

# LAFCO MEMORANDUM

## ***SANTA BARBARA LOCAL AGENCY FORMATION COMMISSION***

105 East Anapamu Street • Santa Barbara CA 93101 • (805) 568-3391 + Fax (805) 568-2249

August 11, 2022 (Agenda)

TO: Each Member of the Commission

FROM: Mike Prater  
Executive Officer

SUBJECT: **Report on the 2022 CALAFCO Legislative Committee Meetings – June 17, 2022**

*This is an Informational Report. No Action is Necessary*

### DISCUSSION

The CALAFCO Legislative Committee convened a meeting on June 17, 2022. Your Executive Officer participated by ZOOM. A copy of the Meeting Agenda is attached as **Attachment A**.

A number of the listed bills, have progressed through the legislative process since the April 29, 2022 meeting. Staff will verbally update the Commission on the status of these bills at the meeting. The next scheduled Legislative Committee meeting is July 29, 2022.

### Attachments

Attachment A – CALAFCO Legislative Committee Agenda- June 17, 2022

Please contact the LAFCO office if you have any questions.

## CALAFCO Legislative Committee MEETING AGENDA

**Friday, June 17, 2022 ♦ 10:00 am – 12:00 pm**  
**Virtual via Zoom**

<https://us02web.zoom.us/j/89235870289?pwd=N0xDUHdkWDdkdmt2R2xNWjhMRDc1dz09>

**Meeting ID: 892 3587 0289**

**Passcode: 933256**

**Phone: 669-900-6833**

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1. Convene and Roll Call	<i>R. LaRoche</i>
2. Approval of Minutes of the April 29, 2022 meeting	<i>R. LaRoche</i> 3
3. Legislative Updates:*	
a. AB 2957 – CALAFCO sponsored Omnibus bill	<i>R. LaRoche</i>
b. SB 938 – CALAFCO sponsored protest provisions legislation	<i>R. LaRoche</i>
4. Discussion and potential action on legislation affecting LAFCos	<i>R. LaRoche</i> 5
Priority One Bills: NONE	
Priority Two Bills:	
a. <a href="#">AB 1944</a> (Lee) Public Meetings – Brown Act (Watch)	10
b. <a href="#">AB 2449</a> (Rubio) – Public Meetings – Brown Act (Watch)	25
c. <a href="#">AB 2647</a> (Levine) – Public Meetings – Brown Act (Watch)	46
d. <a href="#">SB 1100</a> (Cortese) – Public Meetings – Brown Act (Watch)	50
e. <a href="#">SB 1449</a> (Caballero) – OPR Grant/annexations incentive (Watch)	54
Priority Three Bills: NONE	
5. Receive list of CALAFCO tracked bills	<i>R. LaRoche</i> 59
6. Old Business:	
a. Continued Discussion and Possible Direction Regarding §56133 Proposal from San Diego LAFCo	<i>R. LaRoche</i> 77
7. Items for next meeting	
8. Good of the Order	
9. Adjournment to July 29, 2022 virtual meeting at 10:00 a.m.	

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**CALAFCO Legislative Committee**  
**DRAFT ACTION MEETING MINUTES**

**Date:** April 29, 2022

**Location:** Virtual

**Participants:** Clark Alsop, Mark Bramfitt, **Bill Connelly**, René LaRoche, Kai Luoma, **Jo MacKenzie**, **Margie Mohler**, **Anita Paque**, Jennifer Stephenson, and Gary Thompson.

**Alternates:** Paula Graf.

**Others present:** Advisory Committee Members: Priscilla Allen, Brandon Fender, Sara Lytle-Pinhey, Erica Sanchez, and Luis Tapia.

Guests included: Jonathan Brinkmann (Monterey), Paul Novak (Los Angeles), Mike Prater (Santa Barbara), and Jim Simon (RSG)

**Recorder:** René LaRoche

**1. Welcome, Roll Call, Review Agenda**

Roll call was taken and a quorum established. The meeting was called to order at 10:03 a.m. by René LaRoche.

