAFCO sponsored.

This was an Omnibus bill submission and was moved forward as that. It was later determined by the ALGC to not meet the technical definition of an Omnibus bill as merely making technical changes. However, the committee graciously brought it forward as a stand-alone bill.

This bill would limit the requirement for a financial analysis of ad valorem taxes during the formation of a district to those instances when a share of the tax is sought. Because of the property tax element, it has been keyed as fiscal.

Since the last committee meeting, AB 3277 passed the Senate Local Government Committee, where it was re-referred to Appropriations with a recommendation for placement on the Consent agenda. It had been scheduled for a June 10th hearing but was removed from the agenda and is now waiting on a new hearing date.

CURRENT POSITION: Sponsor
No action requested.

B. SB 1209 (Cortese) Indemnification – CALAFCO sponsored.

This bill was proposed at the beginning of 2023 in response to a 2022 Appellate court decision that found that LAFCOs, as delegates of the state legislature, are not authorized to enter into indemnification agreements. This bill was proposed to correct that oversight. At that time, opposition was expressed by the California Special Districts Association (CSDA) and no author could be identified by the bill submission deadline. However, that provided the impetus and opportunity to conduct extensive stakeholder outreach with the sister entities throughout 2023, which successfully elicited either support or agnosticism from each.

2024 became the second bite of the apple for this particular bill and CALAFCO was fortunate to procure Senator Dave Cortese as the Author. However, once introduced, the bill met with resistance from an unexpected quarter when the California Building Industry Association (CBIA) contacted the Author with concerns. That began a process of negotiations at the Author's request.

The bill passed through the Senate Local Government Committee on March 20, 2024, and out of the Senate on May 21st (days before the originating house deadline), However, negotiations with the California Building Industry Association (CBIA) remained active and ongoing through that time, and finally concluded with a final proposal that was accepted by CBIA on June 5th.

Pursuit of this bill has been unexpectedly difficult and, while not yet at a point of declaring success, thanks and appreciation must be expressed to: Paul Novak, Los Angeles LAFCO, for the commitment of countless hours to negotiate and strategize the best path forward; David Ruderman, Colantuono Highsmith and Whatley, for lending a legal eye and mind to the proceedings; and to Steve Lucas, Butte LAFCO, for always being available to assist and for attending a very last minute meeting to review, provide expertise, and strategize steps forward.

CURRENT POSITION: Sponsor
No action requested.

Priority 2 Bills – (Direct impact, or set policy precedent. Letter & testimony.)

None.

Priority 3 Bills – (Of interest, may have substantive effect, but low priority as to time & effort. Letter.)

C. NEW: AB 2661 (Soria D) Electricity: Westlands Water District

This bill was introduced as a spot holder on February 14, 2024. It was then amended on March 21, 2024, to address planning for solar by water districts (in general) and, through another amendment on April 24, 2024, it became a special bill focused on the Westlands Water District in Fresno County. In its latest, and current form, the bill seeks to add Section 37860 into the Water Code to define additional powers for the Westlands Water District specifically to address the generation of electricity.

The E.D. and Steve Lucas met with the Senate Local Government Committee Chief Consultant on June 5, 2024, to provide background information for the June 11, 2024, hearing. Because of the potential for AB 2661 to become a precedent setting action, upon the recommendation of E.O. Lucas, and under the authorities contained in the Association's Legislative Policies, the E.D. submitted a Support, If Amended position letter (Attachment 3.C.a.), with the amendment requested being clarification that any request for a new or expanded service must go through LAFCO. The committee, consequently, is being asked to review the matter and ratify or change the position.

This bill enjoys broad support including from: California Citrus Mutual; California State Association of Electrical Workers; Western Growers Association; Western Agricultural Processors Association; Agricultural Council of California; Self-Help Enterprises; Agricultural Energy Consumers Association; Coalition of California Utility Employees; Westlands Water District; California Walnut Commission; Self-Help Enterprises; California Avocado Commission; Almond Alliance of California; California Cotton Ginners Association; City of Avenal; Carter, Wetch & Associates; California Coalition of Utility Employees (CCUE); City of Coalinga; Golden State Clean Energy LLC; Harris Farms INC; and Regenerate California Innovation, INC.

The only opposition on record is from the California Wind Energy Association.

CURRENT POSITION: Support, If Amended

Action Requested: Ratify or Change the Position.

D. AB 805 (Arambula) Sewer service: disadvantaged communities

This bill, as introduced on 2/13/23, sought to amend Health and Safety Code to add language to provide a mechanism allowing the State Board to order a consolidation of sewer services at the same time that it ordered consolidation of drinking water systems, the latter of which being an existing authority. In that form, it was heard and passed by the Assembly Environmental Safety and Toxic Material committee on 3/28/23, and the Assembly Appropriations Committee on 1/18/24.

On 1/22/2024, AB 805 was gutted and amended to, instead, add language to the Water Code to authorize the State Water Resources Control Board to provide technical, administrative, managerial, legal, or financial aid to designated sewer systems in disadvantaged communities. The bill also carries an urgency clause which would cause it to take effect immediately upon chaptering, if passed. Having had two readings in the original format, the bill passed off the Assembly Floor and to the Senate on 1/30/2024.

The bill was again amended on May 15, 2024, and amended definitions contained in Water Code Section 13288, and added a new Section 13289.5 in Water Code (which is the Chapter dealing with Sewer Service, contained in the Water Quality Division) that focuses more narrowly on administrative, technical, and financial assistance for struggling systems. The urgency clause remains.

The bill was considered by the Senate Environmental Quality Committee on June 5, 2024, but was re-referred to Appropriations. No new hearing date has been scheduled yet.

CURRENT POSITION: Support, If Amended

Amended. No action requested.

BROWN ACT BILLS:

E. AB 817 (Pacheco) Open meetings: teleconferencing: subsidiary body. – BROWN ACT

This bill began as a spot holder but was amended on 3/16/2023 to speak to teleconferenced meetings of subsidiary bodies, defined as a body that serves exclusively in an advisory capacity, and is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements. For qualifying bodies, this bill would remove the requirement to post an agenda at the location of the subsidiary body member who was participating from off site-providing that the legislative body that formed the subsidiary body has previously made findings noting that teleconferenced meetings of the subsidiary body would enhance public access, and would promote the attractions, retention and diversity of the subsidiary body. The superior legislative body would need to revisit the matter and repeat those finding every 12 months thereafter. This bill also reaffirms that other provisions of the Brown Act are applicable to subsidiary bodies.

The bill received a minor amendment on 1/17/2024, when a sunset date of January 1, 2026 was added. Bill status is unchanged from last month. On 1/25, 2024, it passed the Assembly Floor and to the Senate and sat static for some time. However, it began moving again in May and has since passed several hearings and has been amended again.

In the latest amendment, occurring on May 29, 2024, language was added that requires the designation of a primary physical meeting location, that the location be staffed by a local agency member, and provides that the public may physically attend and participate the meeting from the designated physical meeting location. It also requires members of the subsidiary body to visibly appear on camera during open portions which the public may attend; and requires that members participating remotely shall be listed in the meeting minutes.

CURRENT POSITION: Watch
Amended. No action requested.

F. AB 2302 (Addis) Open meetings: local agencies: teleconferences.

Introduced on 2/12/2024, this bill would enact changes to Brown Act provisions that allow members of legislative bodies to teleconference for meetings. Currently, the law limits teleconferencing to no more than 3 consecutive months, 20% of the regular meetings in a calendar year, or 2 meetings for bodies that meet less than 10 times in a calendar year. This bill redefines those limits into new tiers based on the meeting frequency. As proposed, the limits would be recast as 2 meetings per year for bodies meeting monthly or less; 5 meetings per year for those meeting twice per month; or 7 meetings per year if the body meets three times or more per month.

This bill passed unchanged out of the Assembly and to the Senate on May 9, 2024. On June 5, 2024, it was considered and passed by the Senate Local Government, again unchanged. It had its Second Reading on June 5th, and is currently scheduled for Third Reading on June 10, 2024.

CURRENT POSITION: Watch
Unchanged. No action requested.

G. AB 2715 (Boerner) Ralph M. Brown Act: closed sessions.

As introduced on 2/14/2024, made only minor grammatical changes to the Brown Act. However, on 4/24/2024, it was amended to include cybersecurity threats among the things that can be discussed in closed session. A definition of "critical infrastructure controls" was also added to include I.T. networks.

The bill passed out of the Assembly on 5/16/2024 and was approved by the Senate Local Government Committee hearing on 6/5/2024 where it was re-referred to the Judiciary Committee. At this writing, AB 2715 is awaiting a new hearing date with the Senate Judiciary Hearing.

CURRENT POSITION: Watch
Unchanged. No action requested.

H. SB 537 (Becker) Open meetings: multijurisdictional, cross-county agencies: teleconferences. – BROWN ACT

This bill is sponsored by Peninsula Clean Energy, and seeks to add teleconferencing provisions allowing legislative bodies of multijurisdictional agencies to meet remotely. Multijurisdictional agencies are defined as boards, commissions, or advisory bodies of a multijurisdictional, cross county agency, which is composed of appointed representatives from more than one county, city, city and county, special district, or a joint powers entity. Peninsula Clean Energy is a community choice aggregator with a board comprised of local elected officials from the County of San Mateo and its 20 cities, as well as the City of Los Banos.

The bill passed out of the Assembly Local Government Committee on July 12, 2023. It was then amended on August 14, 2023, to require eligible legislative bodies that receive compensation to participate from a physical location that is open to the public.

On September 14, 2023, the bill was moved into the inactive file where it remained until June 3, 2024, when Assembly Member Hart pulled it.

As of this writing, SB 537 is sitting on the Senate Floor and is scheduled for its third reading on June 10, 2024.

CURRENT POSITION: Watch
Reactivated. No action is requested.

ATTACHMENTS

- 3. A. – AB 3277 (ALCG), Ad Valorem Tax Analysis – CALAFCO Sponsored Bill
- 3. B. – SB 1209 (Cortese), Indemnification Provision – CALAFCO Sponsored Bill
- 3. C. – AB 2661 (Soria, E), Electricity: Westlands Water District
- 3. C. a. CALAFCO Support, If Amended letter
- 3. D. – AB 805 (Arambula), Sewer service: disadvantaged communities
- 3. E. – AB 817 (Pacheco) Brown Act, subsidiary body
- 3. F. – AB 2302 (Addis) Open meetings: local agencies: teleconferences.
- 3. G. – AB 2715 (Boerner) Ralph M. Brown Act: closed sessions.
- 3. H. – SB 537 (Becker) Brown Act, multijurisdictional cross-country agencies

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 3277

Introduced by Committee on Local Government

February 27, 2024

An act to amend Section 56810 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 3277, as introduced, Committee on Local Government, Local agency formation commission: districts: property tax.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes the sole and exclusive authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. Existing law requires proceedings for the formation of a district to be conducted as authorized by the principal act of the proposed district, and authorizes the local agency formation commission in each county to serve as the conducting authority, as specified. Existing law requires a commission to determine the amount of property tax revenue to be exchanged by an affected local agency, as specified, if the proposal includes the formation of a district, as defined.

This bill would, instead, require a commission to determine the amount of property tax revenue to be exchanged by an affected local agency if the proposal includes the formation of a district and the applicant is seeking a share of the 1% ad valorem property taxes. By adding to the duties of a local agency formation commission, the bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56810 of the Government Code is amended to read:

56810. (a) (1) If the proposal includes the incorporation of a city, as defined in Section 56043, the commission shall determine the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section and Section 56815.

(2) If the proposal includes the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, and if the applicant is seeking a share of the 1 percent ad valorem property taxes, the commission shall determine the amount of property tax to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

ATTACHED FILE(S)

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs that were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost that was funded by any revenues of that agency that are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount described in the previous sentence by the annual tax increment according to the procedures set forth in Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the new city or district receives its initial allocation of property taxes.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.

(d) If the proposal would transfer all of an affected agency's service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985–86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, "prior fiscal year" means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available preceding the issuance of the certificate of filing.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section shall be commenced within three years of the effective date of the city's incorporation or the district's formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.

(j) The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56815.

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

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 1209

Introduced by Senator Cortese

February 15, 2024

An act to add Section 56383.5 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1209, as introduced, Cortese. Local agency formation commission: indemnification.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. The act continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, as specified.

This bill would authorize a LAFCO to require, as a condition for, among other things, processing a change of organization or reorganization, that the applicant agrees to defend, indemnify, and hold harmless the LAFCO, its agents, officers, and employees from and against any claim, action, or proceeding, as specified, arising from or relating to the action or determination by the LAFCO.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

Bill Text**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:****SECTION 1.** Section 56383.5 is added to the Government Code, to read:

56383.5. The commission may require, as a condition for processing a change of organization or reorganization, a sphere amendment or a sphere update, or any other action or determination requested from the commission, that the applicant agrees to defend, indemnify, and hold harmless the commission, its agents, officers, and employees from any claim, action, or proceeding against the commission, its agents, officers, or employees arising from or relating to the action or determination by the commission.

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ASSEMBLY
APRIL 24, 2024

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IN
ASSEMBLY
MARCH 21, 2024

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 2661

Introduced by Assembly Member Soria

February 14, 2024

An act to ~~amend Section 454.57 of the Public Utilities Code, and to~~ add Chapter 4 (commencing with Section 37860) to Part 8.1 of Division 13 of the Water Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2661, as amended, Soria. Electricity: ~~transmission facility planning~~: Westlands Water District.

~~(1) Existing law vests the Public Utilities Commission (PUC) with regulatory authority over public utilities. Existing law requires the PUC to adopt a process for each load-serving entity, as defined, to file an integrated resource plan and a schedule for periodic updates to the plan to ensure that it meets, among other things, the state's targets for reducing emissions of greenhouse gases and the requirement to procure at least 60% of its electricity from eligible renewable energy resources by December 31, 2030. Under existing law, after the load-serving entities updated the integrated resource plans pursuant to the schedule adopted by the PUC, the PUC adopted an aggregated resource portfolio known as the preferred system plan.~~

~~Existing law establishes an Independent System Operator (ISO) as a nonprofit public benefit corporation, and requires the ISO to ensure the efficient use and reliable operation of the electrical transmission grid consistent with the achievement of planning and operating reserve criteria, as specified. Existing law requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission, to provide, not later than March 31, 2024, transmission-focused guidance to the ISO about resource portfolios of expected future renewable energy resources and zero-carbon resources. Existing law requires the guidance to include the allocation of those resources by region based on technical feasibility and commercial interest in each region.~~

~~This bill would require the PUC to perform a sensitivity analysis evaluating the potential for 10,000 to 30,000 megawatts of solar electrical generation located in the Central Valley beyond the amount of solar electrical generation described in the most recently adopted preferred system plan as of January 1, 2025. The bill would require the PUC to transmit the sensitivity analysis to the ISO for evaluation as part of the next transmission planning process.~~

~~(2) The~~

~~The California Water District Law provides for the establishment of water districts and authorizes a district to construct, maintain, and operate plants for the generation of hydroelectric energy and transmission lines for the conveyance of the hydroelectric energy. Existing law merged the former West Plains Water Storage District into the Westlands Water District, and provides for the operation of the Westlands Water District.~~

~~This bill would authorize the Westlands Water District to provide, generate, and deliver solar photovoltaic or hydroelectric electricity and to construct, operate, and maintain works, facilities, improvements, and property necessary or convenient for generating and delivering that electricity. The bill would require the district to use the electricity for the district's own purposes, and the bill would authorize the district to sell surplus electricity to a public or private entity engaged in the distribution or sale of electricity. The bill would also authorize the district to construct, operate, and maintain energy storage systems and electric transmission lines, and to construct, operate, and maintain works, facilities, improvements, and property necessary or convenient for the operation of the energy storage system and electric transmission lines, within the boundaries of the district, as specified. *The bill would require the district to report the amount of income, and the purposes for expenditure of that income, from these electricity facilities in a specified report.*~~

~~This bill would make legislative findings and declarations as to the necessity of a special statute for the Westlands Water District.~~

Digest Key

Vote: majority Appropriation: no Fiscal Committee: ~~yes~~no Local Program: no

ATTACHED FILE(S)

Bill Text**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

~~SECTION 1. Section 454.57 of the Public Utilities Code is amended to read:~~

~~454.57.(a) This section shall be known, and may be cited, as the Accelerating Renewable Energy Delivery Act.~~

~~(b) The Legislature finds and declares all of the following:~~

~~(1) The commission, the Energy Commission, and the State Air Resources Board have jointly estimated that the state's installed electric generation may need a threefold increase in capacity to meet state carbon-free electricity policy targets.~~

~~(2) Record-setting renewable energy generation build rates are needed to meet the goals of the California Renewables Portfolio Standard Program and the Senate Bill 100 (Chapter 312 of the Statutes of 2018) target of supplying 100 percent of retail sales of electricity from renewable energy resources and zero-carbon resources. However, these build rates are not achievable without additional electrical transmission lines and facilities connecting new resources to consumers in the state's load centers.~~

~~(3) In recent years, California has seen problems in delivering renewable energy resources and zero-carbon resources to customers, including problems caused by constraints on the transmission system. First, there are generation pockets where the total potential output from renewable energy generation exceeds the capacity of the transmission system to export that energy. Second, there are load pockets where there is insufficient transmission capacity to import the renewable energy resources and zero-carbon resources that are available. Both types of constraints should be promptly fixed so that all available renewable energy resources and zero-carbon resources can be delivered to customers.~~

~~(4) Reducing the use of nonpreferred resources in disadvantaged communities has been a priority for those communities, and they would benefit from increased access to electricity from new renewable energy resources and zero-carbon resources delivered to serve in-city loads.~~

~~(5) New transmission facilities have many steps that must be accomplished before they are online and delivering electricity. Major new transmission lines can take more than a decade from initial planning to operation.~~

~~(6) New transmission facilities should be planned proactively to support delivery to load centers from expected locations for future renewable energy resource and zero-carbon resource development, where those locations are identified in the integrated resource planning process pursuant to Sections 454.52 and 9621 or as part of longer range planning processes pursuant to Section 454.53.~~

~~(7) The Central Valley may have the potential to host substantially increased amounts of solar energy generation and energy storage beyond current planning assumptions if there were sufficient transmission capacity to deliver the energy to load centers. The commission, Energy Commission, and Independent System Operator should consider potential increased development of solar energy generation and energy storage in the Central Valley and of the transmission capacity needed to deliver that energy to load centers.~~

~~(8) New transmission facilities should be designed to minimize the risk of transmission-triggered wildfires.~~

~~(9) New transmission facilities should be designed to facilitate renewable energy transmission across California to better manage the variability of electrical supply.~~

~~(10) The Independent System Operator has issued a 20-Year Transmission Outlook that identifies substantial additional transmission projects needed to integrate renewable energy resources and storage for retail suppliers within the Independent System Operator balancing authority. Given the scale of this challenge, there is an urgent need to prioritize and accelerate the substantial effort needed to build transmission projects with long development times.~~

~~(c) Recognizing that the Independent System Operator's Federal Energy Regulatory Commission-approved tariff requires the Independent System Operator to plan and approve new transmission facilities needed to achieve the state's goals, it is the intent of the Legislature that the Independent System Operator shall take notice of the state policies expressed in this section.~~

~~(d)(1) In support of the state's policy to supply increasing amounts of electricity from renewable energy resources and zero-carbon resources pursuant to Article 16 (commencing with Section 399.11) and Section 454.53, beginning as soon as possible and not later than March 31, 2024, the commission, in consultation with the Energy Commission, shall provide transmission-focused guidance to the Independent System Operator about resource portfolios of expected future renewable energy resources and zero-carbon resources. The guidance shall include the allocation of those resources by region based on technical feasibility and commercial interest in each region to allow the Independent System Operator to identify and approve transmission facilities needed to interconnect resources and reliably serve the needs of load centers.~~

~~(2)(A) For purposes of the next integrated resource plan cycle after January 1, 2025, the commission shall perform a sensitivity analysis evaluating the potential for 10,000 to 30,000 megawatts of solar electrical generation located in the Central Valley beyond the amount of solar electrical generation described in the most recently adopted preferred system plan as of January 1, 2025.~~

~~(B) The commission shall transmit the results of the sensitivity analysis performed pursuant to subparagraph (A) to the Independent System Operator for evaluation as part of the next transmission planning process.~~

~~(e) In providing the guidance described in subdivision (d), the commission and the Energy Commission shall provide projections each year, including from the integrated energy policy report prepared pursuant to Section 25302 of the Public Resources Code and the load-serving entities' integrated resource plans prepared pursuant to Section 454.52, to support planning and approvals by the Independent System Operator in its annual transmission planning process, including by doing all of the following:~~

~~(1) Providing projections of resource portfolios and electricity demand by region for at least 15 years into the future to ensure adequate lead time for the Independent System Operator to analyze and approve transmission development, and for the permitting and construction of the approved facilities, to meet the projections;~~

~~(2) Providing load growth projections, including projected growth from building and transportation electrification, that are consistent with achieving the economywide greenhouse gas emissions reductions required pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code;~~

~~(3) Providing projections of new renewable energy resources and zero-carbon resources consistent with the build rates necessary to achieve the targets established in Article 16 (commencing with Section 399.11) and Section 454.53;~~

~~(4)(A) Providing resource projections that, combined with transmission capacity expansions, are expected to substantially reduce, no later than 2035, the need to rely on nonpreferred resources in local capacity areas;~~

~~(B) The resource projections in subparagraph (A) shall include consideration of cost-effective and feasible alternatives to transmission capacity expansions, including the use of energy storage resources, renewable energy resources, or zero-carbon resources that are located within the local capacity areas;~~

~~(5) Providing projections for offshore wind generation as identified by the SB 100 Joint Agency Report of the commission, the Energy Commission, and the State Air Resources Board, and informed by the strategic plan developed pursuant to Section 25991 of the Public Resources Code, to allow the Independent System Operator~~

ATTACHMENT 36

~~to identify and approve transmission facilities needed from offshore wind resource areas that would be sufficient to make offshore wind resources fully deliverable to load centers:~~

~~(c) Providing projections for increases in imports of electricity into the state that reflect the expected development of renewable energy resources and zero-carbon resources in other parts of the Western Interconnection for the purpose of delivering clean energy to California balancing authorities:~~

~~(f) On or before January 15, 2023, the commission shall request the Independent System Operator to do both of the following:~~

~~(1) Identify, based as much as possible on studies completed before January 1, 2023, by the Independent System Operator and projections provided before January 1, 2023, by the commission and the Energy Commission, the highest priority transmission facilities that are needed to allow for increased transmission capacity into local capacity areas to deliver renewable energy resources or zero-carbon resources that are expected to be developed by 2035 into those areas:~~

~~(2) Consider whether to approve transmission projects identified pursuant to paragraph (1) as part of its 2022–23 transmission planning process:~~

~~(g) It is the policy of the state that new transmission facilities be built on a timely basis and in anticipation of new electrical generation that will be built to meet the state's renewable energy resource and zero-carbon resource targets, with interim targets for transmission capacity additions that demonstrate adequate progress toward meeting these long-term transmission needs. The commission shall request that the Independent System Operator implement this policy by approving transmission projects needed based on a longer planning period supported by the guidance provided pursuant to subdivisions (d) and (e). The projects should be approved in time to be online when needed, considering permitting and construction lead times:~~

~~(h) It is the policy of the state that planning for new transmission facilities considers the following goals:~~

~~(1) Minimizing the risk of wildfire:~~

~~(2) Increasing systemwide reliability and cost efficiency, including through the sharing of diverse electrical generation resources within California and with other parts of the Western Interconnection:~~

~~(3) Eliminating transmission constraints that prevent electrical generation resources from delivering to the wider grid and that prevent importing energy into load pockets:~~

~~(i) For purposes of this section, the following definitions apply:~~

~~(1) "Local capacity area" means a transmission constrained load pocket, as identified by the Independent System Operator, where local generation capacity is needed for reliability due to insufficient transmission capacity into the load pocket to meet electricity demand with electricity from outside of the load pocket:~~

~~(2) "Nonpreferred resources" means electrical generation resources that are not renewable energy resources or zero-carbon resources pursuant to Section 454.53:~~

SEC. 2. SECTION 1. Chapter 4 (commencing with Section 37860) is added to Part 8.1 of Division 13 of the Water Code, to read:

CHAPTER 4. Additional Powers of the District

37860. (a) For purposes of this section, "for its own purposes" means the Westlands Water District performing only functions within its capacity as a water district, including, but not ~~be~~ limited to, any of the following:

- (1) Pumping operations.
- (2) Water treatment operations.
- (3) Barrier intrusion operations.
- (4) Desalination operations.

(b) (1) The Westlands Water District may provide, generate, and deliver solar photovoltaic or hydroelectric electricity, and may construct, operate, and maintain any and all works, facilities, improvements, and property, or portions thereof, necessary or convenient for generating and delivering that electricity.

(2) An electric powerplant or transmission line constructed pursuant to this subdivision may be leased for operation.

(3) The electricity generated pursuant to this subdivision shall be used by the Westlands Water District for its own purposes. The district may sell surplus electricity to a public or private entity that is engaged in the distribution or sale of electricity.

(c) The Westlands Water District may construct, operate, and maintain an energy storage system, as defined in Section 2835 of the Public Utilities Code, and all works, facilities, improvements, and property, or portions thereof, necessary or convenient for the operation of an energy storage system, within the boundaries of the district, regardless of whether the energy storage system is interconnected to or directly charged by an electric powerplant constructed pursuant to subdivision (b). An energy storage system constructed pursuant to this subdivision may be leased for operation. The district may operate an energy storage system in a manner intended, as determined by the district, to increase the economic value of the energy storage system and the district is not required to use the discharging energy for its own purposes. The district may purchase discharging energy through a market administered by the Independent System Operator. The district may sell discharging energy and any attributes of the energy storage system through a market administered by the Independent System Operator.

(d) The Westlands Water District may construct, operate, and maintain electrical transmission lines and all works, facilities, improvements, and property, or portions thereof, necessary or convenient for the conveyance of electricity within the boundaries of the district, regardless of whether the transmission lines are used for the purpose of conveying electricity from an electric powerplant constructed pursuant to subdivision (b). Transmission lines constructed pursuant to this subdivision may be leased for operation. The district may sell the rights to use transmission lines constructed pursuant to this subdivision to any public or private entity that is engaged in the distribution or sale of electricity. Transmission facilities developed pursuant to this section shall be controlled by a California balancing authority, as defined in Section 399.12 of the Public Utilities Code, regardless of ownership by the Westlands Water District or a subsequent owner.

(e) This section does not authorize the Westlands Water District to provide, sell, or deliver electricity at retail.

(f) The Westlands Water District shall not acquire property employed in the generation or delivery of electricity for public or private utility purposes, except by mutual agreement between the district and the owner of that property.

(g) The Westlands Water District shall report the amount of income, and the purposes for expenditure of that income, from electricity facilities constructed pursuant to this section in the report required by Section 53892 of the Government Code.

SEC. 3. SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need of the Westlands Water District to support the development of solar electrical generation for the electrical grid and to facilitate the development of transmission capacity to help California reach its clean energy and climate goals.



June 5, 2024

Honorable Maria Elena Durazo, Chair
Senate Local Government Committee
State Capitol, Room 407
Sacramento, CA 95814

Subject: SUPPORT, IF AMENDED - AB 2661 (Soria) Electricity: Westlands Water District

Dear Chair Durazo and Committee Members,

The California Association of Local Agency Formation Commissions (CALAFCO), which represents Local Agency Formation Commissions (LAFCOs) throughout California, **supports Assembly Bill (AB) 2661**, as amended on May 16, 2024, **if amended** to clarify that any request for a new or expanded service must go through LAFCO.

While LAFCOs already have approval authority under existing statutes, special legislation such as this is often interpreted by others as setting up a process separate from LAFCO. Clarifying LAFCO's existing authority will prevent any ambiguity from arising.

Further, while this bill is specific to the Westlands Water District, we would also note that it has generic applications. Thus, while it is not a requested amendment, we would recommend consideration of making this an optional power under Division 13, of the Water Code, relative to all California Water Districts.

Thank you for your work on this bill and for your consideration of this request. I am available to answer any questions you may have.

Sincerely,

René LaRoche, Executive Director
rlaroch@calafco.org

cc: Members and Consultants, Senate Local Government Committee

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Session: 2023/24 Hello calafco.

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AMENDED
IN
SENATE
MAY 15, 2024

AMENDED
IN
ASSEMBLY
JANUARY 22, 2024

AMENDED
IN
ASSEMBLY
MARCH 09, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 805

Introduced by Assembly Member Arambula

February 13, 2023

An act to amend Sections 13288 and 13442 of, and to add Section 13289.5 to, the Water Code, relating to water quality, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 805, as amended, Arambula. Sewer service: disadvantaged communities.

Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality in accordance with the Porter-Cologne Water Quality Control Act and the federal Clean Water Act. Existing law authorizes a regional board to order the provision of sewer service by a receiving sewer system, as defined, to a disadvantaged community served by an inadequate onsite sewage treatment system, as defined.

This bill would authorize the state ~~board~~ board, until January 1, 2029, and after it makes specified findings by resolution or a prescribed process, to require a sewer service provider to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services to assist a designated sewer system with the provision of adequate sewer service, as defined. The bill would also authorize the state board to order a designated sewer system to accept those services, including full management and control of all aspects of the designated sewer system, from an administrator. The bill would define "designated sewer system" for these purposes as a sewer system that serves a disadvantaged community ~~and that the state board finds to be that is~~ either an ~~inadequate sewage treatment~~ inadequate sewer system or a sewer system that has demonstrated ~~difficulty in maintaining a failure to maintain~~ technical, managerial, and financial capacity to prevent ~~fraud and mismanagement, or a sewer system that voluntarily accepts financial assistance for the provision of adequate sewer service: waste, fraud, and abuse.~~

The bill would require the state board to take specified actions before determining that a sewer service provider is a designated sewer system, including providing the sewer service provider an opportunity to show that it has taken steps to timely address its failure to ~~provide be an adequate sewer service; system or to timely address its failure to maintain technical, managerial, and financial capacity,~~ conducting a public meeting, and providing an opportunity for public comment. The bill would authorize the state board to grant specified authority over the designated sewer system to the administrator, including the authority to expend money for various purposes and to set and collect sewer rates and ~~fees; subject to approval by the state board: fees.~~ The bill would require the state board to work with the administrator and the communities served by the designated sewer system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver adequate sewer service so that the services of the administrator are no longer necessary.

Existing law creates the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund and continuously appropriates moneys in the account to the state board for specified purposes, including providing grants for cleaning up a waste, abating the effects of a waste on waters of the state, or addressing an urgent drinking water need, as provided.

This bill would authorize the state board to also use moneys in the account to provide grants to administrators ~~for specified purposes, including, among others,~~ to provide administrative, technical, operational, legal, or managerial services to a sewer service provider. By expanding the purposes for which moneys in a continuously appropriated account may be spent, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Digest Key

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

ATTACHED FILE(S)

Bill Text**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:****SECTION 1.** Section 13288 of the Water Code is amended to read:

13288. For purposes of this chapter, the following definitions apply:

- (a) "Adequate sewer service" means ~~sanitary sewer service provided by~~ a sewer service provider that ~~does not have the potential to cause a violation of water quality objectives, impair present or future beneficial uses of water, cause pollution, nuisance, or contamination of waters of the state, or unreasonably degrade the waters of the state; meets public health and environmental standards.~~
- (b) "Administrator" means a person whom the state board has determined is competent *and willing* to perform the administrative, technical, operational, legal, or managerial services required for purposes of this chapter, pursuant to criteria set forth in the handbook described in subdivision ~~(h)~~ (i) of Section 13289.5. *An administrator may be any qualified individual, firm, or another sewer service provider.*
- (c) "Affected residence" means a residence within a disadvantaged community that may be subject to provision of sewer service pursuant to this chapter.
- (d) "Affected resident" means a resident or a property owner of an affected residence.
- (e) "Annexation" has the same meaning as set forth in Section 56017 of the Government Code.
- (f) "Designated sewer system" means a sewer system that serves a disadvantaged community ~~and that the state board finds to be that is~~ either an inadequate ~~sewage treatment sewer~~ system or a sewer system that has demonstrated ~~difficulty in maintaining a failure to maintain~~ technical, managerial, and financial capacity to prevent ~~fraud and mismanagement.~~ *"Designated sewer system" also includes a voluntary participant: waste, fraud, and abuse.*
- (g) "Disadvantaged community" means a disadvantaged ~~community~~ *community*, as defined in Section ~~79505.5; 79505.5, or a low-income community, as defined in Section 39713 of the Health and Safety Code.~~
- (h) "Extension of service" has the same meaning as set forth in Section 56133 of the Government Code.
- (i) "Inadequate onsite sewage treatment system" means an onsite sewage treatment system that has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, or to cause pollution, nuisance, or contamination of waters of the state.
- (j) "Inadequate ~~sewage treatment sewer~~ system" means a sewer ~~system that has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, or to cause pollution, nuisance, or contamination of waters of the state;~~ *service that fails to meet regulatory standards for proper wastewater collection, treatment, and disposal, and may exhibit deficiencies, such as infrastructure failure, insufficient capacity, or ineffective treatment of wastewater.*
- (k) (1) "Onsite sewage treatment system" means an onsite sewage treatment system, as defined in Section 13290, that is not operated by a local agency, as defined in Section 56054 of the Government Code, or a utility regulated by the Public Utilities Commission.
- (2) "Onsite sewage treatment system" includes, but is not limited to, a septic tank, cesspool, leach field, and seepage pit.
- (l) "Provision of sewer service" means the provision of sanitary sewer service, including the collection or treatment of sewage, to a disadvantaged community by any of the following processes:
- (1) Annexation where the receiving sewer system is a special district.
 - (2) Extension of service where the receiving sewer system is a city, county, or special district.
 - (3) Additional sewer service provided within city, county, or special district boundaries.
- (m) "Receiving sewer system" means the sewer system that provides service to a disadvantaged community pursuant to this chapter.
- (n) "Sewer service provider" means any local agency that provides sanitary sewer ~~service;~~ *service, including wastewater collection, treatment, disposal, or any combination thereof.*
- (o) "Special district" means a special district as defined in Section 56036 of the Government Code.

~~(p) "Voluntary participant" means the owner of an onsite sewage treatment system or sewer service provider who has agreed to accept financial assistance for the provision of adequate sewer service.~~

SEC. 2. Section 13289.5 is added to the Water Code, immediately following Section 13289, to read:

13289.5. (a) The state board may, by resolution or through the process described in the guidelines authorized pursuant to subdivision (e) of Section 13442, make findings that a sewer service provider has an inadequate sewer system, as defined in Section 13288, and that it is in the best interest of the customers of the inadequate sewer system and the State of California that an administrator be appointed to assist a sewer service provider with making improvements necessary to develop an adequate sewer system. When those findings are made, the sewer service provider shall be referred to as a "designated sewer system."

~~(a)(1) For~~

(b) Following adoption of a resolution based on the findings required by subdivision (a) for a designated sewer system, the state board may do any of the following:

~~(A)(i)~~

(1) (A) Require a sewer service provider to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services, or any combination of those services, to assist the designated sewer system with the provision of adequate sewer service.

~~(ii)~~

(B) To fulfill the requirements of this section, a sewer service provider may contract with administrators. Where administrator services are comprehensive, the sewer service provider may contract with no more than one administrator, but only one administrator may be used to provide services to a given designated sewer system; administrator at a time. Where administrator services are limited in scope, a sewer service provider may contract with more than one limited scope provider at a time, provided that in no instance will the scopes overlap. An administrator that is not designated or approved by the state board shall not be used for purposes of this section.

ATTACHMENT 11

~~(iii)~~

(C) An administrator may provide services to more than one designated sewer system.

(D) If a designated sewer system is also a water system that has been ordered to consolidate or has been ordered to accept assistance from an administrator, the state board shall consider designating the same administrator for the designated sewer system that was designated to the water system, and requiring that administrator to consult with the management of both the designated water and the designated sewer system in carrying out their duties.

~~(B)~~

(2) Order a designated sewer system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated sewer system, from an administrator selected by the state board.

~~(E)~~

(3) Order a designated sewer system to accept administrative, technical, operational, legal, or managerial services from an administrator ~~appointed by the state board~~ for full oversight of construction or development ~~projects related to an annexation or extension of service;~~ *projects*, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated sewer system.

~~(2) In performing its duties pursuant to paragraph (1), the state board may use criteria from the handbook adopted pursuant to subdivision (g) of Section 116686 of the Health and Safety Code.~~

~~(b)~~

(c) The state board shall do all of the following before determining that a sewer service provider is a designated sewer ~~system;~~ *system pursuant to subdivision (a).*

(1) Provide the sewer service provider with notice and an opportunity to show that the sewer service provider has taken steps to timely address its failure to ~~provide be an adequate sewer service;~~ *system or has taken steps to timely address its failure to maintain technical, managerial, and financial capacity.*

(2) (A) Conduct a public meeting in a location as close as feasible to the affected community.

(B) The state board shall make reasonable efforts to provide a 30-day notice of the public meeting to affected ratepayers, renters, and property owners.

(C) The state board shall provide representatives of the sewer service provider, affected ratepayers, renters, and property owners with an opportunity to present oral and written comments at the public meeting.

(D) The state board shall provide an opportunity for public comment at the meeting.

(3) Provide the public with an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2).

(4) Consider whether designating a sewer system and ordering a designated sewer system to contract with an administrator is feasible, and not in conflict with any federal or state laws, regulations, or permit requirements.

~~(e)~~

(d) The state board shall make financial assistance available to an administrator of a designated sewer system, as appropriate and to the extent that funding is available.

(e) The state board shall not make findings that a sewer service provider has an inadequate sewer system or require a sewer service provider to contract with an administrator pursuant to this section on or after January 1, 2029. All other authorizations and requirements pursuant to this section shall remain in effect on and after January 1, 2029.

~~(d)~~

(f) The authority granted to an administrator by the state board pursuant to subdivision ~~(a)~~ (b) may include, but is not limited to, the authority to do all of the following:

(1) Expend available money for capital infrastructure improvements that the designated sewer system needs to provide adequate sewer service.

(2) Set and collect user ~~sewer rates and fees, subject to approval by the state board. The state board shall consider affordability when approving~~ sewer rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII D of the California Constitution.

(3) Expend available money for operation and maintenance costs of the designated sewer ~~system;~~ *system, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.*

~~(4) Expend available money necessary for an annexation or extension of service, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.~~

~~(e)~~

(g) The state board shall work with the administrator of a designated sewer system and the communities served by that designated sewer system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver adequate sewer service so that the services of the administrator are no longer necessary.

~~(f)~~

(h) A designated sewer system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated sewer system and provide adequate sewer service.

~~(g) A designated sewer system shall be responsible for funding the activities of an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of those services, to the designated sewer system. The state board shall not be responsible for providing funding for those activities.~~

~~(h)~~

(i) Before ordering a designated sewer system to accept administrative, technical, operational, legal, or managerial services from an administrator pursuant to subdivision ~~(a);~~ (b), the state board shall develop standards, terms, and procedures, to be incorporated in the handbook adopted pursuant to subdivision (g) of Section

116686 of the Health and Safety Code, consistent with the process provided in subdivision (a) of Section 116760.43 of the Health and Safety Code, for all of the following:

(1) The process and criteria for the state board to designate a sewer service provider as a designated sewer system, and the evidence required to support findings by the state board in a resolution pursuant to subdivision (a).

~~(1)~~

(2) Ensuring compliance with subdivision ~~(f)~~; *(h)*.

~~(2)~~

(3) Providing opportunity for public comment on the selection of an administrator and the services to be provided.

~~(3)~~

(4) Providing public access to budgets, ownership and financial information, and other documents and records related to the provision of sewer service to affected residences and to the management of the designated sewer system by the administrator.

~~(4)~~

(5) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated sewer system for significant decisions or actions made on behalf of the designated sewer system, including, but not limited to, establishing operating budgets, altering sewer rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.

~~(5)~~

(6) Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.

~~(6)~~

(7) Ensuring an administrator acts in the best interests of the community served.

~~(7)~~

(8) Development and approval of a post-administrator sewer service plan to ensure compliance with subdivision ~~(e)~~; *(g)*. Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.

~~(8)~~

(j) An administrator appointed pursuant to this section for a designated sewer system shall not be liable for claims by past or current ratepayers, or by those affected by the sewer service provided by the designated sewer system, in ~~either any~~ of the following circumstances:

(1) If good faith, reasonable effort, and ordinary care were used by the administrator to assume possession of, or to operate, the sewer service provider.

(2) For any injury or damages that occurred before the commencement of the operation period.

(3) For injury, violations, or damages after the administrator has assumed control of the designated system until the necessary upgrades to the infrastructure or managerial responsibilities have been completed to become an adequate sewer system.

~~(j)~~

(k) This section does not limit or supersede any other law authorizing claims against the state board or providing a defense to liability, and shall not be construed to create any new or expanded basis for liability.

~~(k)~~

(l) Nothing in this section shall be construed to do any of the following:

(1) Relieve a sewer service provider or any other entity from complying with any provision of federal or state law, including those pertaining to water quality.

(2) Impair any cause of action by the Attorney General, a district attorney, a city attorney, or other public prosecutor, or impair any other action or proceeding brought by, or on behalf of, a regulatory agency.

(3) Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.

(4) Relieve any person or entity from liability for action or inaction in bad faith, or without reasonable effort or ordinary care.

~~(l)~~

(m) Nothing in this section shall absolve, indemnify, or protect a prior operator, designated sewer system, or individual from liability based on an act or failure to act prior to the operation period.

~~(m)~~

(n) Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

~~(n)~~

(o) This section does not apply to a charter city, charter county, or charter city and county.