**2. Approval of minutes of the March 11, 2022 meeting**

**MOTION:** *On the motion of Anita Paque, with a second by Margie Mohler, the Minutes of the March 11, 2022 meeting were unanimously approved as presented.*

**3. Legislative Updates:**

- a. **AB 2957 Omnibus (ALGC)**
- b. **SB 938 (Hertzberg) Protest Provisions**

René LaRoche advised of the current status of both bills.

**4. Discussion and potential action on legislation affecting LAFCoS**

Priority One Bills: None

Priority Two Bills:

- a. [AB 1944](#) (Lee) Public Meetings – Brown Act

The committee took no action on this bill, thus, maintaining the Watch position.

- b. [AB 2449](#) (Rubio) – Public Meetings – Brown Act

The committee took no action on this bill, thus, maintaining the Watch position.

- c. [AB 2647](#) (Levine) – Public Meetings – Brown Act

The committee took no action on this bill, thus, maintaining the Watch position.

- d. [SB 1100](#) (Cortese) – Public Meetings – Brown Act

The committee took no action on this bill, thus, maintaining the Watch position.

Priority Three Bills:

- e. [SB 1449](#) (Caballero) – OPR Grant/annexations incentive

The committee discussed the bill and the incentive that it would provide to cities.

**MOTION:** *On the motion of Clark Alsop, with a second by Bill Connelly, the committee unanimously approved continuing its **WATCH** position on SB 1449, and directed that information be returned to the next meeting regarding the position of the League of Cities.*

#### 5. Update of other CALAFCO tracked bills

René LaRoche provided an update on the bills being tracked.

#### 6. Discussion and possible direction on old business

- a. Co-sponsorship with San Diego LAFCo on §56133 proposal

René LaRoche and Priscilla Allen provided the staff report. The committee discussed the matter at length and provided direction.

**DIRECTION:** Develop a White Paper on the subject to assist with the determination of whether to continue to move this legislative proposal forward. Priscilla Allen, Steve Lucas, Kai Luoma, and René LaRoche are to work on the paper, with a draft due by June 1, 2022, to allow its return to the next Legislative Committee meeting.

#### 7. Items for Next Meeting

There were no additions to AB 1944, AB 2449, AB 2647, SB 1100, and SB 1449 which will be held over from this meeting.

#### 8. Good of the Order

No announcements

#### 9. Adjournment to June 17, 2022 meeting at 10:00 a.m.

The meeting was adjourned at 11:07 AM to the June 17, 2022 meeting to be held virtually.

## LEGISLATIVE COMMITTEE MEETING STAFF REPORT

### Agenda Item No. 4

### Discussion and Potential Action on Legislation Affecting LAFcos

**Meeting Date:** June 17, 2022

**Prepared By:** René LaRoche, Chair

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#### RECOMMENDATIONS

Consider bills that may have an impact on LAFcos and take positions as appropriate

#### DISCUSSION

There are no new bills to report given that May 27<sup>th</sup> was the deadline for bills to pass out of their originating house. However, CALAFCO is currently monitoring five bills, all Priority Two. Of the bills currently being monitored, four deal with Brown Act amendments.

Of the Brown Act bills, AB 1944 (Lee) and AB 2449 (Rubio) specifically address the Brown Act's teleconferencing provisions. Because of the conflicting provisions for the same issue, staff recommends a continued watch position.

AB 2647 (Levine) would modify provisions regarding public availability and posting of documents that have been received and distributed to a majority of members of a legislative body after the agenda has posted but before the meeting is held. Staff is recommending a continued watch position given that smaller LAFcos may not have the staffing capacity to immediately post a large influx of documents.

SB 1100 (Cortese) addresses meeting decorum and control, and is in response to issues that arose in meetings across the state since the pandemic. The ability to control and maintain meeting decorum is one that affects LAFcos as well as other public entities. Consequently, staff is recommending that CALAFCO alter its position on SB 1100 from Watch to Support.