~~(o) For purposes of this section, an administrator is authorized to act on behalf of an affected residence to the same extent, and in the same manner, as a designated sewer system with the consent of the affected residence.~~

SEC. 3. Section 13442 of the Water Code is amended to read:

ATTACHMENT A

13442. (a) Upon application by an eligible entity, as described in subdivision (b), the state board may approve the payment of grant moneys from the account to that entity to assist in cleaning up a waste, abating the effects of a waste on waters of the state, addressing actions required pursuant to Section 13289.5, or addressing an urgent drinking water need without regard to whether the need for drinking water is a result of the discharge of waste.

(b) An entity is eligible to apply for funding pursuant to this section if that entity has authority to undertake the activity described in subdivision (a) for which it seeks moneys and the entity is any of the following:

(1) A public agency.

(2) A tribal government that is on the California Tribal Consultation List maintained by the Native American Heritage Commission and is a disadvantaged community, as defined in Section 79505.5, that agrees to waive tribal sovereign immunity for the explicit purpose of regulation by the state board pursuant to this division.

(3) A not-for-profit organization serving a disadvantaged community, as defined in Section 79505.5.

(4) A community water system, as defined in Section 116275 of the Health and Safety Code, that serves a disadvantaged community, as defined in Section 79505.5.

(5) An administrator, as defined in Section 13288.

(c) An eligible entity shall not become liable to the state board for repayment of moneys paid to the entity under this section and expended in accordance with the state board's approval of payment, but this shall not be a defense to an action brought pursuant to subdivision (c) of Section 13304 for the recovery of moneys paid under this section.

(d) Projects using moneys that are paid to an eligible entity pursuant to this section shall be exempt from state contracting and procurement requirements set forth in the Government Code and the Public Contract Code to the extent necessary to take immediate action to protect public health and safety.

(e) The state board may adopt guidelines for the allocation and administration of these moneys that shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the State Water Resources Control Board to take appropriate action as soon as possible to ensure that adequate, sanitary sewer service is provided to communities, it is necessary for this act to take effect immediately.

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SENATE
MAY 29, 2024

AMENDED
IN
ASSEMBLY
JANUARY 17, 2024

AMENDED
IN
ASSEMBLY
MARCH 16, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 817

Introduced by Assembly Member Pacheco
(Coauthor: Assembly Member Wilson)

February 13, 2023

An act to add and repeal Section 54953.05 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 817, as amended, Pacheco. Open meetings: teleconferencing: subsidiary body.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, each legislative body of a local agency to provide notice of the time and place for its regular meetings and an agenda containing a brief general description of each item of business to be transacted. The act also requires that all meetings of a legislative body be open and public, and that all persons be permitted to attend unless a closed session is authorized. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

Existing law authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency (emergency provisions) and, until January 1, 2026, in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met (nonemergency provisions). Existing law imposes different requirements for notice, agenda, and public participation, as prescribed, when a legislative body is using alternate teleconferencing provisions. The nonemergency provisions impose restrictions on remote participation by a member of the legislative body and require the legislative body to provide specific means by which the public may remotely hear and visually observe the meeting.

This bill, until January 1, 2026, would authorize a subsidiary body, as defined, to use similar alternative teleconferencing provisions and would impose requirements for notice, agenda, and public participation, as prescribed. *The bill would require at least one staff member of the local agency to be present at a designated primary physical meeting location during the meeting. The bill would require the local agency to post the agenda at the primary physical meeting location. The bill would require the members of the subsidiary body to visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform, as specified. The bill would also require the subsidiary body to list a member of the subsidiary body who participates in a teleconference meeting from a remote location in the minutes of the meeting.* In order to use teleconferencing pursuant to this act, the bill would require the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote, before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

This bill would make legislative findings to that effect.

ATTACHED FILE(S)

Digest KeyVote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: ~~no~~yes**Bill Text****THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:****SECTION 1.** Section 54953.05 is added to the Government Code, to read:

54953.05. (a) (1) The definitions in Section 54953, as that section may be amended from time to time, apply for purposes of this section.

(2) For purposes of this section, "subsidiary body" means a legislative body that meets all of the following:

(A) Is described in subdivision (b) of Section 54952.

(B) Serves exclusively in an advisory capacity.

(C) Is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements.

(b) A subsidiary body may use teleconferencing without complying with paragraph (3) of subdivision (b) of Section 54953, if the subsidiary body complies with all of the following:

(1) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the subsidiary body.

(2) Each member of the subsidiary body shall participate through both audio and visual technology.

(3) The subsidiary body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the subsidiary body:

(A) A two-way audiovisual platform.

(B) A two-way telephonic service and a live webcasting of the meeting.

(4) The subsidiary body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(5) The subsidiary body shall designate a primary physical meeting location where members of the public may physically attend, observe, hear, and participate in the meeting. At least one staff member of the local agency shall be present at the primary physical meeting location during the meeting. The local agency shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.~~(5)~~

(6) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the subsidiary body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

~~(6)~~

(7) The agenda shall identify and include an opportunity for all persons to attend and address the subsidiary body directly pursuant to Section 54954.3 via a call-in option or via an internet-based service option.

~~(7)~~

(8) In the event of a disruption that prevents the subsidiary body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the subsidiary body's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the subsidiary body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the subsidiary body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

~~(8)~~

(9) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the subsidiary body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

*(10) The members of the subsidiary body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.**(A) The visual appearance of a member of the subsidiary body on camera may cease only when the appearance would be technologically impracticable, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video, or when the visual display of meeting materials, information, or speakers on the internet or other online platform requires the visual appearance of a member of a subsidiary body on camera to cease.**(B) If a member of the advisory body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance when they turn off their camera.*~~(10)~~

(11) The subsidiary body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the subsidiary body and offer comment in real time.

(A) A subsidiary body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to paragraph ~~(9)~~; (9), to provide public comment until that timed public comment period has elapsed.

ATTACHMENT 50

(B) A subsidiary body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to paragraph ~~(8); (9)~~, or otherwise be recognized for the purpose of providing public comment.

(C) A subsidiary body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to paragraph ~~(8); (9)~~, until the timed general public comment period has elapsed.

(12) A member of the subsidiary body who participates in a teleconference meeting from a remote location shall be listed in the minutes of the meeting.

(c) In order to use teleconferencing pursuant to this section, the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action shall make the following findings by majority vote before the subsidiary body uses teleconferencing pursuant to this section for the first time, and every 12 months thereafter:

- (1) The legislative body has considered the circumstances of the subsidiary body.
- (2) Teleconference meetings of the subsidiary body would enhance public access to meetings of the subsidiary body.
- (3) Teleconference meetings of the subsidiary body would promote the attraction, retention, and diversity of subsidiary body members.

(d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 54953.05 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Section 54953.05 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to provide opportunities for public participation in meetings of specified public agencies and to promote the attraction and retention of members of those agencies.

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 2302

Introduced by Assembly Member Addis
(Coauthor: Senator Laird)

February 12, 2024

An act to amend Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2302, as introduced, Addis. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in specified circumstances if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction, and the legislative body complies with prescribed requirements. Existing law imposes prescribed restrictions on remote participation by a member under these alternative teleconferencing provisions, including establishing limits on the number of meetings a member may participate in solely by teleconference from a remote location, prohibiting such participation for a period of more than 3 consecutive months or 20% of the regular meetings for the local agency within a calendar year, or more than 2 meetings if the legislative body regularly meets fewer than 10 times per calendar year.

This bill would revise those limits, instead prohibiting such participation for more than a specified number of meetings per year, based on how frequently the legislative body regularly meets. The bill, for the purpose of counting meetings attended by teleconference, would define a "meeting" as any number of meetings of the legislative body of a local agency that begin on the same calendar day.

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

This bill would make legislative findings to that effect.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

Bill Text**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

SECTION 1. Section 54953 of the Government Code, as amended by Section 1 of Chapter 534 of the Statutes of 2023, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

ATTACHED TO AB 2302

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in either of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (D), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 45 days after teleconferencing for the first time pursuant to subparagraph (A) or (B) of paragraph (1), and every 45 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

- (i) A two-way audiovisual platform.
- (ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) (A) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for ~~a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.~~ *more than the following number of meetings, as applicable:*

(i) Two meetings per year, if the legislative body regularly meets once per month or less.

(ii) Five meetings per year, if the legislative body regularly meets twice per month.

(iii) Seven meetings per year, if the legislative body regularly meets three or more times per month.

(B) For the purpose of counting meetings attended by teleconference under this paragraph, a "meeting" shall be defined as any number of meetings of the legislative body of a local agency that begin on the same calendar day.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 54953 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for remote participation by a member of a legislative body in teleconference meetings.

Session: 2023/24 Hello calafco.

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IN
ASSEMBLY
APRIL 24, 2024

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 2715

Introduced by Assembly Member Boerner

February 14, 2024

An act to amend Section 54957 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2715, as amended, Boerner. Ralph M. Brown Act: closed sessions.

Existing law, the Ralph M. Brown Act, generally requires that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate. Existing law authorizes a legislative body to hold a closed session with specified individuals on, among other things, matters posing a threat to the security of essential public services, as specified.

This bill would additionally authorize a legislative body to hold a closed session to consider or evaluate matters related to cybersecurity, as specified, provided that any action taken on those matters is done in open session, with other law enforcement or security personnel and to hold a closed session on a threat to critical infrastructure controls or critical infrastructure information, as defined, relating to cybersecurity.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

This bill would make legislative findings to that effect.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54957 of the Government Code is amended to read:

54957. (a) (1) This chapter does not prevent the legislative body of a local agency from holding closed sessions with the Governor, Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or other law enforcement or security personnel, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities, facilities, or a threat to critical infrastructure controls or critical infrastructure information relating to cybersecurity.

(2) For purposes of this subdivision, the following definitions apply:

(A) "Critical infrastructure controls" means networks and systems controlling assets so vital to the local agency that the incapacity or destruction of those networks, systems, or assets would have a debilitating impact on public health, safety, economic security, or any combination thereof.

(B) "Critical infrastructure information" means information not customarily in the public domain pertaining to any of the following:

(i) Actual, potential, or threatened interference with, or an attack on, compromise of, or incapacitation of critical infrastructure controls by either physical or computer-based attack or other similar conduct, including, but not limited to, the misuse of, or unauthorized access to, all types of communications and data transmission systems, that violates federal, state, or local law or harms public health, safety, or economic security, or any combination thereof.

ATTACHMENT 5

(ii) The ability of critical infrastructure controls to resist any interference, compromise, or incapacitation, including, but not limited to, any planned or past assessment or estimate of the vulnerability of critical infrastructure.

(iii) Any planned or past operational problem or solution regarding critical infrastructure controls, including, but not limited to, repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to interference, compromise, or incapacitation of critical infrastructure controls.

~~(b) This chapter does not prevent the legislative body of a local agency from holding closed sessions to consider or evaluate matters related to cybersecurity, including vulnerabilities of, or potential or ongoing threats to, an agency's cybersecurity provided that any action taken by the legislative body on those matters is done in open session.~~

~~(c)~~

(b) (1) Subject to paragraph (2), this chapter does not prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of their right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. This subdivision shall not limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 54957 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By authorizing closed sessions of legislative bodies relating to cybersecurity, this bill allows a legislative body to receive, confidentially discuss, and learn about cybersecurity risks, vulnerabilities, and threats facing the agency, thereby enabling the legislative body to make fully informed cybersecurity-related decisions in open session. The bill protects information and deliberations related to an agency's cybersecurity in order to protect against current or future cybersecurity attacks on the agency that can damage public facilities and services.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which amends Section 54957 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

By authorizing closed sessions of legislative bodies relating to cybersecurity, this bill allows a legislative body to receive, confidentially discuss, and learn about cybersecurity risks, vulnerabilities, and threats facing the agency, thereby enabling the legislative body to make fully informed cybersecurity-related decisions in open session. The bill protects information and deliberations related to an agency's cybersecurity in order to protect against current or future cybersecurity attacks on the agency that can damage public facilities and services.

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IN
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SEPTEMBER 05, 2023

AMENDED
IN
ASSEMBLY
AUGUST 14, 2023

AMENDED
IN
SENATE
APRIL 24, 2023

AMENDED
IN
SENATE
MARCH 22, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 537

Introduced by Senator Becker

February 14, 2023

An act to amend Section 54953 of, and to add and repeal Section 54953.4 of, the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 537, as amended, Becker. Open meetings: multijurisdictional, cross-county agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. These circumstances include if a member shows "just cause," including for a childcare or caregiving need of a relative that requires the member to participate remotely.

This bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.

The bill would authorize the legislative body of a multijurisdictional, cross-county agency, as specified, to use alternate teleconferencing provisions if the eligible legislative body has adopted an authorizing resolution, as specified. The bill would also require the legislative body to provide a record of attendance of the members of the legislative body, the number of community members in attendance in the teleconference meeting, and the number of public comments on its internet website within 10 days after a teleconference meeting, as specified. The bill would require at least a quorum of members of the legislative body to participate from one or more physical locations that are open to the public and within the boundaries of the territory over which the local agency exercises jurisdiction. The bill would require a member who receives compensation for their service, as specified, on the legislative body to participate from a physical location that is open to the public. The bill would require the legislative body to identify in the agenda each member who plans to participate remotely and to include the address of the publicly accessible building from which each member will participate via teleconference. The bill would prohibit a member from participating remotely pursuant to these provisions unless

ATTACHED TO SB 537

the remote location is the member's office or another location in a publicly accessible building and is more than 40 miles from the in-person location of the meeting. The bill would repeal these alternative teleconferencing provisions on January 1, 2026.

This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 557 to be operative only if this bill and AB 557 are enacted and this bill is enacted last.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

This bill would make legislative findings to that effect.

This bill would declare that it is to take effect immediately as an urgency statute.

Digest Key

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953 of the Government Code, as amended by Section 1 of Chapter 285 of the Statutes of 2022, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis

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or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(E) An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 1.5. *Section 54953 of the Government Code, as amended by Section 1 of Chapter 285 of the Statutes of 2022, is amended to read:*

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

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(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in ~~any~~ *either* of the following circumstances:

~~(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.~~

~~(B)~~

(A) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

~~(C)~~

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph ~~(B)~~; (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph ~~(F)~~; (D), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph ~~(F)~~; (D), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph ~~(F)~~; (D), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, ~~or state or local officials have imposed or recommended measures to promote social distancing~~, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than ~~30~~ 45 days after teleconferencing for the first time pursuant to subparagraph ~~(A)~~; ~~(B)~~, or ~~(C)~~ (A) or (B) of paragraph (1), and every ~~30~~ 45 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

~~(B) Any of the following circumstances exist:~~

ATTACHED FILE 68

(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.

~~(ii) State or local officials continue to impose or recommend measures to promote social distancing.~~

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing ~~members of~~ the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

ATTACHED FILE # 64

- (B) A contagious illness that prevents a member from attending in person.
- (C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).
- (D) Travel while on official business of the legislative body or another state or local agency.
- (E) An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.*

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, ~~2024~~, 2026, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as amended by Section 2 of Chapter 285 of the Statutes of 2022, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

- (A) All votes taken during a teleconferenced meeting shall be by rollcall.
- (B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.
- (C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.
- (D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

- (i) A two-way audiovisual platform.
- (ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (f).

(D) Travel while on official business of the legislative body or another state or local agency.

(E) An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(6) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(7) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(8) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(j) This section shall become operative January 1, 2024, shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2.5. *Section 54953 of the Government Code, as amended by Section 2 of Chapter 285 of the Statutes of 2022, is amended to read:*

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in ~~subdivision (d): subdivisions (d) and (e).~~

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with *the requirements of* paragraph (3) of subdivision (b) ~~if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following: if the legislative body complies with the requirements of paragraph (2) of this subdivision in either of the following circumstances:~~

(A) ~~The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body: holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.~~

~~(i) A two-way audiovisual platform;~~

~~(ii) A two-way telephonic service and a live webcasting of the meeting;~~

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

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~~(B)~~

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. *The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.*

~~(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.~~

~~(D)~~

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

~~(E)~~

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

~~(F)~~

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

~~(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:~~

~~(A) One of the following circumstances applies:~~

~~(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.~~

~~(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 4 (commencing with Section 56) of Part 2.6 of Division 4 of the Civil Code). For the purposes of this clause, the following requirements apply:~~

~~(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.~~

~~(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.~~

~~(B) The member shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.~~

~~(C) The member shall participate through both audio and visual technology.~~

~~(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.~~

~~(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.~~

~~(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.~~

~~(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (D), until the timed general public comment period has elapsed.~~

~~(3) If a state of emergency remains active, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 45 days after teleconferencing for the first time pursuant to subparagraph (A) or (B) of paragraph (1), and every 45 days thereafter, make the following findings by majority vote:~~

~~(A) The legislative body has reconsidered the circumstances of the state of emergency.~~

~~(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.~~

~~(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.~~

(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws. **ATPAC ITEM # 66**

(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing ~~members of~~ the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

~~(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.~~

~~(2) "Just cause" means any of the following:~~

~~(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.~~

~~(B) A contagious illness that prevents a member from attending in person.~~

~~(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (f).~~

~~(D) Travel while on official business of the legislative body or another state or local agency.~~

~~(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.~~

~~(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.~~

~~(1) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).~~

~~(5)~~

~~(2) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.~~

~~(6) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.~~

~~(7) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.~~

~~(8) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.~~

(j) This section shall become operative January 1, 2024, shall remain in effect only until January 1, 2026, and as of that date is repealed: 2026.

SEC. 3. Section 54953.4 is added to the Government Code, to read:

54953.4. (a) For purposes of this section, the following definitions apply:

(1) "Eligible legislative body" means a board, commission, or advisory body of a multijurisdictional, cross-county agency, the membership of which board, commission, or advisory body is appointed and which board, commission, or advisory body is otherwise subject to this chapter.

(2) "Multijurisdictional" means a legislative body that includes representatives from more than one county, city, city and county, special district, or a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1.

(b) An eligible legislative body may use teleconferencing without complying with paragraph (3) of subdivision (b) of Section 54953 if the legislative body complies with this section.

(c) An eligible legislative body shall not use teleconferencing pursuant to this section unless the eligible legislative body has adopted a resolution that authorizes the eligible legislative body to use teleconferencing at a regular meeting in open session.

(d) An eligible legislative body that holds a meeting pursuant to this section shall comply with all of the following:

(1) In each notice and posting of the time or agenda of the teleconferenced meeting, the eligible legislative body shall include the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(2) In the event of a disruption that prevents the eligible legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the eligible legislative body's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the eligible legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the eligible legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(3) The eligible legislative body shall not require public comments to be submitted in advance of the meeting and shall provide an opportunity for the public to address the legislative body and offer comment in real time.

(4) (A) If an eligible legislative body provides a timed public comment period for each agenda item, the eligible legislative body shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subdivision (f), to provide public comment until that timed public comment period has elapsed.

(B) If an eligible legislative body does not provide a timed public comment period, but takes public comment separately on each agenda item, the eligible legislative body shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subdivision (f).

(C) If an eligible legislative body provides a timed general public comment period that does not correspond to a specific agenda item, the eligible legislative body shall not close the public comment period or the opportunity to register, pursuant to subdivision (f), until the timed general public comment period has elapsed.

(5) Except as provided in Section 54953.3, an eligible legislative body, within ~~seven~~ 10 days of holding a teleconference meeting, shall provide ~~both~~ all of the following on its internet website:

(A) A record of attendance of ~~both community members and the~~ members of the eligible legislative body.

(B) (i) The number of community members in attendance in the teleconference meeting.

(ii) The number of community members in attendance at the physical location of the public meeting may be provided in addition to the requirement specified in clause (i).

~~(B)~~

(C) The number of public comments in the meeting.

(6) (A) At least a quorum of the members of the eligible legislative body shall participate from one or more physical locations that are open to the public and within the boundaries of the territory over which the local agency exercises jurisdiction.

(B) Any member of the eligible legislative body who receives compensation for their service on the eligible legislative body shall participate from a physical location that is open to the public. For purposes of this subparagraph, "compensation" does not include reimbursement for traveling or other actual and necessary expenses incurred in connection with participating in person.

(C) The eligible legislative body shall identify each member of the eligible legislative body who plans to participate remotely in the agenda and shall include the address of the publicly accessible building from where they will participate via teleconference. The specific room or location within the publicly accessible building from which a member participates via teleconference is not required to be publicly accessible.

(7) The eligible legislative body shall provide a physical location from which the public may attend or comment.

(8) The eligible legislative body shall comply with all requirements of Section 54953 except paragraph (3) of subdivision (b) of that section.

(e) A member of the eligible legislative body shall not participate in a meeting remotely pursuant to this section unless they meet both of the following requirements:

(1) The location from which the member participates is more than 40 miles from the in-person location of the meeting.

(2) The member participates from their office or another location in a publicly accessible building.

(f) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of a third-party internet website or other online platform during a meeting held pursuant to this section may be required to register to log in to the teleconference if both of the following conditions are met:

(1) The internet website or online platform requires that registration.

(2) The decision to require registration is not under the control of the legislative body.

(g) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 4. The Legislature finds and declares that Sections 1, 2, and 3 of this act, which amend Section 54953 of, and add Section 54953.4 to, the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

Permitting remote participation for just cause due to a member's immunocompromised family member, as well as extending the operation of teleconferencing for legislative bodies of multijurisdictional, cross-county agencies with appointed membership, will further increase public participation, increase the pool of people who are able to serve on these bodies, including those that would otherwise have to travel long distances to attend meetings in person, and protect the health and safety of the public.

SEC. 5. *Sections 1.5 and 2.5 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 557. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 557, in which case Section 54953 of the Government Code, as amended by Sections 1 and 2 of this bill, shall remain operative only until the operative date of Assembly Bill 557, at which time Sections 1.5 and 2.5 of this bill shall become operative.*

SEC. 5-SEC. 6. The Legislature finds and declares that Sections 1, 2, and 3 of this act, which amend Section 54953 of, and add Section 54953.4 to, the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Permitting remote participation for just cause due to a member's immunocompromised family member, as well as extending the operation of teleconferencing for legislative bodies of multijurisdictional, cross-county agencies with appointed membership, will further increase public participation, increase the pool of people who are able to serve on these bodies, including those that would otherwise have to travel long distances to attend meetings in person, and protect the health and safety of the public.

SEC. 6-SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Virtual meetings have allowed much easier access to appointed bodies of local agencies with far more members of the public participating in each meeting. This has created greater equity in the process and fostered the health of our democracy. In-person meetings may jeopardize the health and safety of vulnerable citizens due to ongoing risks of illnesses.

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LEGISLATIVE COMMITTEE MEETING STAFF REPORT

Agenda Item No. 5 Resume Tabled Discussion Regarding 56133 Proposal

Meeting Date: June 14, 2024

Prepared By: René LaRoche, Chair

RECOMMENDATIONS

Resume the discussion regarding the 56133 legislative proposal (2019), that was tabled at the May 10, 2024, meeting of the Legislative Committee and consider strategy.

BACKGROUND

At the February 16, 2024 Legislative Committee meeting, an update was provided on the 56133 legislative proposal. Discussions with the Assembly and Senate Consultants and the CALAFCO lobbyist were recounted in which all three had indicated that the proposal would be viewed as an expansion of LAFCO authority, which significantly reduces the chance of success or even procuring an author.

Discussions with the submitter of the proposal were also reported upon, along with research undertaken to determine the legislative intent, as contained within the legislative record, for GC 56133. In reporting on the research, it was noted that the author's statement, and other legislative documents, supported the information received from the legislative consultants and lobbyist. Given the increased effort and cost needed to move a bill perceived as expanding LAFCO authority, and the reduced likelihood of success, the committee was also advised that the matter would need to be rescheduled before the Board of Directors for further consideration.

Upon hearing of the research and the memo documenting it, multiple requests for copies were received from committee members. Consequently, the discussion was tabled to allow the memo to be distributed and reviewed. That confidential memo was distributed separately to the committee members on February 29, 2024, and the discussion was reopened on March 22, 2024.

Given the author's comments contained in the legislative history, and given the lack of statewide data or an unbiased report from an outside entity like the Little Hoover Commission to support a bill request, the question was posed as to whether an alternate course of action, such as a notification provision, might suffice. In response to the Committee's request for some written language, Steve Lucas volunteered to prepare a sample. The discussion was continued to the May 10th meeting when the committee considered the sample notification language.

During the May 10th discussion, concerns were raised by some that such a provision could conflict with existing policies and procedures, and that if the initial requested change could not be pursued then the matter should be left to local policies. Discussion also ensued regarding the legal presumptions that a notification provision could fuel. After more discussion about the various working policies currently in place, the committee requested the collection of samples to further inform their consideration, and the topic was tabled to the next legislative committee meeting. A

request for local policies was sent out to the EOs on May 20, 2024, and the responses that were received are attached to this item, which allows continuation of this discussion.

Additionally, because the committee has some new members this year, earlier resources on the topic have also been attached for reference and include the 2022 White Paper that was prepared on the issue, and responses to a 2023 survey of the EOs.

The committee is now being asked to continue it's consideration of the issue.

ATTACHMENTS

- 5. A. Local Policies and Responses
- 5. B. Alternate 56133 Legislative proposal (Notification)
- 5. C. Original 56133 Legislative proposal – 2019.
- 5. D. White Paper (2022): Planning for a Sustainable and Predictable Future: Clarifying LAFCO Authority to Determine Government Code Section 56133(e) Exemption Eligibility
- 5. E. EO Responses to 56133 Survey (2023)

This worksheet outlines the statute, policy, and procedure to request extension of service(s). Once you have reviewed this worksheet, you are encouraged to consult with LAFCo staff prior to submitting an application.

1. Authority

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

By Resolution No. 127, the Fresno LAFCo delegated to the executive officer the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries.

2. Applicant

It is strongly recommended that the local agency that will provide the service(s) be the applicant, not the subject property owner. A local agency's agreement to serve the subject property is a necessary part of the application and will carry great weight with the executive officer's analysis of the application. LAFCo staff encourages property owners to work through the affected local agency:

GC 56017.2 (c). "Application" means: A request by a city or district for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Section 56133. (emphasis added)

3. Information needed from a local agency for authorization to extend service(s)¹

- Completed application (only the first page of the LAFCo master application is necessary for extension of service requests);
- Nature of the request;
- Location of proposed recipient(s), address, APN, and total acreage of the affected property(ies);
- Maps depicting:
 - 1) subject property.
 - 2) all public improvements needed to fulfill the proposed extension,
 - 3) city limit/district boundary. and
 - 4) affected local agency's sphere of influence (SOI);

¹ Note: An extension of service may be exempt from GC sec. 56133; see "Important exemption in the statute" later in this worksheet. If the extension is exempt the executive officer will communicate this in writing and fee will be returned.

- A draft copy of the proposed agreement or contract between local agency and owners of the affected properties;
- A local agency contact;
- Known alternate providers of the type of service to be extended; and
- Fee per Fresno LAFCo policy 350-10.

4. Process

Extension of service requests are not changes of organization pursuant to GC 56021 and are not publicly noticed pursuant to GC 56658(b)(1); rather, the process is administrative in nature with typical notice of action given only to the subject local agency, the party requesting service, Fresno County Public Works and Planning, County Auditor/Controller, and County Assessor.

Within 30 days of receipt of an application for approval by a city or district of a contract to extend services outside its jurisdictional boundary, the executive officer shall determine whether the request is complete and acceptable for filing or whether the request is incomplete.

If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant, specifying those parts of the request that are incomplete and the manner in which they can be made complete.

When the request is deemed complete, the executive officer shall, not more than 90 days from the date that the request is deemed complete, approve, disapprove, or approve with conditions the contract for extended services.

The executive officer may forward a copy of the application to the Fresno County Department of Public Works and Planning for review, comment, and recommended conditions of approval including necessity for encroachment permits, utility easements, and so forth.

If the executive officer has denied a request for extension of service, the local agency or an affected party may request that the executive officer's action be reconsidered by the commission within 30 days of executive officer action per GC sec. 56895.

There are essentially two thresholds to consider: is the service to be extended to property(ies) inside or outside of a SOI. If the subject property is **inside of the affected agency's SOI**:

GC 56133 (b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

In comparison, service to property(ies) **outside of the affected agency's SOI** is a substantially higher threshold:

GC 56133 (c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

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

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

Regarding (1), above, in the event that the requested extension is outside a SOI, as soon as possible, the local agency should contact Fresno County Department of Public Health, Environmental Health Division at (559) 600-3271 for a finding of an existing or impending threat to the public health or safety.

Regarding (2) above, Public Utilities Code sec. 241 identifies a "Water corporation" as including every corporation or person owning, controlling, operating, or managing any water system for compensation within this State. Maps and statements on file with the commission are:

- Columbia Canal Company
- Shaver Lake Point One Mutual Water Company
- Shaver Lake Point Two Mutual Water Company
- Bakman Water Company

5. Important exemption in the statute

GC sec. 56133 (e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that

serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

6. Typical conditions of approval

LAFCo resolution authorizing extension of service pursuant to GC 56133 typically includes the following condition of approval:

The record owner of title to each property shall record a covenant, in a form acceptable to the (service provider), stating that the record owner, and all subsequent owners of the subject property, shall not protest the future annexation of the subject property if such annexations are not subject to conditions, excluding the facts pertaining to the annexation itself or the extension of service, which might materially prejudice those holding an interest in the real property.

Other conditions of approval may be added to reflect circumstances unique to the application.

7. Distribution of resolution

Upon expiration of the reconsideration period, the executive officer will distribute the resolution authorizing extension of service to the

- local agency providing the extended service,
- owner of the affected property,
- Fresno County Department of Public Works and Planning, and
- Fresno County Auditor-Controller/Treasurer-Tax Collector.

The executive officer shall provide a summary report of the resolution to the Commission at the next available meeting.

MARIN LAFCO – 56133(e) Policy

4.9 OUTSIDE SERVICE AGREEMENT POLICY (NON-FIRE)

As specified in Government Code §56133, cities, towns, and special districts seeking to provide new or extended services other than fire protection to areas outside their jurisdictions by contracts or agreements after January 1, 2001 shall apply to Marin LAFCo for approval. Marin LAFCo may approve requests under this section for new or extended services by contract or agreement within the applying agency's sphere of influence only in anticipation of eventual annexation. Approval may also be granted for such requests involving areas outside the applying agency's sphere of influence to respond to an existing or impending threat to the public health or safety of the public or the affected residents of the territory. Specific exemptions to this requirement for Marin LAFCo approval are found under Government Code §56133(e).

4.9 (A) Definitions

Marin LAFCo incorporates the following definitions in administering these policies concerning outside services under Government Code §56133:

4.9 (A)(i) "Service" shall mean any municipal service supporting (directly or indirectly) urban type uses with the referenced exclusion of fire protection.

4.9 (A)(ii) "New" shall mean the actual extension of a municipal service to previously unserved non-jurisdictional land.

4.9 (A)(iii) "Extended" shall mean the intensification use of a municipal service provided by a city, town, or special district to non-jurisdictional land that is directly tied to a redesignation and/or rezoning of the affected territory by the appropriate land use authority.

4.9 (B) Applicability Determination

Agencies may request a no-cost written response from Marin LAFCo as to whether any potential new or extended outside service contract or agreement qualifies as an exempted action under Government Code §56133(e). The Commission delegates to the Executive Officer the responsibility to determine this applicability. If the inquiry is determined to be not exempt, the jurisdiction should proceed with submitting a formal approval request with the Commission consistent with these policies.

4.9 (C) Submitting a Formal Approval Request

Requests shall be made only by the affected agency and through their appointed director/manager and filed with the Executive Officer. Joint requests by two or more affected agencies are permitted. Requests shall be made in letter form and shall include all of the following information:

4.9 (C)(i) A list of all addresses and/or parcel numbers comprising the subject territory along with the accompanying zoning assignments made by the applicable land use authority;

4.9 (C)(ii) A description of how the applying agency would provide the proposed new or extend service to the subject territory. This includes any infrastructure or facility

improvements and associated funding requirements necessary to provide service to the subject territory; and

4.9 (C)(iii) Any information or associated findings made pursuant to the California Environmental Quality Act.

4.9 (D) Request Review

The Executive Officer will provide the jurisdiction a written response within 30 days; if incomplete, the Executive Officer will identify the information needed to deem it complete. Once a request is deemed complete, the Executive Officer shall prepare a written report with a recommendation for consideration by the Commission including the following three factors:

4.9 (D)(i) The ability of the applying agency to provide the requested service to the subject territory and potential impact on existing service levels;

4.9 (D)(ii) The effect on urban growth and development within and adjacent to the subject territory should the request be approved; and

4.9 (D)(iii) The consistency of the request with the Commission's adopted policies.

4.9 (E) Public Hearing

The Executive Officer shall present the written report at the next earliest regular meeting for which adequate notice can be provided, and no further than 90 days from the date the request has been deemed complete. Requests involving service extensions beyond the applying agency's sphere of influence shall be noticed under Government Code §56153 and 56154 and considered as part of public hearings.

4.9 (F) Commission Action

Marin LAFCo may approve requests to authorize cities, towns, or special districts to provide new or extended services outside their jurisdictional boundaries under this section with or without conditions.

4.9 (G) Reconsideration

Should Marin LAFCo disapprove requests to authorize cities, towns, or special districts to provide new or extended services outside their jurisdictional boundaries under this section the affected agency may ask for reconsideration within 30 days of the Commission action under Government Code §56895.

4.9 (H) Health & Safety Emergency Approval

Marin LAFCo authorizes the Executive Officer to approve a city, town, or special district's request to provide new or extended services outside their jurisdictional boundaries under this section if there is an existing or impending public health or safety emergency. Marin LAFCo shall ratify the Executive Officer's determination at the next regular scheduled meeting.

Mendocino LAFCo Policy Amendment

12.2 OUTSIDE AGENCY SERVICES

12.2.1 COMMISSION APPROVAL REQUIRED

A city or district, individually or as a member agency of a joint powers authority (JPA), shall not provide new or extended services to any party or property outside its jurisdictional boundaries unless it has obtained written approval from LAFCo, consistent with the CKH Act (G.C. §56133) and the policies described herein.

LAFCo prefers that this type of application be made by the local agency; however, if the city or district has declined to serve as the applicant, the affected landowner(s) may submit the application based on current (e.g. within 3 months) written proof from the local agency confirming both willingness and capacity to serve (e.g. will serve letter) the affected territory.

12.2.2 REQUIREMENT FOR EXEMPTIONS TO COMMISSION APPROVAL

Commission approval may not be required for cities or special districts to provide new or extended services outside their jurisdictional boundaries in accordance with the provisions of G.C. §56133(e).

Agency self-exemption under G.C. §56133(e) is not recommended due to the complexity involved and the potential for a difficult and/or costly process to unwind unauthorized services. Outside agency services may be allowed to address unique circumstances and are not intended to circumvent the LAFCo process by providing services by contract instead of through the annexation of territory. Agency self-determinations of exemption can lead to a communication breakdown and can prevent LAFCo from effectively fulfilling its mandates, such as conducting meaningful studies.

LAFCo strongly encourages advance notice and coordination with agencies in determining whether specific situations are exempted by G.C. §56133(e) to support LAFCo in efficiently performing its functions and to support agencies in providing valid outside agency services.

For outside agency services that a city or district was providing on or before January 1, 2001 under G.C. §56133(e)(4), LAFCo encourages the city or district to request an Annexation Consent Agreement from each landowner, unless it is not logical and orderly for the city or district to ever annex the subject property or area.

12.2.3 DEFINITIONS

Services – any municipal services provided by a city or special district.

Outside Agency Services – municipal services provided outside the jurisdictional boundary of a local government agency (city or special district) by contract or agreement.

New – the provision of municipal services to a previously unserved property or use.

Extended – the expansion or intensification of municipal services currently provided to a property or use.

In anticipation of a later change of organization – a reliable commitment from the serving agency and/or landowner(s) that outside agency services will become inside agency services within a near-term timeframe or based on a foreseeable event or change in circumstance.

An existing threat to health or safety – the non-functioning or failure of existing private utilities (e.g. on-site septic system or well), which cannot be readily remedied, and have resulted in a health hazard from inadequately treated wastewater or the loss of access to safe and reliable drinking water. The lack of fire protection and/or emergency medical services to existing development may also qualify as an existing safety threat.

An impending threat to health or safety – the stage before an existing threat to health or safety in which there is a known and measurable high risk that will result in a threat to health or safety (e.g. within 6 months).

12.2.4 NEW OR EXTENDED SERVICES

Annexation to cities and special districts involving territory located within the affected agency's sphere of influence (SOI) is preferred to providing outside agency services by contract or agreement, in support of logical and orderly growth and development. The Commission recognizes, however, that there may be special circumstances that justify approval of outside agency services by contract or agreement prior to annexation.

Such special circumstances most frequently involve the need for municipal services to address an existing threat to health or safety. A properly documented threat to health or safety for consideration in those cases is strongly encouraged, regardless of whether located within or outside the agency's SOI.

In reviewing requests for outside agency services, LAFCo will apply the same general substantive policies as for annexation proposals. The following will be addressed in the Executive Officer's written report:

- 1) The ability of the agency to provide the subject service(s) to the affected territory, without detracting from current service levels.
- 2) Documentation with substantial evidence to support a finding by the Commission of an existing or impending threat to the health or safety of the public or the affected residents.
- 3) Consistency with the policies and general plans of all affected local agencies.
- 4) Effect on growth and development within and adjacent to the affected territory.
- 5) Potential impacts on prime agricultural or open space lands.
- 6) Consistency with the Commission's adopted municipal service review determinations and recommendations.
- 7) The applicant's statement, with specificity, of the nature and timing of the anticipated later change of organization for the affected territory.

12.2.4.1 Within SOI

The Commission strongly discourages the use of outside agency services for the purpose of providing municipal services to new development, which can result in unintended consequences, such as inducing

growth or resulting in the premature conversion of agricultural or open space lands to urban use. The Commission will approve such requests only under extraordinary circumstances and will apply strict limitations on such services.

G.C. §56133(b) authorizes the Commission to approve outside agency services “in anticipation of a later change of organization”. The standard condition for landowners to record a LAFCo Annexation Consent Agreement may not necessarily satisfy the qualification for an anticipated later change of organization. Further, the inclusion of the land to be served within the SOI of the serving agency also may not be sufficient because the SOI boundary can change over time, and placing territory within a sphere does not guarantee that annexation will occur (Policy 10.1.8). The Commission may include a condition to address this component of the CKH Act, such as requiring that an annexation application be submitted prior to, or within a specified timeframe (e.g. 1-2 years) of, the outside agency services approval.

Any outside agency services approved by the Commission prior to the date this policy is approved by the Commission shall not be subject to this policy, but the policy in effect at the time said application is approved by the Commission.

12.2.4.2 Outside SOI

The Commission recognizes the importance of promptly addressing threats to public health and safety, especially in considering outside agency services related to water and sewer services.

The Commission shall authorize a city or special district’s request to provide new or extended services outside their jurisdictional boundary and outside their SOI only in response to an existing or impending threat to the health or safety of the public or affected residents in accordance with G.C. §56133(c).

For water and sewer services, the affected agency and/or landowner(s) shall provide the Commission with documentation consistent with the public health and safety criteria for water and sewer services below.

An existing on-site sewage disposal system may be deemed a threat to the health and safety of the public or the affected residents if it meets one or more of the following criteria, as determined by Mendocino County Environmental Health or another qualified professional:

- i. There is ponding or accumulation of wastewater or septic tank effluent at or above the surface of the ground.
- ii. There is a lack of an unsaturated vertical soil separation between the bottom of a disposal field and seasonal high groundwater.
- iii. There is a failure of the disposal field or septic tank to accept, treat, and dispose of wastewater in quantities discharged by the structure served, and additional capacity cannot adequately or reasonably be developed.
- iv. Any other condition associated with the operation or use of an on-site sewage system that could permit the exposure, either directly or indirectly, of individuals or domestic animals to inadequately treated wastewater.

An existing water source used for domestic purposes may be deemed a threat to the health and safety of the public or the affected residents if it meets one or more of the following criteria, as determined by Mendocino County Environmental Health or another qualified professional:

- i. The water supply is impacted by biological, chemical, or radiological constituents that cannot be adequately or reasonably treated or removed to levels deemed safe for human consumption or contact.
- ii. The quantity of the water supply is constantly or periodically inadequate (less than one gallon per minute) to meet the domestic needs for which its use is intended, and additional quantities cannot adequately or reasonably be developed.
- iii. Any other condition in which the continued use of an existing water supply could result in negative impacts to human health.

12.2.5 ADMINISTRATIVE APPROVAL UNDER URGENT CIRCUMSTANCES

The Commission authorizes the Executive Officer, in accordance with G.C. §56133(d), to administratively approve a city or special district's request for new or extended outside agency services by contract or agreement if there is an existing and urgent public health or safety emergency as identified in writing from the local public health officer and/or environmental health director, or in the case of fire services, the applicable Fire Chief. The Commission shall ratify the Executive Officer's determination at the next regularly scheduled meeting.

12.2.6 CONDITIONS OF APPROVAL

12.2.6.1 Annexation Consent Agreement

The Commission will condition the approval of all outside agency services upon a requirement that the landowner(s) sign a LAFCo agreement consenting to annexation of the territory to the public service provider, which agreement shall bind current and future owners and registered voters of the property. The standard agreement shall be prepared by LAFCo legal counsel and provided to all landowners for execution and recording. Proof of recordation of the Annexation Consent Agreement will be required before the LAFCo outside agency services approval becomes final and effective.

12.2.6.2 Expiration of LAFCo Approval

Unless specified otherwise in the Commission's resolution approving a particular outside agency services application, the Commission's approval of outside agency services shall expire within one year of approval unless the agency-landowner contract has been executed and the construction of any needed infrastructure improvements has commenced. A one-time extension may be requested by the applicant, prior to the one-year expiration date, for a period of time that is necessary to complete the Commission's conditions. If the provision of outside agency services has not commenced within three years of the Commission's approval, the approval is terminated and a new application is required.