- 1) [AB 1944 \(Lee\) Public Meetings – Brown Act](#) (Current position: Watch) 10  
This is one of four bills intended to affect Brown Act changes. AB 1944 seeks to codify a relaxation of teleconferencing provisions similar to the emergency provisions enacted by Gubernatorial Executive Order during the pandemic. Normally, the Brown Act allows a member of a legislative body to teleconference from an off-site location only if the location is identified on the agenda and is open to the public. AB 1944 would allow a member of a legislative body to teleconference from a private location which would not need to be open to the public or identified on the agenda. The bill was amended on May 25, 2022, to note that the provision was only applicable when no less than a quorum of members meets at a publicly accessible and properly agendized location, which is situated within the jurisdiction of the legislative body. AB 1944 has passed out of the Assembly, and is waiting to be scheduled before Senate Governance and Finance Committee.

#### SUPPORTERS:

Urban Counties of California, the Rural County Representatives of California, the California State Association of Counties, the Association of California Healthcare Districts, the Association of

California School Administrators, the California Association of Public Authorities for IHSS, and the League of California Cities.

**OPPOSITION:**

California News Publisher's Association, the American Civil Liberties Union, the First Amendment Coalition, the Howard Jarvis Taxpayers Association, Californians Aware, the Leadership Counsel for Justice and Accountability, the Society for Professional Journalists Los Angeles, the Orange County Press Club, and the National Writers Union of Southern California.

**RECOMMENDATION: *Continue to Watch.***

2) [AB 2449](#) (Rubio) – Public Meetings – Brown Act (Watch) 25

As with AB 1944, AB 2449 seeks to affect a change of the teleconferencing provisions of the Brown Act. It would codify teleconferencing provisions for states of emergency as previously contained in the Gubernatorial Executive Order to address COVID-19, This bill was amended on May 23, 2022 to add language that the legislative member could teleconference for no more than three consecutive meetings.

AB 2449 has passed out of the Assembly, and is waiting to be scheduled before Senate Governance and Finance Committee.

**SUPPORTERS:**

Three Valleys Municipal Water District (Sponsor).

**OPPOSITION:**

California News Publisher's Association, the ACLU California Action, the First Amendment Coalition, the Howard Jarvis Taxpayers Association, Californians Aware, the Leadership Counsel for Justice and Accountability, and the Society for Professional Journalists Los Angeles.

**RECOMMENDATION: *Continue to Watch***

3) [AB 2647](#) (Levine) – Public Meetings – Brown Act (Watch) 46

This bill, as introduced, would amend the law to make clear that writings that have been distributed to a majority of a local legislative body less than 72 hours before a meeting can be posted online in order to satisfy the law. The bill was amended on April 19, 2022, to add a provision that agendas will note the physical location from which hard copies of such post-agenda documents can be retrieved.

The time required to post documents on a website could be onerous to small LAFcos with limited staff, especially when a large number of documents is received.

AB 2647 has passed out of the Assembly, and is waiting to be scheduled before Senate Governance and Finance Committee.

**SUPPORTERS:**

League of California Cities (Sponsor)

**OPPOSITION:**

None.

**RECOMMENDATION: *Continue to Watch***

4) [SB 1100](#) (Cortese) – Public Meetings – Brown Act (Watch) 50

This bill addresses meeting decorum and control, and is in response to issues that arose in meetings across the state since the pandemic. The ability to control and maintain meeting decorum is one that affects LAFcos as well as other public entities. Consequently, staff is recommending that CALAFCO alter its position on SB 1100 from Watch to Support

SB 1100 has passed out of the Senate, and is scheduled before the Assembly Local Government Committee on June 15th.

**SUPPORTERS:**

California State Association of Counties (Co-Sponsor)  
Urban Counties of California (Co-Sponsor)  
California Contract Cities Association  
California Special Districts Association  
Change Begins With ME  
City Clerks Association of California  
Cloverdale Indivisible  
Contra Costa MoveOn  
County of Monterey  
County of Santa Clara  
Defending Our Future: Indivisible in CA 52nd District  
East Valley Indivisibles  
El Cerrito Progressives  
Feminists in Action Los Angeles (Indivisible CA-34 Women's)  
Hillcrest Indivisible  
Indi Squared  
Indivisible 30/Keep Sherman Accountable  
Indivisible 36  
Indivisible 41  
Indivisible Auburn CA  
Indivisible Beach Cities  
Indivisible CA-3  
Indivisible CA-7  
Indivisible CA-25 Simi Valley-Porter Ranch  
Indivisible CA-29  
Indivisible CA-33  
Indivisible CA-37  
Indivisible CA-39  
Indivisible CA-43  
Indivisible Claremont/Inland Valley  
Indivisible Colusa County  
Indivisible East Bay  
Indivisible El Dorado Hills  
Indivisible Elmwood  
Indivisible Euclid  
Indivisible Lorin  
Indivisible Los Angeles  
Indivisible Manteca  
Indivisible Marin  
Indivisible Media City Burbank  
Indivisible Mendocino  
Indivisible Normal Heights  
Indivisible North Oakland Resistance  
Indivisible North San Diego County  
Indivisible OC 46  
Indivisible OC 48  
Indivisible Petaluma  
Indivisible Sacramento  
Indivisible San Bernardino  
Indivisible San Jose  
Indivisible San Pedro  
Indivisible Santa Barbara