12.2.6.3 Further LAFCo Review - Expansion or Intensification of Services

The Commission's approval of outside agency services shall be limited to the existing structures and uses on the subject property, and not to any other properties. Any significant expansion or intensification of the approved services (e.g. upsize the connection for a subdivision or major conversion of use type) shall be considered a new request, subject to LAFCo review.

12.2.7 Temporary Water Hauling During a Local Emergency

During a city, county, or state issued drought emergency proclamation affecting potable water supply, a city or special district may provide potable water outside its jurisdictional boundaries through water

hauling on a temporary basis to address impacts to health and safety arising from dry wells or other temporary limitations on regular water supply. In these situations, LAFCo approval will not be required pursuant to G. C. §56133 due to the temporary and emergency nature of the service.

While LAFCo approval will not be required during the temporary emergency, LAFCo does require notice of and data reporting for the temporary outside agency water service to support LAFCo in efficiently performing its functions. The city/district providing the potable water service should notify LAFCo within 30 days of commencing such service, as feasible under emergency conditions. Notification should include the address and/or assessor's parcel number (APN) for each property receiving water service and reference the emergency proclamation. The city or special district shall cease providing temporary water service outside jurisdictional boundaries within 30 days of termination of the emergency proclamation. Within 90 days of the end of the emergency, the city/district providing the potable water service should provide LAFCo a detailed summary of how much water was provided to each property per month during the emergency water hauling.

Absent a city, county, or state issued emergency proclamation, G. C. §56133 specifies that a city or special district must apply for and obtain LAFCo approval before providing new or extended services outside its jurisdictional boundaries, including potable water hauling.

DRAFT

- b) The detaching agency is legally authorized to and agrees to assume the cost and spread it over the remaining property within the agency.

E. EXTENSION OF SERVICES BY CONTRACT

This section applies only to contracts to extend services beyond a local agency's jurisdictional boundaries as provided by Section 56133 of the Government Code.

1. General Standards.

a) Applicable Policies

When considering requests to extend services by contract beyond an agency's jurisdiction boundaries, LAFCo will apply the same general substantive policies as for annexation requests. In addition, the application must be made in anticipation of annexation. As used in this section, the term "in anticipation of annexation" means that the area is within the current sphere horizon of the agency.

b) Subsequent Annexation Application Required

For all contract service extensions, the requesting agency must either:

- i) File a concurrent application with LAFCo for annexation of the property, or
- ii) Carry out both of the following:
 - Place a condition in its contract with the property owner requiring submission of an annexation application within a period not to exceed two years; and
 - Record a notice against title to the property specifying that in the event the agency does not initiate annexation, the property owner must make application to LAFCo for annexation of the territory within two years of LAFCo's approval of the request.

2. Review of Contracts. The LAFCo Executive Officer will conduct periodic reviews of contracts established since January 1, 1993, for compliance with the requirements of this section.

3. Unapproved Contracts Null and Void. If an agency enters into a contract without LAFCo approval, the contract shall be null and void. If the Executive Officer receives notice of a violation of these provisions, he or she shall place the item on the Commission's agenda for consideration of appropriate action.

4. Administrative Approvals. In a case which conforms to the standards set forth in this Section IV-E and also involves an imminent peril to public health and safety, applicants may submit an abbreviated application, along with the applicable deposit as specified in the LAFCo fee schedule, to be considered for temporary administrative approval by the Executive Officer. The Executive Officer shall present the matter to the Commission at the next available meeting for final consideration.

Policy and Procedures for the Review and/or Processing of Out-Of-Area Service Agreements by the Executive Officer

I. PURPOSE

To establish the Commission's policy and procedural guidelines for 1) consulting with public agencies to determine whether their out-of-area service agreements are subject to OC LAFCO review, and 2) reviewing, processing, and approving out-of-area service agreements in accordance with the provisions of Government Code §56133.

II. POLICY STATEMENT

It is the policy of this Commission to delegate to the Executive Officer the authority to: 1) consult with public agencies to determine whether their out-of-area service agreements are subject to OC LAFCO review and 2) review, process, and approve out-of-area service agreements not exempt under the provisions of Government Code §56133 to ensure that such agreements do not create growth opportunities without appropriate oversight. It is also the policy of this Commission to require that any such agreements not previously considered by this Commission be considered in connection with future applications for related changes of organization and not to unilaterally seek out and review out-of-area service agreements for compliance with G.C. §56133.

III. PROCEDURAL GUIDELINES

A. The Executive Officer, within 30 days of receipt of a request for an OC LAFCO determination as to whether a city or district agreement to provide new or extended services outside its jurisdictional boundary is exempt from OC LAFCO review, shall:

1. Determine whether the agreement is exempt from OC LAFCO approval. The following agreements shall be exempt from OC LAFCO approval:
 - a. Agreements solely involving two or more public agencies where the public service to be provided by "Agency A" is an alternative to, or substitute for, a public service already being provided by an existing public service provider ("Agency B") and where the level of service to be provided by "Agency A" is consistent with the level of service contemplated by the existing service provider ("Agency B"). For purposes of this subsection, "already being provided" means the services are within the agency's ("Agency B") service area. "Contemplated" means: 1) the service level is anticipated in a master plan or some other long-range planning document of "Agency B", and 2) sufficient infrastructure and capacity exists by "Agency A" to provide the service.
 - b. Agreements for the transfer of non-potable or non-treated water.

- c. Agreements solely involving the provision of surplus water to agricultural lands for projects that serve conservation purposes or that directly support agricultural industries, provided however, that agreements for the extension of surplus water service to a project that will support or induce development shall not be exempt from the provisions of this policy.
 - d. Agreements for an extended service that a city or district was providing on January 1, 1994.
 - e. Agreements involving local publicly owned electric utilities as defined by Public Utilities Code §9604, which do not involve the acquisition, construction, or installation of electric distribution facilities by a local publicly owned electric utility outside of its jurisdictional boundaries.
- B. For agreements determined not to be exempt from this policy, the Executive Officer, within 30 days of a request for OCLAFCO approval, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If the request is deemed incomplete, the Executive Officer shall immediately notify the applicant of that determination, specifying those parts of the request that are incomplete and an explanation of the manner in which the deficiencies may be made complete.
- C. Not more than 90 days from determining pursuant to a complete request that an out-of-area service agreement is subject to OC LAFCO review, the Executive Officer shall approve, disapprove, or approve with conditions the agreement for new or extended services, provided, however, that the Executive Officer shall approve or approve with conditions any such agreement only under the following conditions:
- 1. The new or extended service to be provided under the agreement by the applicant city or district outside of its jurisdictional boundaries and within its sphere of influence is in anticipation of a later change of organization.
 - 2. The new or extended service to be provided under the agreement by the applicant city or district outside of its jurisdictional boundaries and outside its sphere of influence is in response to an existing or impending threat to the public health or safety of the residents of the affected territory and both of the following requirements are met:
 - a. The applicant city or district has provided the Executive Officer with documentation of a threat to the health and safety of the public or the affected residents.
 - b. The Executive Officer has notified any alternate service provider, including any water corporation as defined in Public Utilities Code §241 or sewer system corporation as defined in Public Utilities Code §230.6 that has filed a map and a statement of its service capabilities with the Commission.

- D. If the Executive Officer disapproves the agreement or approves the agreement with conditions, the applicant may, within 30 days of the decision, request a reconsideration. This request must state the reasons for the reconsideration.

Originally Adopted: 9/12/2001

Last Reviewed: 3/8/2023

Last Revised: Not Applicable

SACRAMENTO LAFCO

SERVICE OUTSIDE OF AGENCY BOUNDARIES

Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 includes provisions requiring cities and special districts to request and receive written approval from the Commission before providing new or extended services by agreements outside their jurisdictional boundaries, with limited exemptions, pursuant to Government Code Sections 56133 and 56134.

It is the intent of this policy to clarify that the Commission shall determine the application of 56133 or whether an exemption under 56133(e) applies.

Government Code 56133 Policy

The Commission shall consider any proposals for an out-of-agency service extension, either pursuant to Government Code Section 56133(b), if a future change of organization or reorganization is anticipated, or pursuant to Government Code Section 56133(c), if the Commission finds that there is an existing or impending threat to public health or safety of the residents of the affected territory.

If a request pursuant to Government Code Section 56133 is filed by a party other than the city or district which would provide the service, the affected city or district must provide a written endorsement indicating its willingness to provide the service if the Commission approves the request.

The Commission shall also consider any requests to be exempt from the requirement to obtain LAFCO approval of an out-of-agency service extension, pursuant to Government Code Section 56133(e).

Procedure

Requests to authorize an Outside Service Agreement shall be filed with the Executive Officer. For requests filed under 56133(c), the agency should include documentation of a threat to the health and safety of the public or the affected residents, such as a failing well or septic system. All requests will be reviewed by staff for completeness and placed on the next feasible agenda for Commission consideration per 56133(d). Emergency connections may be authorized by the Executive Officer and reviewed by the Commission at the next regularly scheduled LAFCO meeting. Requests shall identify any assurances that the Outside Service Agreement would not induce growth or result in the premature conversion of agricultural or open space lands to an urban use. Other information that may be requested include maps, a plan for service, fees and the appropriate environmental document (Notice of Determination or Notice of Exemption).

As a condition of approval, the Commission may require the completion of the annexation within a specified time frame.

Exemptions

Agencies requesting their contracts to be exempt from Commission consideration and approval per Government Code Section 56133(e) shall provide to the Executive Officer a written description of the service arrangement and any other supporting documentation of the contractual arrangement. The Executive Officer may make a determination on the exemption, or may make a recommendation to the Commission for a Commission determination on the exemption. The Executive Officer shall endeavor to review the materials as quickly as possible and make a determination or recommendation on the exemption, to be provided based upon one or more of the following:

- Except for agencies subject to Government Code §56134, contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider are exempt.
- Contracts or agreements for the transfer of non-potable or non-treated water, and for provision of surplus water to agricultural lands for projects that serve conservation purposes or that directly support agricultural industries are not subject to LAFCO review.
- Service extensions providing surplus water to any project that will support or induce development require written approval from the Commission.
- Extra-territorial services provided by agencies prior to January 1, 2001 are not subject to LAFCO review.

The Executive Officer will notify the Commission of the granted exemption at the next Commission meeting

Government Code 56134 Policy and Procedure

The Commission shall consider any proposals for an out-of-agency service extension for fire protection contracts consistent with the provisions of Government Code Section 56134.

Reconsideration

Government Code Sections 56133 and 56134 provide that requests for reconsideration may be made by the applicant. It is the policy of the Commission to also consider requests for reconsideration filed by any person or affected agency. Reconsideration shall be subject to the procedures and requirements established in Government Code Section 56895, except as provided herein.

SAN BERNARDINO LAFCO – 56133(e) Policy

Policy 5 (Section 4 – Application Processing; Chapter 2. Out of Agency Service Contracts):

For a request for exemption pursuant to Government Code Section 56133(e), the Commission shall make the determination that the service(s) to be provided is/are exempt from LAFCO review. The Commission has, in cases where the service extension proposed does not facilitate development or directly affect employees, delegated the authority to make the determination for exemption pursuant to Government Code Section 56133(e) to the Executive Officer.

Prospectus

OUT-OF-AGENCY SERVICES – Policy L-113
(Exclusive of Fire Protection Services)

Background:

State law was expanded in January 2001 to require cities and special districts to request and receive approval from LAFCOs before providing new or extended services outside their jurisdictions by contracts or agreements – “out-of-agency” services. The addition is codified in Government Code Section 56133 and includes a limited number of exemptions where LAFCOs’ approval is not needed. This includes agreements between two or more public agencies where the contract service is an equal substitute for services already provided. Contracts involving fire protection services are separately addressed under Government Code Section 56134 and are not covered under this policy.

Purpose:

This policy serves as a guide to the Commission in receiving, evaluating, and acting on requests by cities and special districts to provide new or extended services other than fire protection outside their jurisdictional boundaries. The policy appropriately balances the dual interest of the Commission to encourage local agencies to cost share and pursue creative partnerships while also ensuring out of agency activities do not undermine jurisdictional boundaries or dampen local accountability.

Policy:

Policy Highlights:

1. Goals and Priorities:

- a) The Commission will consider out-of-agency service requests whenever otherwise merited new or extended services cannot be reasonably accommodated through annexations or other jurisdictional changes.
- b) The Commission will review out-of-agency service agreements not previously considered by the Commission in conjunction with future applications for related changes to organization and not unilaterally seek out and review out-of-agency service agreements for compliance with Government Code Section 56133.

- b) The Commission shall only approve out-of-agency service requests for cities and special districts involving territory within their spheres of influence in anticipation of future jurisdictional changes.
- c) The Commission shall only approve out-of-agency service requests for cities and special districts involving territory outside their spheres of influence in response to efficient utilization of regional government resources and existing or impending public health and safety threats.

2. Local Definitions:

Local definitions for "new" and "extended" services:

New services would involve the actual delivery of municipal functions or classes to previously unserved non-jurisdictional lands and/or the re-commencement of functions or classes after a discontinuous period of one or more years.

Extended services mean the intensification of municipal functions or classes to serve (actual) non-jurisdictional lands facilitated by a zoning change.

3. Applicability:

- a) The Commission determines exemption eligibility of all statutory exemptions under 56133(e) as well as local exemptions.
- b) Cities and special districts may request a no-cost determination as to whether any proposed out-of-agency services are eligible for exemption.

4. Exemptions

- a) In addition to those provided by the Legislature under Section 56133(e), which includes agreements established prior to 2001, the Commission established local exemptions in which approvals are not required, including:
 - i. Advisory or automatic aid services provided by a city and/or special district where no monetary compensation other than reimbursements are exchanged.
 - ii. Temporary access to cities and/or special districts' potable water supplies due to an interruption – planned or otherwise; wastewater

collection, treatment, or discharge facilities; potable, raw, or recycled water when deemed the best and most efficient use of resources.

- iii. Shared services between cities and/or special districts where monetary compensation is exchanged beyond reimbursements.

Please refer to San Diego LAFCO's Policy L-113 for a complete listing of local exemptions.

5. Request Procedures:

- a) All approval requests for out-of-agency services shall be made in writing by cities and special districts and filed with the Executive Officer. Requests shall be made in letter form by the city or special district manager and include information as required by policy.

6. Consideration Procedures:

- a) The Commission shall consider all requests for out-of-agency service approvals at a public meeting unless otherwise provided in this policy.
- b) Should requests involve purported public health or safety threats, the Commission delegates approval authority to the Executive Officer for water and/or wastewater services only.
- c) All other requests involving purported public health or safety threats shall be considered by the Commission at the earliest time possible.

7. Reconsideration:

- a) Should an out-of-agency service request be approved with conditions or denied, the applicant or any other city or special district whose sphere of influence or jurisdictional boundary contains the affected territory, may request reconsideration consistent with Rule 3.4(2).

This prospectus serves as an abbreviated guide. Please refer to Policy L-113 for a complete and specific detailing of all items summarized above.

SAN JOAQUIN LAFCO

D. EXEMPTIONS

1 Exemptions. The following are exemptions to this policy:

- a. **Public Agency Contracts.** Contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public agency.
- b. **Non-Potable and Non-Treated water.** Contract for the transfer of non-potable or non-treated water.
- c. **Surplus Water to Agricultural Land.** Contracts or agreements solely involving the provision of surplus water to agricultural lands, for projects that serve conservation purposes, or directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission.
- d. **Existing Service.** An extended service that a city or district was providing on or before January 1, 2001. An extended service that a city or district was providing means an actual connection to service and not the availability to a service.

OTHER COMMENTS

YOLO LAFCO:

No agency has tried to make their own call and have just talked to me. In cases where a 56133 does not apply, I write them a letter. But I can appreciate Butte and SD are having issues where agencies make their own call. I haven't had that here.

VENTURA LAFCO:

Regarding your question, though we do not have a policy, it is our legal counsel's opinion that LAFCo retains the authority to make the determination of whether a service meets any of the exceptions in 56133(e). We cite his opinion when this topic comes up and our cities and districts have always go along with it. I would not support the changes that are proposed requiring notification to LAFCo as it would appear to undercut his opinion and our practice.

ATTACHMENT 4.A

Alternate 56133 Legislative proposal

An amendment to add Government Code Section 56133(f) to read:

56133(f) - Prior to extending service pursuant to the exemptions in subsection 56133(e), the agency shall notify the executive officer of the local agency formation commission 60 days prior to its intention to extend services under an exemption.

C A L A F C O
LEGISLATIVE PROPOSAL REQUEST
2020 Legislative Year
DRAFT 11- 20 – 2019 (Updated)

CALAFCO will consider any proposals for improving or clarifying the Cortese-Knox-Hertzberg Act or related laws when it can be shown to provide benefit or assistance to the Mission and policy principles of CALAFCO. Requesting agencies are expected to provide sufficient explanation for proposals in order for the CALAFCO Legislative Committee to consider the proposal. Please complete the following questions as thoroughly as possible. PROPOSALS ARE DUE BY 12:00 P.M., MONDAY, NOVEMBER 4, 2019.

REMEMBER THAT PROPOSALS FOR THE OMNIBUS BILL MUST BE NON-CONTROVERSIAL, HAVE NO OPPOSITION AND BE MINOR TECHNICAL CORRECTIONS. WE CANNOT ACCEPT ANYTHING FOR THE OMNIBUS THAT DOES NOT MEET THIS CRITERIA AND PROPOSALS OF THIS NATURE FOR THE OMNIBUS WILL NOT BE FORWARDED TO THE LEGISLATIVE COMMITTEE.

PROPOSAL SUMMARY:

What Code Section (s) and specific language are proposed for change?

Amend C-K-H Government Code Section 56133:

#1

Add clarifying wording that *a commission shall determine when exemptions are applicable* for providing new or extended services under Section 56133 (e).

#2

Add reference to *“functions”* in Section 56133 so that all references to “new or extended services” will read “new or extended services or *functions*”.

Which CALAFCO Board-adopted legislative policy or priority does this proposal address? .

The proposed amendments reflect policies of CALAFCO to address good governance on behalf of applicable local agencies. Specifically:

1.1 Support legislation which enhances LAFCo authority and powers to carry out the legislative findings and authority in Government Code §56000 et seq., and oppose legislation which diminishes LAFCo authority.

2.1. Support the independence of LAFCo from local agencies.

4.3. Support orderly boundaries of local agencies and the elimination of islands within the boundaries of agencies.

5.2. Support LAFCo authority as the preferred method of local governance. Support the availability of LAFCo tools which provide options for local governance and efficient service delivery, including the authority to impose conditions that assure a proposal's conformity with LAFCo's legislative mandates.

5.3. Support the creation or reorganization of local governments in a deliberative, open process which will fairly evaluate the proposed new or successor agency's long-term financial viability, governance structure and ability to efficiently deliver proposed services.

Is this an Omnibus suggestion or stand-alone CALAFCO sponsored bill proposal?

_____ Omnibus X Stand-alone CALAFCO sponsored bill

1. **PROBLEM. The problem(s) that the proposal would address are:**

Provide a detailed explanation of the problem(s) identified that would be solved with this proposal.

Clarifying that LAFCos determine applicability of exemptions for extraterritorial service contracts in Section 56133 (e) addresses situations where some cities and districts believe absent specific language that they are not subject to LAFCo approval for outside service agreements. Additionally, Section 56133 currently refers to only "new or extended services". However, "functions" are also subject to 56133 and, thus, should be included in 56133. For instance, the definition of "District" in Section 56063 states that districts are agencies of the state formed for the local performance of "governmental or proprietary *functions* within limited boundaries and in areas outside district boundaries when authorized by the commission pursuant to Section 56133." "Functions" and "Services" are two separate things and defined differently in C-K-H. Function refers to a power, whereas; service refers to a specific activity that is performed. Both are subject to 56133 and both should be included in the section.

As further explanation, C-K-H requires LAFCos to exercise authority over functions, distinct from services, in a number of locations. For instance, when updating or

amending a sphere, “the commission shall establish the nature, location, and extent of any *functions* or classes of services provided by existing districts” (56425(i)). The Commission has authority over the “exercise of new or different *functions* or classes of services...” (56824.10). A “latent service or power” is defined as “those services, facilities, *functions*, or powers...” (Section 56050.5). Clearly, 56133 was intended to and does apply to both functions and services.

2. **SOLUTION. The proposal would address the problem in the following manner:** Describe *how* the problem would be resolved through this proposal. Include previous proposals or solutions that did not work and why they were not successful as a way to strengthen this position.

As proposed the clarifying language would eliminate ambiguity and reinforce the legislative intent of the statute for LAFCos to oversee services and functions – including exemption eligibility – the ability of cities and districts in providing extraterritorial services by contract.

3. **ORGANIZATIONAL SUPPORT.**

Besides CALAFCO, which LAFCos support the proposal? What other stakeholders may support the proposal?

Currently San Diego, Orange County, Los Angeles, Riverside, Ventura, El Dorado, Butte and Alameda LAFCos. We believe most other LAFCos will support.

4. **ARGUMENTS IN SUPPORT.**

What are the specific arguments in support of the proposal? Be as specific as possible, including data to support the argument.

Clarification as proposed was included in two earlier proposals initially supported by the CALAFCO Legislative Committee and Board of Directors in 2015. The Board ultimately ceased work on the earlier proposal given the lack of consensus by members on other and more substantive changes involving the expansion of LAFCos authority to approve outside contracts beyond spheres. Proposed for the Omnibus Bill in early 2019, these proposals were objected to by some reviewing groups. This proposal is limited to just the referenced clarifications involving the determination of exemption eligibility and adds clarifying wording regarding functions as used in other sections in CKH. Ventura and San Diego LAFCos have experienced disagreement with districts which believe it is not necessary to seek LAFCo approval for providing services or functions outside its boundaries. It is important that LAFCo have clear legislative authority to take actions or plan for services in the future.

5. ORGANIZATIONAL OPPOSITION.

What organizations, if any (LAFCoS or other stakeholders) have expressed or may express opposition to the proposal?

It may be expected that CSDA and ACWA may have concerns with the proposed clarifying language as they did when previously proposed as an Omnibus Bill item until detail discussions can be held with them. These were submitted as possible Omnibus Bill items in January 2019 but not considered non-controversial or a minor technical correction.

6. ARGUMENTS IN OPPOSITION.

What are the potential specific arguments in opposition of the proposal? Be as specific as possible, including data to support the argument.

As stated above, some agencies hold positions that LAFCo does not have clear authority to oversee some functions or services including contracting outside their territory or SOI. Financial pressures and plans for municipal services to be provided at reduced costs are resulting in more contracting between agencies and outside of urban and suburban areas. These disagreements can expect to continue if clarity in the code is not enacted.

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November 20, 2019
Attachment – Proposed Section 56133

Proposed CKH Legislation Change
GC Section 56133

56133.

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

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

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

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

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

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

(e) This section does not apply to any of the following, as determined by the commission or the executive officer:

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

(2) The transfer of nonpotable or nontreated water.

(3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential

structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

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

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

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

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PLANNING FOR A SUSTAINABLE AND PREDICTABLE FUTURE

Clarifying LAFCo Authority to Determine Government Code Section 56133(e) Exemption Eligibility

2022



California Association of Local Agency Formation Commissions (CALAFCO)
San Diego County LAFCo - Butte LAFCo - Ventura County LAFCo

www.calafco.org

Agenda Packet Page 107
ATTACHMENT A





TABLE OF CONTENTS

Introduction	4
Background	6
Key Issues	10
<i>Key Examples</i>	11
Proposed Solution	16
Conclusion	17

INTRODUCTION

Good Planning Requires Oversight

The State of California has a history of prolific and, at times, unplanned growth but none more pronounced than in the years following World War II. Between 1940 and 1960 the population doubled and by the early 1960's California became the most populous state in the nation.¹ This rapid rise in population after the war led to rapid conversion of open space and agricultural land into suburbs. However, without oversight or a planning strategy, the resulting infrastructure was often haphazard or duplicative, which led to inefficiencies in service delivery while consuming valuable agricultural land.² The California legislature recognized the need for a separate yet local entity to provide oversight in the planning and provision of services, and enacted legislation creating Local Agency Formation Commissions (LAFCoS). The year was 1963, long before the words climate change or sustainability crept into the lexicon, yet the action was nonetheless prescient as strategic planning today is considered a core principle in sustainable infrastructure.³

In fact, a 2016 Brookings Institute report titled *Delivering on Sustainable Infrastructure for Better Development and Better Climate* found that sustainable infrastructure not only is key to avoiding extreme climate change but does so without deterring economic growth.

However, beyond that, sustainable infrastructure is also:

*...the key to poverty reduction and societal well-being in part because it enhances access to basic services and facilitates access to and knowledge about work opportunities, thus boosting human capital and quality of life. Sustainable infrastructure helps reduce poverty and extreme hunger, improve health and education levels, assist in attainment of gender equality, allows for the provision of clean water and sanitation, and provides access to affordable energy for all.*⁴

Additionally:

*...badly designed infrastructure can have significant adverse distributional, environmental and health impacts that can worsen poverty levels. Literature is abundant with examples of large-scale infrastructure investments that exacerbated income inequality, resulted in increased mortality and morbidity rates, and wrought irreversible ecosystem damage.*⁵

¹ James N. Gregory. "The Shaping of California History." Encyclopedia of American Social History (New York: Scribners, 1993).

² CALAFCO. "What is LAFCo's History?" <https://calafco.org/lafco-law/faq/what-lafcos-history>

³ Shirin Malekpour, Rebekah R. Brown, Fjalar J. de Haan. "Strategic planning of urban infrastructure for environmental sustainability: Understanding the past to intervene for the future." *Cities*, Volume 46, 2015, Pages 67-75.

⁴ Amar Bhattacharya, Joshua P. Meltzer, Jeremy Oppenheim, Zia Qureshi, Nicholas Stern. "Delivering on Sustainable Infrastructure for Better Development and Better Climate." *Global Economy and Development at Brookings Institution. The New Climate Economy, Global Commission on the Economy and Climate.* December 2016. p 2.

⁵ *Ibid.* p 5.

Fortunately, the state legislature gave LAFCos the regulatory oversight to provide this exact type of strategic land use and service planning through service reviews that they conduct when determining the spheres of influence (or the probable service boundaries) of an agency. Clearly, the stakes to ensure good planning of infrastructure and services could not be higher. That is why it is problematic when local entities avoid or ignore the LAFCo process.

This paper considers the lack of coordination and communication between agencies that ensues when cities and special districts inappropriately determine to go it alone and exempt themselves from notifying LAFCo – the defined regulatory agency for agency boundary changes and service provision – of extending services beyond their boundaries. Due to a lack of clarity, some agencies incorrectly assume they are exempt from LAFCo review under Government Code Section 56133(e) – a section that provides only limited conditions for such exemptions. This paper also considers the ramifications of this lack of clarity, including who determines whether a condition for exemption has been met and whether the proposed service provider is the most efficient and appropriate.

This paper is a collaboration of the California Association of Local Agency Formation Commissions (CALAFCO), and staff from Butte LAFCo, San Diego LAFCo, and Ventura LAFCo and is based on the experiences of a number of LAFCos.



BACKGROUND



In 1963 when LAFCOs were created, the Legislature had three main policy objectives:

1. Discouraging urban sprawl;
2. Preserving open-space and prime agricultural lands; and,
3. Encouraging the efficient provision of government services and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances.⁶

⁶ California Government Code Sections 56001, 56300, 56301, 56375.

Those objectives, and all LAFCo authorities, are codified under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000⁷ which delegates the Legislature’s power to coordinate and oversee the boundaries of cities and special districts to LAFCOs, as well as to provide regional growth management services.

Known as the Legislature’s “watchdog” for local governance issues⁸, each LAFCo is governed by a board of locally elected officials, including city council members, county supervisors, representatives from special districts (in 32 of the 58 LAFCOs), and at least one member of the public appointed by the other members.

For LAFCOs to achieve their objectives, the Legislature empowered them with the exclusive authority to determine the jurisdictional boundaries and service areas for each city and special district in the state. Indeed, a city or district must seek LAFCo approval to expand its jurisdictional boundaries or provide a service outside its jurisdictional boundaries. Coordinating and overseeing city and special district boundaries and service areas means LAFCOs in each of the 58 counties have direct oversight on who can most efficiently provide services, the timing and location of development, and the type of services that are and are not available to support the development.

It is the Legislature’s preference that municipal services should only be provided to territory that is within a service provider’s jurisdictional boundaries and, to this end, it has placed limitations on the ability of a city or district to provide services outside those boundaries. State law provides that LAFCOs shall have the power “To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.”⁹ Government Code Section 56133 requires that a city or district obtain LAFCo approval in order to provide a new or extended service by contract or agreement outside its boundaries.¹⁰

However, the Legislature has limited LAFCo authority to approve such a service to two narrow circumstances:

1. The service is in anticipation of a later change of organization to be approved by LAFCo, usually annexation.¹¹ This ensures that the territory to be served will eventually be brought within the jurisdictional boundaries of the service provider in the future.
2. The service is to respond to an existing or impending threat to public health and safety,¹² as determined by LAFCo. This ensures that the service will not induce development but is limited to addressing public health and safety.

⁷ California Government Code Sections 56000-57550.

⁸ Fifth District: 274 Cal.App.2d 545. 1 July 1969

⁹ Government Code Section 56375(p)

¹⁰ Government Code Section 56133(a) – “A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the [local agency formation] commission of the county in which the affected territory is located.”

¹¹ Government Code Section 56133(b) – “The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

¹² Government Code Section 56133(c) – “The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory...”

Absent LAFCo's determination that either of these two circumstances exist, LAFCo has no authority to approve the service and, as a result, the city or district has no authority to provide the service. It is this limitation on the authority of cities and special districts that prevents them from bypassing LAFCo review when proposing to extend services outside their boundaries.

However, state law identifies certain service scenarios under which a city or district may provide services outside its boundaries without obtaining LAFCo approval. The Legislature took care to limit these "exemptions" to services that will not induce or promote development, again ensuring that LAFCo review is necessary for services that would promote development.

California Government Code Section 56133(e) outlines these exemptions as follows:

1. Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.
2. The transfer of nonpotable or nontreated water.
3. The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.
4. An extended service that a city or district was providing on or before January 1, 2001.
5. A local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundary.
6. A fire protection contract, as defined in subdivision (a) of Section 56134.

While the language seems relatively clear cut at first reading, the lack of clarity has led to problems in the field that undermine the Legislature's intent for planning oversight by LAFCo. These exemptions have sometimes been utilized improperly as a "loophole" by local agencies to bypass LAFCo altogether; from executing contracts to sell water during a drought and utilizing a self-determined definition of "surplus water," to providing new and extended services which should be subject to thorough and transparent consideration by LAFCo on behalf of the general public. When confronted with the erroneous interpretation, some local entities have withdrawn their service contracts and initiated a LAFCo application; however, others, have been recalcitrant and uninterested in coordination with all affected local agencies.

Additionally, these self-exempted services lack the transparency and public process offered by LAFCo that is demanded by the taxpayers of the cities and districts who ultimately are responsible for funding the service. In addition, bypassing LAFCo review removes LAFCo as the external check to ensure that agricultural and open space lands are not being converted prematurely – as is the codified desire of the State of California.

In recent years, local LAFCOs have unearthed an increasing number of service contracts that have gone unreported and unevaluated by LAFCo because the parties to the contract, despite the clear intent of the law, self-determined that LAFCo notification was not necessary. Such contracts are not only the antithesis of strategic regional planning, which is the core of sustainable infrastructure, but they also are occurring in a fashion that is not transparent to district users, offer no oversight regarding the provision of services to disadvantaged unincorporated communities, and hold no guarantees of efficiency or that agricultural and open space land will be protected.



Discovery of these contracts after the fact requires significant local agency staff time to research, coordinate, and interface with local entities. Additionally, while the threat of litigation can and has been utilized by a number of LAFCOs to force compliance, not every county has the resources to fund their LAFCOs sufficiently to cover extraneous legal expenses. This last point is of significant importance as it allows those persons or entities with ample financial resources to sidestep the law because the affected LAFCo may be unable to defend itself or the law. Unfortunately, having to address these contracts after the fact consumes taxpayer dollars in the form of additional staff time to address it – with varying amounts of success – or costly litigation which many small counties simply cannot afford.

KEY ISSUES

Some local agencies have entered into contracts to provide new or extended services outside their boundaries, without benefit of LAFCo consideration, using the exemptions under Government Code Section 56133(e).

This practice creates numerous problems including:

1. Conflict Among Agencies

Unintentionally creating conflict between local agencies when a service encroaches into the jurisdiction of another agency and competing for grant money, customers, etc.

2. Disorderly Boundaries

In some instances, the extension of services outside of an agency's jurisdictional boundary in lieu of annexing the territory to the agency – including island areas – can create disorderly service areas. This can lead to jurisdictions with overlapping service areas causing duplicative services and conflict between agencies. In addition, an extension of services outside an agency's boundaries may exacerbate urban sprawl which is under LAFCo's authority to manage.

3. Conflicts with existing Government Code Section 56133(b)

Government Code Section 56133 (b) provides that a city or district may extend a service outside its boundaries only with LAFCo approval and only if the service is in anticipation of a later change of organization, usually annexation, as determined by LAFCo. When agencies fail to check-in with their local LAFCo on an extension of service, they undermine LAFCo's authority in determining whether this extension is in anticipation of a future annexation. Pertinently, this results in: (a) inhibiting LAFCo's ability to exercise its current authority to manage the orderly growth of an agency, and (b) allows agencies to extend their service areas without oversight or consideration of the current and future needs of the community.

4. Undermining the Legislature's Intent and LAFCo Authority

LAFCos are empowered by the Legislature to coordinate the orderly delivery of municipal services in concert with community needs and in step with regional growth management objectives. Together these are the main principle of strategic planning and, by extension, the core of sustainable infrastructure which alleviates a host of societal problems. Self-exempted service contracts create unnecessary costs and liabilities that are otherwise completely avoidable and significantly reduce a LAFCo's ability to plan sustainable infrastructure.

5. Creates Unpredictably in the Development Process

Private landowners make significant decisions about property based on established norms and laws and when these laws are not implemented equally throughout the community, county or state, the resulting uncertainty is troubling.

Development interests are also denied the predictability and certainty of the consistent implementation of local land use laws and the carefully planned and financed local infrastructure plans.

KEY EXAMPLES

EXAMPLE 1

Mission Resource Conservation District (San Diego County)

In July 2018, San Diego LAFCo received a formal written complaint from the Resource Conservation District of Greater San Diego County alleging that the Mission Resource Conservation District was providing new and extended services by contract beyond its jurisdictional boundary. The complaint alleged that Mission RCD actively solicits, receives, and acts on grant awards to provide services (vegetation control, irrigation audits, etc.) outside of its boundary and within the boundary of the RCD of Greater San Diego County.

Upon review of the complaint the San Diego LAFCo found the claims to be substantiated and in March 2019 issued a Cease and Desist order directing Mission RCD to immediately stop specified outside service activities due to failure to comply with Government Code Section 56133. Mission RCD responded to the cease and desist order by formally self-exempting themselves at a public Board meeting and in doing so citing eligibility to do so under Government Code Section 56133(e) despite the objections from San Diego LAFCo. The issue remains an open dispute with litigation on multiple fronts remaining a distinct possibility.

EXAMPLE 2

City of American Canyon/County of Napa (Napa County)

During the preparation of an inaugural Municipal Service Review (MSR) (2003-2004) on the City of American Canyon, Napa LAFCo became aware that the City was providing new and extended water services - outside its jurisdictional boundary - and predominantly within the County Airport Industrial Area located north of the City.

The enactment of Government Code Section 56133 was flagged in the MSR and proceeded to become the subject of a stand-alone analysis performed in 2007 by Napa LAFCo. Attorneys for both American Canyon and the County of Napa asserted that the City was exempt from needing LAFCo approval under Government Code Section 56133(e) so long as the outside services were within an extended "service area." Napa LAFCo proceeded – as a compromise championed by the County – to retroactively and prospectively approve all outside water service extensions within a geographically defined area (Napa County Airport and Industrial zoned lands) while directing the City to comply with Government Code Section 56133 for any future new and/or extended outside services. This latter directive remains in dispute with American Canyon as illuminated in the most recent MSR prepared by Napa LAFCo in 2018-2019.

KEY EXAMPLES

EXAMPLE 3

City of Chico Sewer Connections (Butte County)

In 2013, Butte LAFCo became aware that the City of Chico had connected 62 unincorporated parcels to its sewer system without first obtaining the approval of Butte LAFCo. The City operated under the belief that these sewer connections were somehow exempt from LAFCo review under Government Code Section 56133(e). Once discovered by Butte LAFCo, the City was required to submit a LAFCo extension of sewer services application and pay all associated fees. This issue was on the verge of litigation before the City conceded LAFCo was correct. This misstep by the City seriously delayed the annexation of many unincorporated islands that would have otherwise been annexed in order to receive sewer services and remain consistent with state law to ensure orderly development, logical city boundaries, and the effective delivery of services. The delay in annexation cost some residents the ability to further develop their parcels which ultimately affected housing production and increased development pressure on fringe lands on the edge of the City Sphere of Influence.

EXAMPLE 4

Rock Creek Reclamation District Flood Prevention Projects (Butte County)

The Rock Creek Reclamation District desired to conduct flood control maintenance outside of its jurisdictional boundaries and believed that such efforts were exempt from LAFCo review under Government Code Section 56133(e). While the District may have been well intentioned, it is vitally important that local agency services and functions related to regional public works projects be coordinated with all affected local agencies - which is exactly what the LAFCo process is intended to accomplish.

Butte LAFCo informed the District that theirs was an incorrect reading of the law and requested they submit the proposal to Butte LAFCo. The District finally agreed, but only just before more aggressive steps were undertaken by Butte LAFCo.

LAFCo's role is to ensure that all local agency services provided are consistent with state law to ensure orderly development and the effective delivery of services.



KEY EXAMPLES

EXAMPLE 5

City of Hollister/County of San Benito County (San Benito County)

In 2004, the County of San Benito, the City of Hollister, and the countywide San Benito County Water District entered into a Memorandum of Understanding (MOU) establishing the Hollister Urban Area (HUA). Under the MOU, the City of Hollister agreed to upgrade its wastewater treatment plant to serve approximately 90% of the area identified within the HUA boundary, which was to be developed in the future. However, the agreement was silent on LAFCo's role and ignored the fact that City sewer extensions into the County required LAFCo review and approval.

In November 2012, after the approval of the MOU by all parties, county staff prepared a brief report and Resolution for LAFCo to adopt the HUA boundary at a LAFCo Commission meeting. The report and resolution failed to reference a sphere of influence or formation of an entity that would have been under the purview of LAFCo to establish. Additionally, the report and resolution failed to state that the purpose of having LAFCo adopt the HUA was to satisfy provisions of Government Code (GC) Section 56133. Unfortunately, after Commission approval the City discontinued seeking LAFCo approval of sewer extensions outside the city limits from November 2012 to January 2015. One large project during this post-LAFCo period involved over 1,200 dwelling units.

On January 22, 2015, after both a thorough review of the prior actions to establish the HUA and an introduction of GC Section 56133 to the LAFCo Commission, the Commission adopted a resolution, confirming "...that the City must first request and receive written approval from the Commission" before extending sewer service outside the City limits.

On August 15, 2016, the City of Hollister, despite having been previously advised of LAFCo processes, entered into another agreement - this time with regional potable water service provider Sunnyslope County Water District (CWD). In this agreement, the jurisdictions self-determined that they were exempt, under GC section 56133(e)(1), from LAFCo approval authority. To justify this self-determination, Section 1.02 of that agreement references a 2007 "Billing and Collection Agreement" in which Sunnyslope CWD agreed to collect the monthly sewer bills for the City for any property where the District would collect a water bill. Since the Billing and Collection Agreement was not in accordance with the provisions or intent of GC Section 56133, the City and District were non-compliant with state law. However, Sunnyslope CWD continues to maintain that the City sewer extensions are exempt.

KEY EXAMPLES

EXAMPLE 6

Coachella Valley Water District/City of Coachella (Riverside County)

Riverside LAFCo became aware of the City of Coachella and the Coachella Valley Water District (CVWD) providing new and extended services beyond its jurisdictional boundary in 2021 as part of its Comprehensive Countywide City Municipal Service Review process. The City of Coachella confirmed that it and CVWD are actively providing water and wastewater services outside their boundaries. CVWD boundaries overlaps the City of Coachella's boundaries and SOI boundaries. The City provides wastewater within their Sanitary District which extends outside its boundary, however never requested nor received approval from Riverside LAFCo. Separately, the City provides water outside of its boundary by contract - executed in 2007-2008 - and similarly did not request or receive approval from Riverside LAFCo.

Since the services were extended without benefit of any public process, a conflict has now arisen with the City of Indio who is arguing that they are better suited to service the area with both water and wastewater. Riverside LAFCo is currently reviewing the claims and seeking resolution.

EXAMPLE 7

Lake Sherwood Community Service District (Ventura County)

Ventura LAFCo became aware that the Lake Sherwood Community Services District had since 2001 approved dozens of new potable water service connections to properties located outside its boundaries without LAFCo approval. The CSD, which when formed absorbed most of a private mutual water company, believed that it could provide new water service to any of the properties that were within the now defunct mutual water company, even though they were outside the CSD's boundaries. The CSD never consulted with LAFCo, but instead self-exempted these service extensions from LAFCo review believing that since the mutual water company's existence predated January 1, 2001, serving these properties was exempt from LAFCo review under Government Code Section 56133(e)(4). It was only after multiple meetings and legal opinions that the CSD accepted that these services were not, in fact, exempt from LAFCo review, because the exemption applies only to services that were actually being provided prior to 2001. The resolution to the unlawful connections involved many months of LAFCo staff time, tens of thousands of dollars of taxpayer money, and the formation of new waterworks district, all of which could have been avoided had the CSD been required to consult with LAFCo before providing the services.