Indivisible Santa Cruz County  
Indivisible Sausalito  
Indivisible Sebastopol  
Indivisible SF  
Indivisible SF Peninsula and CA-14  
Indivisible Sonoma County  
Indivisible South Bay LA  
Indivisible Stanislaus  
Indivisible Suffragists  
Indivisible Ventura  
Indivisible Windsor  
Indivisible Yolo  
Indivisible: San Diego Central  
Indivisibles of Sherman Oaks  
Livermore Indivisible  
Mill Valley Community Action Network  
Mountain Progressives  
North Orange County Community College District  
Nothing Rhymes with Orange  
Orchard City Indivisible  
Orinda Progressive Action Alliance  
Our Revolution Long Beach  
RiseUp  
Rooted in Resistance  
San Diego Indivisible Downtown  
Santa Cruz County Board of Supervisors  
SFV Indivisible  
Silicon Valley Clean Energy  
Tehama Indivisible  
The Resistance Northridge Together We Will  
Together We Will/Indivisible - Los Gatos  
Town of Los Gatos  
Vallejo-Benicia Indivisible  
Venice Resistance  
Women's Alliance Los Angeles  
Yalla Indivisible

**OPPOSITION:**

Californians for Good Governance  
County of Solano  
Stand Up Sacramento County  
125 individuals

***Recommendation: Modify from Watch to Support***

5) **[SB 1449](#)** (Caballero) – OPR Grant/annexations incentive (Watch)

54

This bill seeks to create an Office of Planning and Research (OPR) grant program to incentivize the annexation of unincorporated areas that are substantially surrounded by a city, with “substantially surrounded” defined as at least 75% of the perimeter of the unincorporated area. If successful, the bill would authorize OPR to issue a grant to a city with a 1:1 match of funds contributed by a city toward a qualifying project, but only up to the amount determined by the OPR director.

SB 1449 has passed out of the Senate, and is waiting to be scheduled before the Assembly Local Government Committee. As of June 6, 2022, the date of this writing, the only support for this bill has come from CSAC, and there is no opposition. Per the Committee's direction at the last meeting, the Chair reached out to the League of Cities regarding their position but never received a response. The Senate Consultant could add nothing further.

Analyzing the bill finds that SB 1449:

- 1) Does not create any new mandates for LAFcos; and
- 2) Closely aligns with CALAFCO's adopted 2021-2022 Strategic Plan which lists "Adequate Municipal Services in Inhabited Territory" among its Areas of Interest, and specifically notes that "To promote environmental justice for underserved inhabited communities, **funding sources should be identified for extension of municipal services** (emphasis added), including options for annexation of contiguous disadvantaged unincorporated communities."

**SUPPORTERS:**

California State Association of Counties

**OPPOSITION:**

None.

Given the alignment with many facets of CALAFCO's mission, purpose, and strategic plan, staff recommends a support position on SB 1449.

***RECOMMENDATION: Modify from Watch to Support***

**ATTACHMENTS**

4. a. – AB 1944 (Lee)
4. b. – AB 2449 (Rubio)
4. c. – AB 2647 (Levine)
4. d. – SB 1000 (Cortese)
4. e. – SB 1449 (Caballero)

AMENDED IN ASSEMBLY MAY 25, 2022

AMENDED IN ASSEMBLY APRIL 18, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1944**

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**Introduced by Assembly Members Lee and Cristina Garcia**  
(Coauthors: Senators Becker, Cortese, and Stern)

February 10, 2022

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An act to amend, repeal, and add Section 54953 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1944, as amended, Lee. Local government: open and public meetings.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of

the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would require the agenda to identify any member of the legislative body that will participate in the meeting remotely. The bill would also require an updated agenda reflecting all of the members participating in the meeting remotely to be posted, if a member of the legislative body elects to participate in the meeting remotely after the agenda is posted.