PROPOSED SOLUTIONS

Government Code Section 56133(e) should be amended to explicitly confirm that LAFCOs - not local agencies - are the authorized entity to determine whether a contracted service requires LAFCo approval pursuant to Section 56133(b) and (c) or is exempt from the LAFCo process under 56133(e).

This can be accomplished by either:

1. Amending the preface of Government Code Section 56133(e) to add "as determined by the commission", or
2. By adding a new subparagraph (f), which states: "Final determination regarding the applicability of exemptions under subparagraph (e) above shall rest solely with the commission."

CONCLUSION

The Legislature clearly and significantly delegated its authority to LAFCOs to regulate, examine and plan for the establishment, expansion, and reorganization (consolidations, mergers, etc.) of cities and most special districts and their municipal services against current and anticipated community needs. This regional planning is a cornerstone of consistent, predictable, and sustainable infrastructure. The intent behind Government Code Section 56133 is to limit new and/or extended municipal services outside of an agency's jurisdictional boundary to ensure that those services do not conflict with the objectives of the LAFCo and the Legislature. Due to this lack of specificity, some contracting public agencies are interpreting Section 56133(e) as not requiring any notification to LAFCo and are, in effect, exempting themselves from any notification to

LAFCo. However, LAFCOs maintain that the legislative intent behind

the Cortese-Knox-Hertzberg Act makes it clear that the final determination of whether a service contract is exempt from

a LAFCo process is a function for the LAFCo – not the contracting entities. The latter is further reinforced

by the fact that a LAFCo's lack of knowledge of

a service that has been exempted, even when

rightfully exempted, impacts later service review

determinations and can introduce situations that

LAFCOs were specifically created to prevent:

inefficient and duplicative services.

Consequently, an amendment to Government

Code Section 56133(e) is needed to clarify and

make explicit that it is the LAFCo, and not the

contracting service providers, which determines

when a proposed new or extended service requires

LAFCo approval or whether that service qualifies for

an exemption from a LAFCo process under Government

Code Section 56133(e).

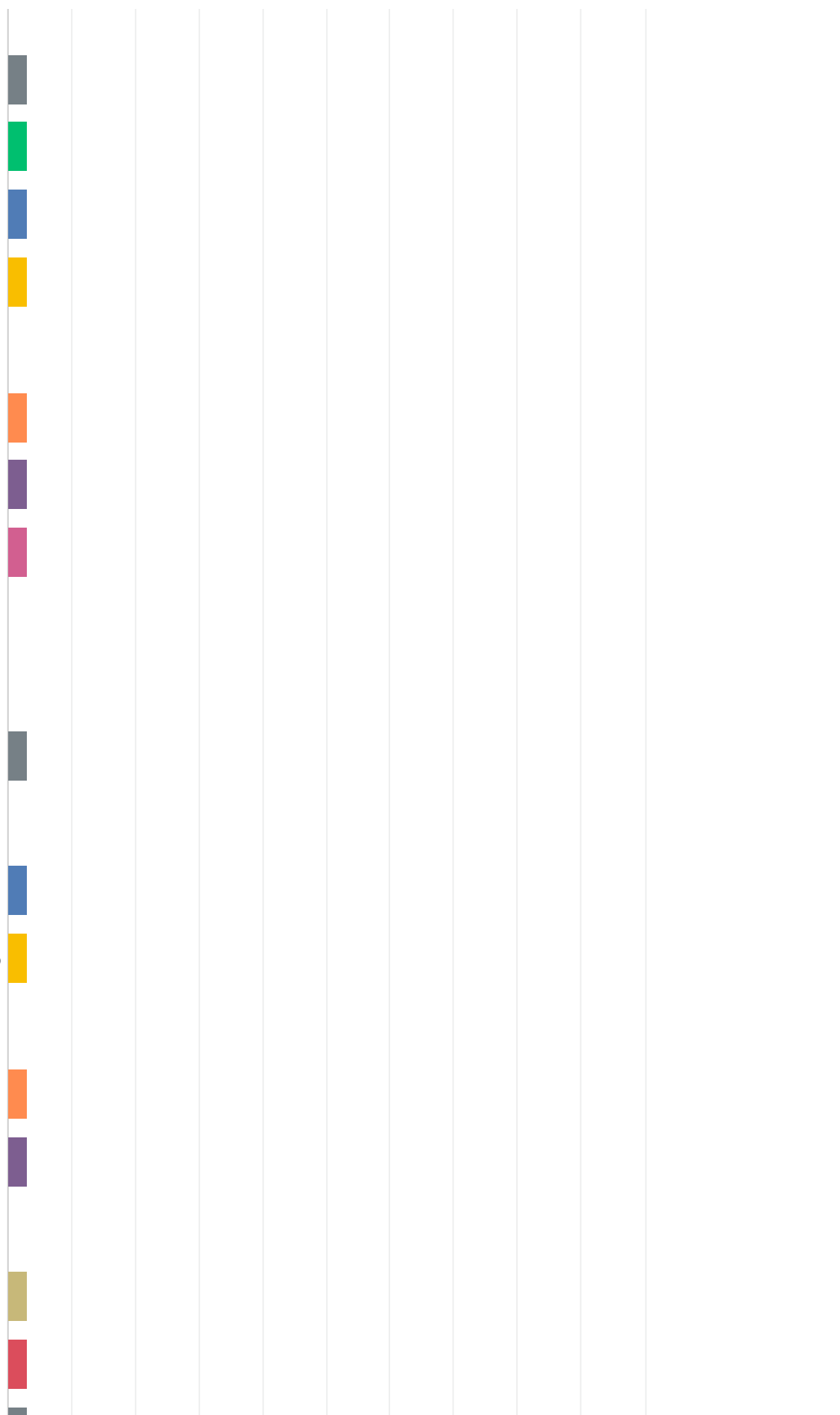


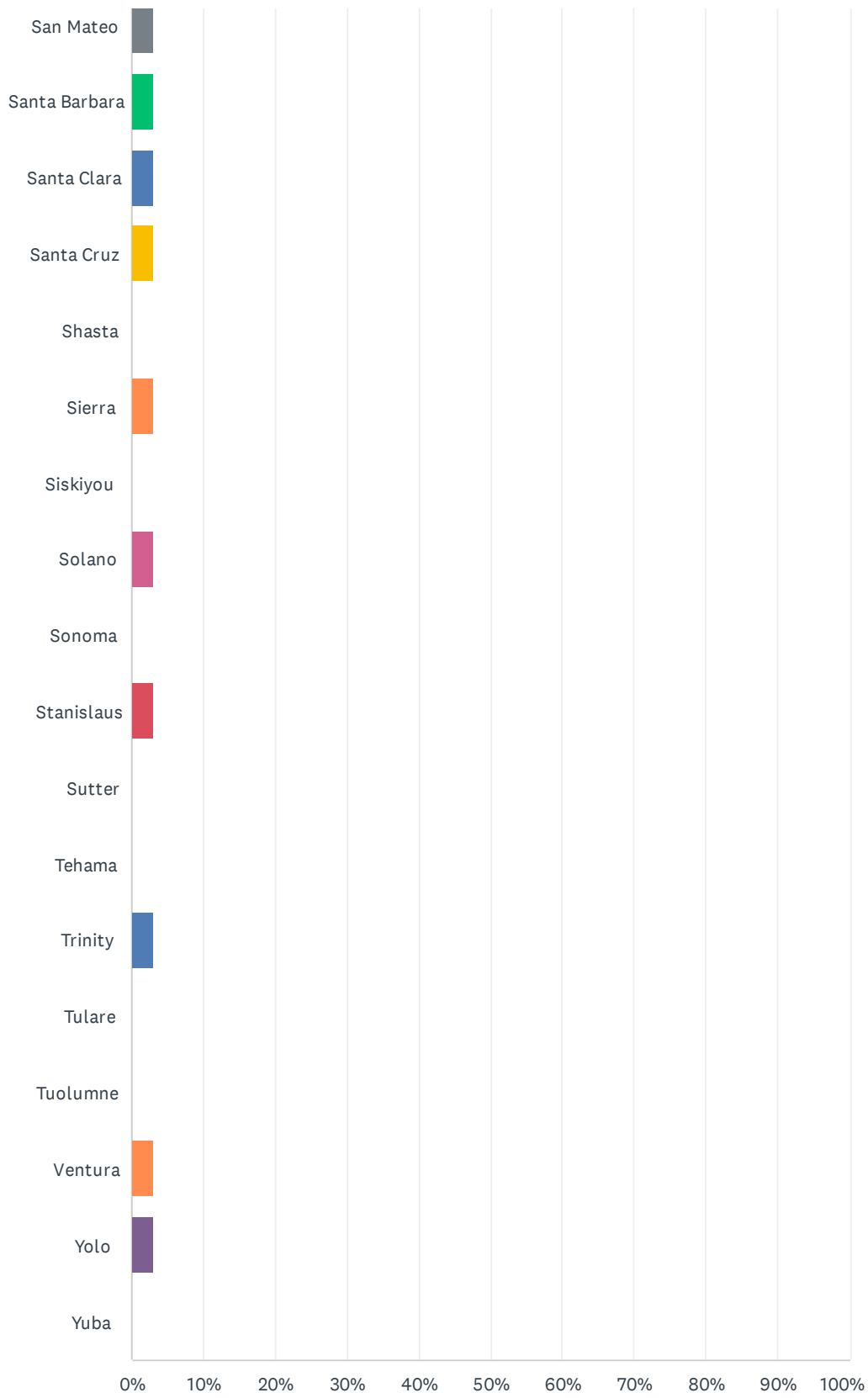
Q1 For which LAFCo are you responding?

Answered: 34 Skipped: 0



Maadera
Marin
Mariposa
Mendocino
Merced
Modoc
Mono
Monterey
Napa
Nevada
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo



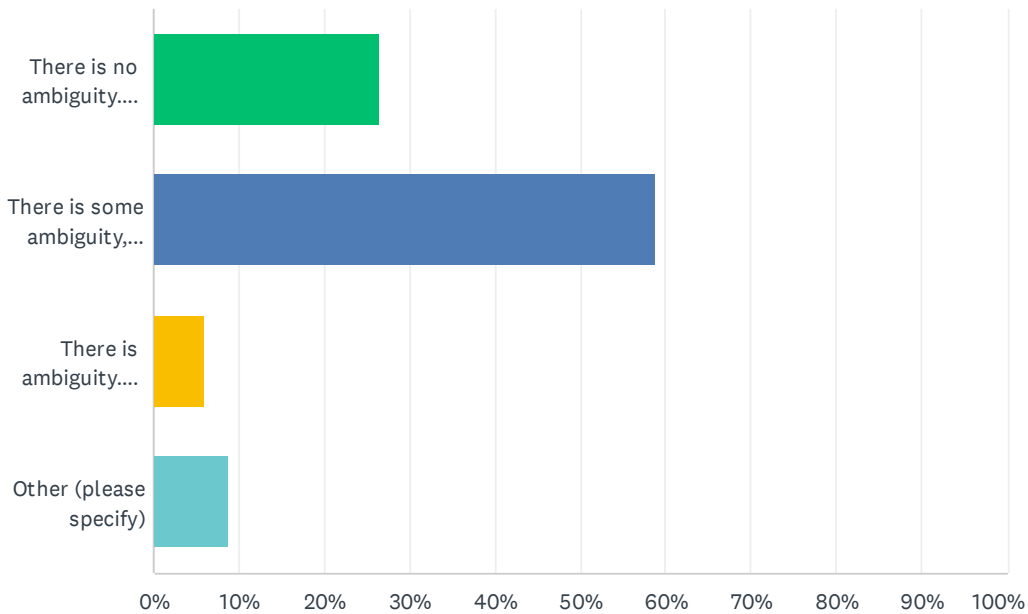


ANSWER CHOICES	RESPONSES	
Alameda	2.94%	1
Alpine	0.00%	0
Amador	2.94%	1
Butte	2.94%	1
Calaveras	0.00%	0
Colusa	0.00%	0
Contra Costa	2.94%	1
Del Norte	0.00%	0
El Dorado	0.00%	0
Fresno	2.94%	1
Glenn	2.94%	1
Humboldt	2.94%	1
Imperial	2.94%	1
Inyo	0.00%	0
Kings	2.94%	1
Lake	0.00%	0
Lassen	0.00%	0
Los Angeles	2.94%	1
Madera	0.00%	0
Marin	2.94%	1
Mariposa	2.94%	1
Mendocino	2.94%	1
Merced	2.94%	1
Modoc	0.00%	0
Mono	2.94%	1
Monterey	2.94%	1
Napa	2.94%	1
Nevada	0.00%	0
Orange	0.00%	0
Placer	2.94%	1
Plumas	0.00%	0
Riverside	2.94%	1

Sacramento	2.94%	1
San Benito	0.00%	0
San Bernardino	2.94%	1
Sn Diego	2.94%	1
San Francisco	0.00%	0
San Joaquin	2.94%	1
San Luis Obispo	2.94%	1
San Mateo	2.94%	1
Santa Barbara	2.94%	1
Santa Clara	2.94%	1
Santa Cruz	2.94%	1
Shasta	0.00%	0
Sierra	2.94%	1
Siskiyou	0.00%	0
Solano	2.94%	1
Sonoma	0.00%	0
Stanislaus	2.94%	1
Sutter	0.00%	0
Tehama	0.00%	0
Trinity	2.94%	1
Tulare	0.00%	0
Tuolumne	0.00%	0
Ventura	2.94%	1
Yolo	2.94%	1
Yuba	0.00%	0
TOTAL		34

Q2 How does your LAFCo interpret 56133(e)?

Answered: 34 Skipped: 0

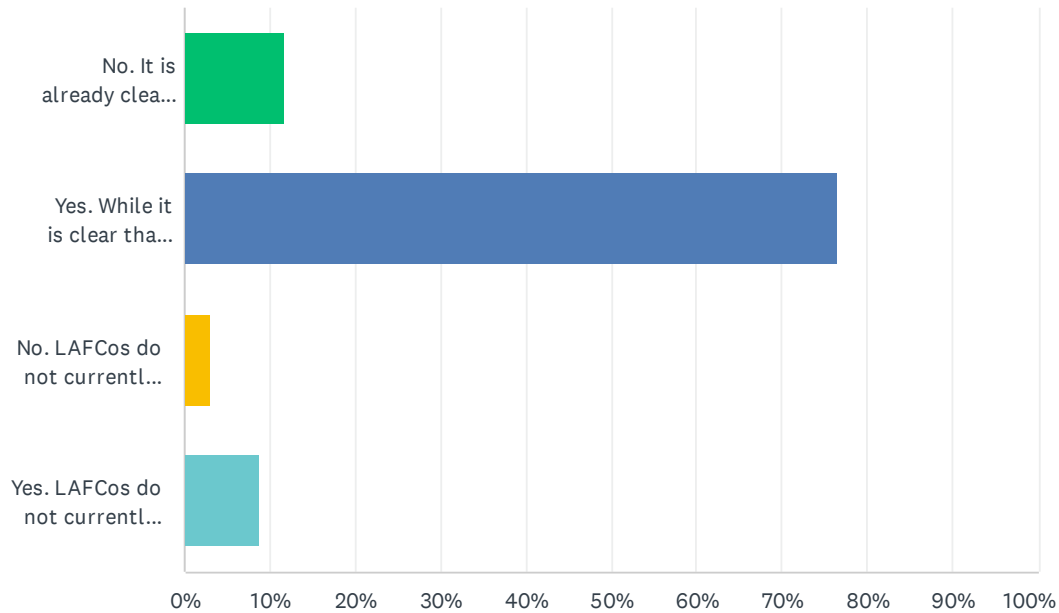


ANSWER CHOICES	RESPONSES	
There is no ambiguity. Section 56133(e) is located in LAFCo law, therefore, absent specific wording granting authority to another agency, LAFCo retains the authority to make the determination.	26.47%	9
There is some ambiguity, however because LAFCo determines when a service requires LAFCo approval pursuant to 56133(a), LAFCo should also make the determination when a service is exempt from LAFCo approval under 56133(e).	58.82%	20
There is ambiguity. Because 56133(e) does not specify what agency is to make the determination, the city or district that is to provide the service has the authority to make the determination that it is exempt from LAFCo approval.	5.88%	2
Other (please specify)	8.82%	3
TOTAL		34

#	OTHER (PLEASE SPECIFY)	DATE
1	Since it is already being challenged, then it will likely continue. So, amending it to eliminate that future possibility is best.	6/1/2023 6:10 PM
2	While there is some ambiguity, however because LAFCo determines when a service requires LAFCo approval pursuant to 56133(a), I am not sure that the Commission at a public meeting needs to make the determination in every instance when a service is exempt from LAFCo approval under 56133(e).	5/19/2023 5:16 PM
3	While there is little ambiguity in the law, it is common that cities or districts would argue they don't need LAFCo approval if they felt the Commission wouldn't support an exemption if given a chance to make a determination. So some more specific language could be beneficial to LAFCo. On the other hand, there are many obvious "common sense" situations where an exemption applies that we don't take action on. For example, being a largely agricultural county, non-potable water transfers between various water districts and agencies that became prevalent during the recent drought were clearly exempt and we didn't take the time or effort to identify each district and require any preapproval from the Commission.	5/18/2023 4:18 PM

Q3 From your LAFCo's perspective, does 56133(e) need to be amended to clarify that LAFCo is to make the determination of whether a service is exempt?

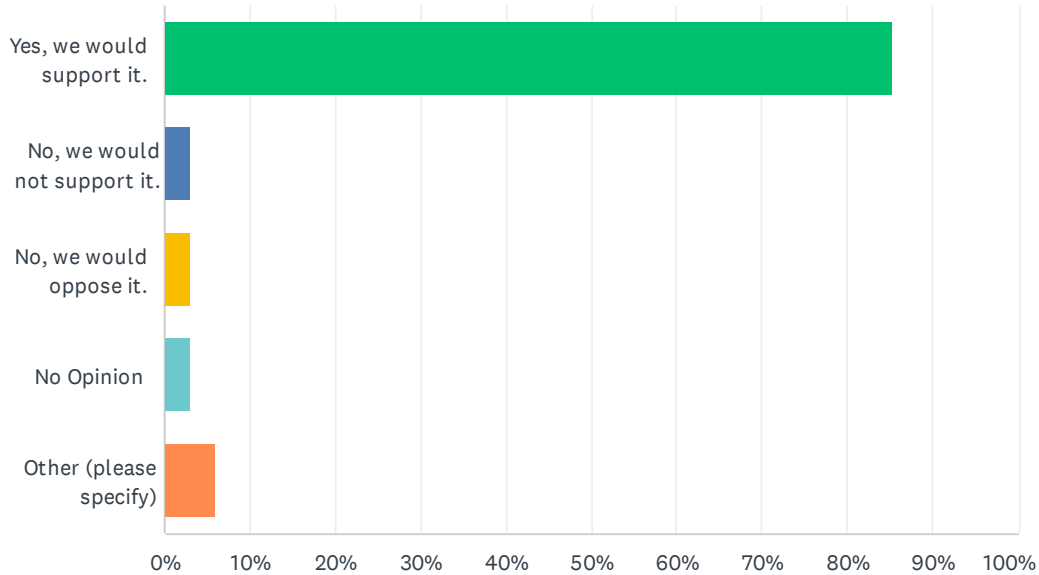
Answered: 34 Skipped: 0



ANSWER CHOICES	RESPONSES	
No. It is already clear that LAFCo holds this authority and legislative clarification is not necessary.	11.76%	4
Yes. While it is clear that LAFCo already holds this authority, the current wording is ambiguous and legislative clarification would be helpful.	76.47%	26
No. LAFCos do not currently hold this authority. Adding such language to 56133(e) would be an unneeded expansion of LAFCo authority.	2.94%	1
Yes. LAFCos do not currently hold this authority. Adding such language to 56133(e) would be an expansion of LAFCo authority, but such authority would be helpful.	8.82%	3
TOTAL		34

Q4 Would your LAFCo be in support of a legislative amendment to insert the underlined words below to the beginning of Section 56133(e) so that it reads: “This section does not apply to any of the following, as determined by the commission:”

Answered: 34 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes, we would support it.	85.29%	29
No, we would not support it.	2.94%	1
No, we would oppose it.	2.94%	1
No Opinion	2.94%	1
Other (please specify)	5.88%	2
TOTAL		34

#	OTHER (PLEASE SPECIFY)	DATE
1	If the wording could somehow reflect that the Commission could do "blanket exemptions for subsections (e) 2 and 3 our Commission would be more favorable: avoid impacting non-urban water districts.	5/18/2023 4:18 PM
2	I would formally want to talk with my commission about this before taking a postion.	5/17/2023 1:25 PM

Q5 Is there anything else that you feel we should know on this topic?

Answered: 12 Skipped: 22

#	RESPONSES	DATE
1	N/A	6/2/2023 10:38 AM
2	Please research and understand the administration of 56133 in rural areas and there is no more rural LAFCo than in Sierra County. The single incorporated city and our special districts operate on shoe string budgets, are administered by volunteers on the Board of Directors as well as any staff, have little access to financial resources, and are trying to do the right thing. There should be some language in 56133 that allows LAFCo to grant a temporary extension of services with some form of interim services agreement that does not trigger sphere studies, MSR updates, and CEQA compliance. There are a number of reasons short of a bona fide emergency or health concern where temporary relief via extending services for a short term period (less than one year) is the right thing to do...not long term.	6/1/2023 4:23 PM
3	It is important to clarify to the LAFCOs that adding this term does not preclude an individual LAFCO from establishing a local policy as to how that determination is delegated or defined.	5/23/2023 12:49 PM
4	San Mateo LAFCo typically process 5 to 7 56133 service extensions a year, due largely to unique service delivery patterns related water provision in the County, where cities are the designated water provider for several unincorporated areas and even neighboring cities. We have adopted policy regarding this topic and have stated that exemptions do not need to come before LAFCo for review. We have not had any issues that I am aware of regarding agencies not coming before LAFCo when a 56133 extension was needed. It would seem that as contracts for service, such as a sheriff's contract with a city or a sewer district providing sewer service by contract to another agency would then need to be reviewed by LAFCo to determine if it was exempt. I am not sure how our Commission would view the need to review these types of actions, particularly when these types of contracts are common in our County and are not reviewed now.	5/19/2023 5:16 PM
5	Keep up the good fight and good luck getting any support from CSDA!	5/18/2023 4:18 PM
6	No	5/18/2023 8:22 AM
7	The wording "as determined by the Commission" would lead to a lot of extra work by staff. It should read, "as determined by LAFCO."	5/17/2023 2:24 PM
8	Three thoughts... 1) Amending 56133 addresses a current/known problem in San Diego County. 2) The proposed amendment to make clear LAFCO determines exemption eligibility in CKH is good public policy and ultimately saves money and resources 3) Don't bother trying to convince CSDA to support...	5/17/2023 2:11 PM
9	I think it's clear as is but will support an amendment to help those other LAFCo's that have been challenged on this. Question: I want to make sure there is no added ambiguity created that when it says, "as determined by the commission", and an EO can still make this call and it does not necessarily mean it has to be acted on at a public meeting of the commission.	5/17/2023 1:50 PM
10	Please reference Monterey LAFCO's earlier comment letters to leg committee on this topic. Thank you.	5/17/2023 1:46 PM
11	Sacramento LAFCo is currently circulating a local policy on this subject to our local agencies for review and comment. The policy essentially states that LAFCo has exclusive authority to determine is a 56133(e) exemption applies.	5/17/2023 1:28 PM
12	I support it overall but I would have a slight preference towards the wording including something to the effect of: "This section does not apply to any of the following as determined by the commission or the Executive Officer, if delegated."	5/17/2023 1:15 PM

CALAFCO List of Current Bills 6/7/2024

[AB 805](#) (Arambula D) Sewer service: disadvantaged communities.

Current Text: Amended: 6/6/2024 [html](#) [pdf](#)

Introduced: 2/13/2023

Last Amend: 6/6/2024

Status: 6/6/2024-Read second time and amended. Re-referred to Com. on APPR.

Location: 6/5/2024-S. APPR.

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

Summary: The State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality in accordance with the Porter-Cologne Water Quality Control Act and the federal Clean Water Act. Current law authorizes a regional board to order the provision of sewer service by a receiving sewer system, as defined, to a disadvantaged community served by an inadequate onsite sewage treatment system, as defined. This bill would authorize the state board, until January 1, 2029, and after it makes a specified finding or findings by resolution, to require a designated sewer system to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services to assist a designated sewer system with the delivery of adequate sewer service, as defined.

Position

Support if Amended

Subject

Disadvantaged Communities, Waste Water

CALAFCO Comments: 6/5/2024: Passed Senate Environmental Quality Committee and re-referred to Appropriations due to recent amendments.

5/15/2024: Amended. The general scope of the bill has now been shifted to focus on sewer system failures due to non-compliance with existing regulations, or one caused by exhibited infrastructural or capacity deficiencies.

5/1/2024: Assigned to Senate Environmental Quality committee. No hearing date yet scheduled.

1/26/2024: Support, if amended, approved. Amendment requested is the inclusion of language requiring the state board to consult with the local LAFCO.

1/22/2024: Gutted and amended. No longer addresses consolidation of waste water systems but, rather, would set up a program in which the state would provide technical, managerial, administrative, and financial assistance, where applicable, to disadvantaged communities. Position changed to support if amended to include a provision requiring the state board to consult with the local LAFCO regarding the system.

As introduced, this bill would have authorized the state board, if sufficient funds are available, to order consolidation of sewer service along with an order of consolidation of drinking water systems when both of the receiving and subsumed water systems provide sewer service and after the state board engages in certain activities. It failed to meet 2023 deadlines and became a 2 year bill that cannot be acted upon until January, 2024.

[AB 817](#) (Pacheco D) Open meetings: teleconferencing: subsidiary body.

Current Text: Amended: 5/29/2024 [html](#) [pdf](#)

Introduced: 2/13/2023

Last Amend: 5/29/2024

Status: 6/5/2024-In committee: Set, second hearing. Failed passage. Reconsideration granted.

Location: 5/1/2024-S. L. GOV.

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

Summary: The Ralph M. Brown Act, requires, with specified exceptions, each legislative body of a local agency to provide notice of the time and place for its regular meetings and an agenda containing a brief general description of each item of business to be transacted. Current law authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency (emergency provisions) and, until January 1, 2026, in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met (nonemergency provisions). Current law imposes different requirements for notice, agenda, and public participation, as prescribed, when a legislative body is using alternate teleconferencing provisions. The nonemergency provisions impose restrictions on remote participation by a member of the legislative body and require the legislative body to provide specific means by which the public may remotely hear and visually observe the meeting. This bill, until January 1, 2026, would authorize a subsidiary body, as defined, to use similar alternative teleconferencing provisions and would impose requirements for notice, agenda, and public participation, as prescribed. The bill would require at least

one staff member of the local agency to be present at a designated primary physical meeting location during the meeting. The bill would require the local agency to post the agenda at the primary physical meeting location. The bill would require the members of the subsidiary body to visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform, as specified. The bill would also require the subsidiary body to list a member of the subsidiary body who participates in a teleconference meeting from a remote location in the minutes of the meeting. In order to use teleconferencing pursuant to this act, the bill would require the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote, before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter.

Position
Watch

Subject
Brown Act

CALAFCO Comments: 6/5/2024: Considered by Senate Local Government Committee and failed. Reconsideration was granted and the measure passed on the second vote. No new date yet scheduled.

1/25/2024: Moved out of the Assembly and was assigned to Senate Local Government Committee and the Senate Judiciary Committee.

1/17/2024: Amended to add a Sunset date of January 1, 2026.

3/16/2023: The bill was amended to speak specifically to teleconferenced meetings of subsidiary bodies, defined as a body that serves exclusively in an advisory capacity, and is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements. For qualifying bodies, this bill would remove the requirement to post an agenda at the location of the subsidiary body member who was participating from off site- providing that the legislative body that formed the subsidiary body has previously made findings noting that teleconferenced meetings of the subsidiary body would enhance public access, and would promote the attractions, retention and diversity of the subsidiary body. The superior legislative body would need to revisit the matter and repeat those finding every 12 months thereafter. This bill also reaffirms that other provisions of the Brown Act are applicable to subsidiary bodies.

Failed to meet deadlines and now a 2 year bill that cannot be acted upon until January, 2024.

AB 828

(Connolly D) Sustainable groundwater management: managed wetlands.

Current Text: Amended: 1/11/2024 [html](#) [pdf](#)

Introduced: 2/13/2023

Last Amend: 1/11/2024

Status: 5/1/2024-Referred to Com. on N.R. & W.

Location: 5/1/2024-S. N.R. & W.

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

Calendar: 6/25/2024 9 a.m. - 1021 O Street, Room 2100 SENATE NATURAL RESOURCES AND WATER, MIN, DAVE, Chair

Summary: The Sustainable Groundwater Management Act requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans, except as specified. Current law defines various terms for purposes of the act. This bill would add various defined terms for purposes of the act, including the terms "managed wetland" and "small community water system."

Position
None at this time

Subject
Water

CALAFCO Comments: Scheduled for 6/25/2024 hearing before the Senate Committee on Natural Resources and Water.

1/29/24: Passed Assembly Floor and moved to Senate to be scheduled for policy hearing.

1/18/24: Passed out of Assembly Appropriations Committee.

1/11/24: Amended to strike provisions regarding small community water systems serving disadvantaged communities and pivots to groundwater sustainability agencies. New provisions were added to the bill that would have the effect of carving out of the existing law, until January 1, 2028, small community water systems serving disadvantaged communities from permitted public water supply wells. After January 1, 2028, that provision sunsets and the law would revert back to its current state without the carve out.

1/9/24: Passed Assembly Water, Parks and Recreation Committee.

4/17/2023: Amended to define agencies and entities required or excluded from existing 10726.4 (a) (4). Amends Water Code section 10730.2 to add language regarding fees, and amends Water Code section 10733 to address groundwater sustainability plans.

Failed to make April policy committee deadline and now cannot be acted upon until January 2024.

As introduced, would add definitions for Managed Wetlands, and Small community water system to

AB 2302 (Addis D) Open meetings: local agencies: teleconferences.

Current Text: Introduced: 2/12/2024 [html](#) [pdf](#)

Introduced: 2/12/2024

Status: 6/6/2024-Read second time. Ordered to third reading.

Location: 6/6/2024-S. THIRD READING

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

Calendar: 6/10/2024 #62 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: The Ralph M. Brown Act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Current law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. Current law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in specified circumstances if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction, and the legislative body complies with prescribed requirements. Current law imposes prescribed restrictions on remote participation by a member under these alternative teleconferencing provisions, including establishing limits on the number of meetings a member may participate in solely by teleconference from a remote location, prohibiting such participation for a period of more than 3 consecutive months or 20% of the regular meetings for the local agency within a calendar year, or more than 2 meetings if the legislative body regularly meets fewer than 10 times per calendar year. This bill would revise those limits, instead prohibiting such participation for more than a specified number of meetings per year, based on how frequently the legislative body regularly meets.

Position

Watch

Subject

Brown Act

CALAFCO Comments: 6/5/2024: Passed Senate Local Government Committee, read second time on June 5, 2024. Third Reading scheduled for 06/10/2024.

5/9/2024: Passed Assembly Third Reading and moved to Senate.

4/10/24 passed Assembly Local Government Committee and sent to Assembly Floor.

Introduced on 2/12/2024, this bill would enact changes to Brown Act provisions that allow members of legislative bodies to teleconference for meetings. Currently, the law limits teleconferencing to no more than 3 consecutive months, 20% of the regular meetings in a calendar year, or 2 meetings for bodies that meet less than 10 times in a calendar year. This bill redefines those limits as 2 meetings per year for bodies meeting monthly or less; 5 meetings per year for those meeting twice per month; or 7 meetings per year if the body meetings three times or more per month.

AB 2661 (Soria D) Electricity: Westlands Water District.

Current Text: Amended: 5/16/2024 [html](#) [pdf](#)

Introduced: 2/14/2024

Last Amend: 5/16/2024

Status: 6/5/2024-Referred to Coms. on L. GOV. and E., U. & C.

Location: 5/24/2024-S. L. GOV.

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

Calendar: 6/11/2024 9 a.m. - State Capitol, Room 113 SENATE LOCAL GOVERNMENT, DURAZO, MARIA ELENA, Chair

Summary: Would authorize the Westlands Water District to provide, generate, and deliver solar photovoltaic or hydroelectric electricity and to construct, operate, and maintain works, facilities, improvements, and property necessary or convenient for generating and delivering that electricity. The bill would require the district to use the electricity for the district's own purposes, and the bill would authorize the district to sell surplus electricity to a public or private entity engaged in the distribution or sale of electricity. The bill would also authorize the district to construct, operate, and maintain energy storage systems and electric transmission lines, and to construct, operate, and maintain works, facilities, improvements, and property necessary or convenient for the operation of the energy storage system and electric transmission lines, within the boundaries of the district, as specified. The bill would require the district to report the amount of income, and the purposes for expenditure of that income, from these electricity facilities in a specified report.

Position

Subject

AB 2715 (Boerner D) Ralph M. Brown Act: closed sessions.

Current Text: Amended: 4/24/2024 [html](#) [pdf](#)

Introduced: 2/14/2024

Last Amend: 4/24/2024

Status: 6/5/2024-From committee: Do pass and re-refer to Com. on JUD. (Ayes 7. Noes 0.) (June 5). Re-referred to Com. on JUD.

Location: 6/5/2024-S. JUD.

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

Summary: The Ralph M. Brown Act requires that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate. Current law authorizes a legislative body to hold a closed session with specified individuals on, among other things, matters posing a threat to the security of essential public services, as specified. This bill would additionally authorize a legislative body to hold a closed session with other law enforcement or security personnel and to hold a closed session on a threat to critical infrastructure controls or critical infrastructure information, as defined, relating to cybersecurity.

Position

None at this time

Subject

Brown Act

CALAFCO Comments: 6/5/2024: Passed Senate Local Government Committee and re-referred to the Senate Judiciary Committee. No new date yet scheduled.

5/1/2024: Passed Assembly Local Government Committee.

4/24/2024: Amended to include cybersecurity threats among the things that can be discussed in closed session. Provides a definition of "critical infrastructure controls" to include I.T. networks. As introduced on 2/14/2024, would make minor changes in the Brown Act. Monitoring.

AB 2986 (Carrillo, Wendy D) Local Agency Formation Commission for the County of Los Angeles: East Los Angeles Task Force.

Current Text: Amended: 4/29/2024 [html](#) [pdf](#)

Introduced: 2/16/2024

Last Amend: 4/29/2024

Status: 5/30/2024-In committee: Hearing postponed by committee.

Location: 5/29/2024-S. L. GOV.

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

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. The act continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and that oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, including incorporation of a city or formation of a district, as specified. This bill would require the Local Agency Formation Commission for the County of Los Angeles (LALAFCO) to establish the East Los Angeles Task Force for the purposes of identifying and evaluating the potential impacts of incorporation of, or the establishment of special districts within, East Los Angeles, as defined. The bill would require the task force to be composed of 11 members appointed by LALAFCO in consultation with the County of Los Angeles. The bill would require the task force to meet quarterly, incorporating robust community engagement, to discuss the potential impacts of incorporation or the establishment of special districts in East Los Angeles, as specified. The bill would require the task force to complete and submit a report to the Legislature on the potential impacts of city and special district incorporation in East Los Angeles, including an analysis of advantages, disadvantages, and recommendations for future actions, as specified.

Position

None at this time

Subject

CALAFCO Comments: 05/30/2024: Senate Local Government committee hearing postponed by the committee.

05/21/2024: Read third time. Passed and ordered to the Senate; assigned to the Local Government Committee.

05/20/2024: Read second time. Ordered to third reading.

05/16/2024: Joint Rule 62(a), file notice suspended. Passed out of Appropriations.

05/15/2024: In committee: Set, first hearing. Referred to suspense file.

04/30/2024: Re-referred to Appropriations.

4/29/2024: Amended version in print. Makes the bill contingent on appropriation of funds to reimburse

LA LAFCO for the costs of the Task Force.
 4/24/2024: Passed Assembly Local Government Committee hearing with amendments and re-referred to Appropriations.
 3/21/2024: the bill was gutted and amended and now requires the LA LAFCO to develop an East Los Angeles Formation Task Force. Not a statewide issue.

AB 3277

(Committee on Local Government) Local agency formation commission: districts: property tax.

Current Text: Introduced: 2/27/2024 [html](#) [pdf](#)

Introduced: 2/27/2024

Status: 5/29/2024-From committee: Do pass and re-refer to Com. on APPR with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (May 29). Re-referred to Com. on APPR.

Location: 5/29/2024-S. APPR.

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

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 establishes the sole and exclusive authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. Current law requires proceedings for the formation of a district to be conducted as authorized by the principal act of the proposed district, and authorizes the local agency formation commission in each county to serve as the conducting authority, as specified. Current law requires a commission to determine the amount of property tax revenue to be exchanged by an affected local agency, as specified, if the proposal includes the formation of a district, as defined. This bill would, instead, require a commission to determine the amount of property tax revenue to be exchanged by an affected local agency if the proposal includes the formation of a district and the applicant is seeking a share of the 1% ad valorem property taxes.

Position
Sponsor

Subject
Incorporation
Proceedings

CALAFCO Comments: CALAFCO's 2024 Omnibus bill.

06/07/2024: Removed from Appropriations 6/10/2024 calendar. Awaiting new date.
 05/29/2024: Passed by Senate Local Government Committee and re-referred to Appropriations, where it is scheduled to be heard on 6/10/24.
 4/29/2024: Removed from Appropriations and sent to Assembly floor where it passed. Assigned to Senate Local Government Committee and Appropriations.
 4/10/2024: Passed Assembly Local Government Committee and was referred to Appropriations.

SB 537

(Becker D) Open meetings: multijurisdictional, cross-county agencies: teleconferences.

Current Text: Amended: 9/5/2023 [html](#) [pdf](#)

Introduced: 2/14/2023

Last Amend: 9/5/2023

Status: 6/3/2024-From inactive file. Ordered to third reading.

Location: 6/3/2024-A. THIRD READING

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

Calendar: 6/10/2024 #19 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Current law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment. Current law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. These circumstances include if a member shows "just cause," including for a childcare or caregiving need of a relative that requires the member to participate remotely. This bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely. The bill would authorize the legislative body of a multijurisdictional, cross-county agency, as specified, to use alternate teleconferencing provisions if the eligible legislative body has adopted an authorizing resolution, as specified. The bill would also require the legislative body to provide a record of attendance of the members of the legislative body, the number of community members in attendance in the teleconference meeting, and the number of public comments on its internet website within 10 days after a teleconference meeting, as specified. The bill would require at least a quorum of members of the legislative body to participate from one or more physical locations that are open to the public and within the boundaries of the territory over which the local agency exercises jurisdiction.

Position
Watch

Subject
Brown Act

CALAFCO Comments: 06/06/2024: Scheduled for third reading on the Assembly Floor.
 06/03/2024: Moved from the inactive file, and ordered to third reading.
 05/30/2024: Notice of intention to remove from the inactive file was given by Assembly Member Hart.

09/14/2023: Ordered to inactive file on request of Assembly Member Bryan.
 08/14/2023: Amended to require eligible legislative bodies that receive compensation to participate from a physical location that is open to the public.
 7/12/23: The bill passed the Assembly Local Government Committee.
 The bill passed Senate Judiciary on 5/2/23, and had its third reading in the Senate on 5/30/2023.
 4/24/2023: The bill was amended to further clarify definitions and the requirements needed for members of an eligible legislative body to meet remotely.
 3/22/2023: was amended and fleshed out to add teleconferencing provisions to allow legislative bodies of multijurisdictional agencies to meet remotely. Multijurisdictional agencies are defined as boards, commissions, or advisory bodies of a multijurisdictional, cross county agency, which is composed of appointed representatives from more than one county, city, city and county, special district, or a joint powers entity.
 The bill is sponsored by Peninsula Clean Energy, a community choice aggregator with a board comprised of local elected officials from the County of San Mateo and its 20 cities, as well as the City of Los Banos.
 Spotholder bill that states an intent to expand local government’s access to hold public meetings through teleconferencing and remote access.

SB 1209

(Cortese D) Local agency formation commission: indemnification.

Current Text: Introduced: 2/15/2024 [html](#) [pdf](#)
Introduced: 2/15/2024
Status: 5/28/2024-Referred to Com. on L. GOV.
Location: 5/28/2024-A. L. GOV.

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

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, as specified. This bill would authorize a LAFCO to require, as a condition for, among other things, processing a change of organization or reorganization, that the applicant agrees to defend, indemnify, and hold harmless the LAFCO, its agents, officers, and employees from and against any claim, action, or proceeding, as specified, arising from or relating to the action or determination by the LAFCO.

Position
Sponsor

Subject
LAFCo
Administration

CALAFCO Comments: 05/28/2024: Referred to Assembly Local Government Committee and waiting on hearing date.

05/21/2024, Passed out of Senate and moved to Assembly.
 03/20/2024, Passed Senate Local Government Committee hearing. Now proceeds to Senate floor vote, then will move to Assembly.
 CALAFCO sponsored bill in response to a 2022 appellate decision out of San Luis Obispo that held that LAFCOs could not use indemnification provisions in applications because indemnifications are a form of agreement that LAFCOs are currently not authorized to enter into. As introduced, the bill would allow LAFCOs to use provisions similar to counties and cities.

Total Measures: 10
Total Tracking Forms: 10