~~This bill would authorize, under specified circumstances and~~ *authorize*, upon a determination by a majority vote of the legislative body, a member to be exempt from identifying the address of the member's teleconference location in the notice and agenda or having the location be accessible to the public, if the member elects to teleconference from a location that is not a public ~~place~~. *place, including, beginning January 1, 2024, that at least a quorum of members of the legislative body participates from a single physical location that is clearly identified on the agenda, open to the public, and situated within the boundaries of the territory over which the local agency has jurisdiction.*

This bill would require all open and public meetings of a legislative body that elects to use teleconferencing to provide a video stream accessible to members of the public and an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

This bill would repeal these provisions on January 1, 2030.

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.

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

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

1 SECTION 1. Section 54953 of the Government Code, as  
2 amended by Section 3 of Chapter 165 of the Statutes of 2021, is  
3 amended to read:

4 54953. (a) All meetings of the legislative body of a local  
5 agency shall be open and public, and all persons shall be permitted  
6 to attend any meeting of the legislative body of a local agency,  
7 except as otherwise provided in this chapter.

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

16 (2) Teleconferencing, as authorized by this section, may be used  
17 for all purposes in connection with any meeting within the subject  
18 matter jurisdiction of the legislative body. All votes taken during  
19 a teleconferenced meeting shall be by rollcall.

20 (3) (A) If the legislative body of a local agency elects to use  
21 teleconferencing, it shall post agendas at all teleconference  
22 locations and conduct teleconference meetings in a manner that  
23 protects the statutory and constitutional rights of the parties or the  
24 public appearing before the legislative body of a local agency.

25 (B) Each teleconference location shall be identified in the notice  
26 and agenda of the meeting or proceeding, and each teleconference  
27 location shall be accessible to the public, except as provided in  
28 subparagraph (E).

29 (C) The agenda shall identify any member of the legislative  
30 body that will participate in the meeting remotely. If a member of  
31 the legislative body elects to participate in the meeting remotely  
32 after the agenda is posted, an updated agenda shall be posted. In

1 the time between the start of the meeting and 72 hours before a  
2 regular meeting, in accordance with Section 54954.2, and 24 hours  
3 before a special meeting, in accordance with Section 54956, a  
4 legislative body shall only update the agenda to reflect the members  
5 participating in the meeting remotely.

6 (D) During the teleconference, at least a quorum of the members  
7 of the legislative body shall participate from locations within the  
8 boundaries of the territory over which the local agency exercises  
9 jurisdiction, except as provided in subdivisions (d) and (e). The  
10 agenda shall provide an opportunity for members of the public to  
11 address the legislative body directly pursuant to Section 54954.3  
12 at each teleconference location, except as provided in subparagraph  
13 (E).

14 (E) If a member of a legislative body elects to teleconference  
15 from a location that is not a public place, the legislative body shall  
16 be exempt from identifying the address of the location in the notice  
17 and agenda and from having the location be accessible to the public  
18 in both of the following circumstances:

19 (i) The legislative body holds its first teleconferenced meeting  
20 after passage of the act that added this subparagraph, for the  
21 purpose of determining, by a majority vote, whether members will  
22 not be required to identify the address of any private location from  
23 which the member elects to teleconference. This determination  
24 remains applicable to the legislative body until such time as the  
25 legislative body votes otherwise.

26 (ii) The legislative body holds a meeting and has previously  
27 determined, by majority vote, that members will not be required  
28 to identify the address of any private location from which the  
29 member elects to teleconference.

30 (F) If a legislative body elects to use teleconferencing as  
31 authorized by this section, it shall provide both of the following:

32 (i) A video stream accessible to members of the public.

33 (ii) An option for members of the public to address the body  
34 remotely during the public comment period through an audio-visual  
35 or call-in option.

36 (4) For the purposes of this section, “teleconference” means a  
37 meeting of a legislative body, the members of which are in different  
38 locations, connected by electronic means, through either audio or  
39 video, or both. Nothing in this section shall prohibit a local agency  
40 from providing the public with additional teleconference locations.

1 (5) For the purposes of this section, “video stream” means a  
2 medium in which the data from a live filming or a video file is  
3 continuously delivered via the internet to a remote user, allowing  
4 a video to be viewed online by the public without being  
5 downloaded on a host computer or device.

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

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

11 (3) Prior to taking final action, the legislative body shall orally  
12 report a summary of a recommendation for a final action on the  
13 salaries, salary schedules, or compensation paid in the form of  
14 fringe benefits of a local agency executive, as defined in  
15 subdivision (d) of Section 3511.1, during the open meeting in  
16 which the final action is to be taken. This paragraph shall not affect  
17 the public’s right under the California Public Records Act (Division  
18 10 (commencing with Section 7920.000) of Title 1) to inspect or  
19 copy records created or received in the process of developing the  
20 recommendation.

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

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

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

12 (e) (1) A local agency may use teleconferencing without  
13 complying with the requirements of paragraph (3) of subdivision  
14 (b) if the legislative body complies with the requirements of  
15 paragraph (2) of this subdivision in any of the following  
16 circumstances:

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

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

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

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

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

33 (B) The legislative body shall allow members of the public to  
34 access the meeting and the agenda shall provide an opportunity  
35 for members of the public to address the legislative body directly  
36 pursuant to Section 54954.3. In each instance in which notice of  
37 the time of the teleconferenced meeting is otherwise given or the  
38 agenda for the meeting is otherwise posted, the legislative body  
39 shall also give notice of the means by which members of the public  
40 may access the meeting and offer public comment. The agenda



1 shall identify and include an opportunity for all persons to attend  
2 via a call-in option or an internet-based service option. This  
3 subparagraph shall not be construed to require the legislative body  
4 to provide a physical location from which the public may attend  
5 or comment.

6 (C) The legislative body shall conduct teleconference meetings  
7 in a manner that protects the statutory and constitutional rights of  
8 the parties and the public appearing before the legislative body of  
9 a local agency.

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

21 (E) The legislative body shall not require public comments to  
22 be submitted in advance of the meeting and must provide an  
23 opportunity for the public to address the legislative body and offer  
24 comment in real time. This subparagraph shall not be construed  
25 to require the legislative body to provide a physical location from  
26 which the public may attend or comment.

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

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

38 (ii) A legislative body that does not provide a timed public  
39 comment period, but takes public comment separately on each  
40 agenda item, shall allow a reasonable amount of time per agenda

1 item to allow public members the opportunity to provide public  
2 comment, including time for members of the public to register  
3 pursuant to subparagraph (F), or otherwise be recognized for the  
4 purpose of providing public comment.

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

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

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

20 (B) Any of the following circumstances exist:

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

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

25 (4) For the purposes of this subdivision, "state of emergency"  
26 means a state of emergency proclaimed pursuant to Section 8625  
27 of the California Emergency Services Act (Article 1 (commencing  
28 with Section 8550) of Chapter 7 of Division 1 of Title 2).

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

31 SEC. 2. Section 54953 of the Government Code, as added by  
32 Section 4 of Chapter 165 of the Statutes of 2021, is amended to  
33 read:

34 54953. (a) All meetings of the legislative body of a local  
35 agency shall be open and public, and all persons shall be permitted  
36 to attend any meeting of the legislative body of a local agency,  
37 except as otherwise provided in this chapter.

38 (b) (1) Notwithstanding any other law, the legislative body of  
39 a local agency may use teleconferencing for the benefit of the  
40 public and the legislative body of a local agency in connection

1 with any meeting or proceeding authorized by law. The  
2 teleconferenced meeting or proceeding shall comply with all  
3 requirements of this chapter and all otherwise applicable provisions  
4 of law relating to a specific type of meeting or proceeding.

5 (2) Teleconferencing, as authorized by this section, may be used  
6 for all purposes in connection with any meeting within the subject  
7 matter jurisdiction of the legislative body. All votes taken during  
8 a teleconferenced meeting shall be by rollcall.

9 (3) (A) If the legislative body of a local agency elects to use  
10 teleconferencing, it shall post agendas at all teleconference  
11 locations and conduct teleconference meetings in a manner that  
12 protects the statutory and constitutional rights of the parties or the  
13 public appearing before the legislative body of a local agency.

14 (B) Each teleconference location shall be identified in the notice  
15 and agenda of the meeting or proceeding, and each teleconference  
16 location shall be accessible to the public, except as provided in  
17 subparagraph (E).

18 (C) The agenda shall identify any member of the legislative  
19 body that will participate in the meeting remotely. If a member of  
20 the legislative body elects to participate in the meeting remotely  
21 after the agenda is posted, an updated agenda shall be posted. In  
22 the time between the start of the meeting and 72 hours before a  
23 regular meeting, in accordance with Section 54954.2, and 24 hours  
24 before a special meeting, in accordance with Section 54956, a  
25 legislative body shall only update the agenda to reflect the members  
26 participating in the meeting remotely.

27 (D) During the teleconference, at least a quorum of the members  
28 of the legislative body shall participate from locations within the  
29 boundaries of the territory over which the local agency exercises  
30 jurisdiction, except as provided in subdivision (d). The agenda  
31 shall provide an opportunity for members of the public to address  
32 the legislative body directly pursuant to Section 54954.3 at each  
33 teleconference location, except as provided in subparagraph (E).

34 (E) If a member of a legislative body elects to teleconference  
35 from a location that is not a public place, the legislative body shall  
36 be exempt from identifying the address of the location in the notice  
37 and agenda and from having the location be accessible to the public  
38 ~~in both of the following circumstances: if both of the following~~  
39 *circumstances are present:*

1 ~~(i) The legislative body holds its first teleconferenced meeting~~  
2 ~~after passage of the act that added this subparagraph, for the~~  
3 ~~purpose of determining, by a majority vote, whether members will~~  
4 ~~not be required to identify the address of any private location from~~  
5 ~~which the member elects to teleconference. This determination~~  
6 ~~remains applicable to the legislative body until such time as the~~  
7 ~~legislative body votes otherwise.~~

8 (ii)

9 (i) The legislative body holds a meeting and has ~~previously~~  
10 determined, by majority vote, that members will not be required  
11 to identify the address of any private location from which the  
12 member elects to teleconference. *A determination described by*  
13 *this clause shall remain applicable to the legislative body until*  
14 *the legislative body votes otherwise.*

15 (ii) *At least a quorum of members of the legislative body*  
16 *participates from a single physical location that is clearly identified*  
17 *on the agenda, open to the public, and situated within the*  
18 *boundaries of the territory over which the local agency has*  
19 *jurisdiction.*

20 (F) If a legislative body elects to use teleconferencing as  
21 authorized by this section, it shall provide both of the following:

22 (i) A video stream accessible to members of the public.

23 (ii) An option for members of the public to address the body  
24 remotely during the public comment period through an audio-visual  
25 or call-in option.

26 (4) For the purposes of this section, “teleconference” means a  
27 meeting of a legislative body, the members of which are in different  
28 locations, connected by electronic means, through either audio or  
29 video, or both. Nothing in this section shall prohibit a local agency  
30 from providing the public with additional teleconference locations.

31 (5) For the purposes of this section, “video stream” means a  
32 medium in which the data from a live filming or a video file is  
33 continuously delivered via the internet to a remote user, allowing  
34 a video to be viewed online by the public without being  
35 downloaded on a host computer or device.

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

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

1 (3) Prior to taking final action, the legislative body shall orally  
2 report a summary of a recommendation for a final action on the  
3 salaries, salary schedules, or compensation paid in the form of  
4 fringe benefits of a local agency executive, as defined in  
5 subdivision (d) of Section 3511.1, during the open meeting in  
6 which the final action is to be taken. This paragraph shall not affect  
7 the public's right under the California Public Records Act (Division  
8 10 (commencing with Section 7920.000) of Title 1) to inspect or  
9 copy records created or received in the process of developing the  
10 recommendation.

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

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

30 (3) For purposes of this subdivision, a health authority means  
31 any entity created pursuant to Sections 14018.7, 14087.31,  
32 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare  
33 and Institutions Code, any joint powers authority created pursuant  
34 to Article 1 (commencing with Section 6500) of Chapter 5 of  
35 Division 7 for the purpose of contracting pursuant to Section  
36 14087.3 of the Welfare and Institutions Code, and any advisory  
37 committee to a county-sponsored health plan licensed pursuant to  
38 Chapter 2.2 (commencing with Section 1340) of Division 2 of the  
39 Health and Safety Code if the advisory committee has 12 or more  
40 members.

1 (e) This section shall become operative January 1, 2024.

2 (f) This section shall remain in effect only until January 1, 2030,  
3 and as of that date is repealed.

4 SEC. 3. Section 54953 is added to the Government Code, to  
5 read:

6 54953. (a) All meetings of the legislative body of a local  
7 agency shall be open and public, and all persons shall be permitted  
8 to attend any meeting of the legislative body of a local agency,  
9 except as otherwise provided in this chapter.

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

17 (2) Teleconferencing, as authorized by this section, may be used  
18 for all purposes in connection with any meeting within the subject  
19 matter jurisdiction of the legislative body. All votes taken during  
20 a teleconferenced meeting shall be by rollcall.

21 (3) If the legislative body of a local agency elects to use  
22 teleconferencing, it shall post agendas at all teleconference  
23 locations and conduct teleconference meetings in a manner that  
24 protects the statutory and constitutional rights of the parties or the  
25 public appearing before the legislative body of a local agency.  
26 Each teleconference location shall be identified in the notice and  
27 agenda of the meeting or proceeding, and each teleconference  
28 location shall be accessible to the public. During the teleconference,  
29 at least a quorum of the members of the legislative body shall  
30 participate from locations within the boundaries of the territory  
31 over which the local agency exercises jurisdiction, except as  
32 provided in subdivision (d). The agenda shall provide an  
33 opportunity for members of the public to address the legislative  
34 body directly pursuant to Section 54954.3 at each teleconference  
35 location.

36 (4) For the purposes of this section, “teleconference” means a  
37 meeting of a legislative body, the members of which are in different  
38 locations, connected by electronic means, through either audio or  
39 video, or both. Nothing in this section shall prohibit a local agency

1 from providing the public with additional teleconference ~~locations~~  
2 *locations*.

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

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

8 (3) Prior to taking final action, the legislative body shall orally  
9 report a summary of a recommendation for a final action on the  
10 salaries, salary schedules, or compensation paid in the form of  
11 fringe benefits of a local agency executive, as defined in  
12 subdivision (d) of Section 3511.1, during the open meeting in  
13 which the final action is to be taken. This paragraph shall not affect  
14 the public's right under the California Public Records Act (Division  
15 10 (commencing with Section 7920.000) of Title 1) to inspect or  
16 copy records created or received in the process of developing the  
17 recommendation.

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

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

37 (3) For purposes of this subdivision, a health authority means  
38 any entity created pursuant to Sections 14018.7, 14087.31,  
39 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare  
40 and Institutions Code, any joint powers authority created pursuant

1 to Article 1 (commencing with Section 6500) of Chapter 5 of  
2 Division 7 for the purpose of contracting pursuant to Section  
3 14087.3 of the Welfare and Institutions Code, and any advisory  
4 committee to a county-sponsored health plan licensed pursuant to  
5 Chapter 2.2 (commencing with Section 1340) of Division 2 of the  
6 Health and Safety Code if the advisory committee has 12 or more  
7 members.

8 (e) This section shall become operative January 1, 2030.

9 SEC. 4. The Legislature finds and declares that Sections 1, 2,  
10 and 3 of this act, which amend, repeal, and add Section 54953 of  
11 the Government Code, further, within the meaning of paragraph  
12 (7) of subdivision (b) of Section 3 of Article I of the California  
13 Constitution, the purposes of that constitutional section as it relates  
14 to the right of public access to the meetings of local public bodies  
15 or the writings of local public officials and local agencies. Pursuant  
16 to paragraph (7) of subdivision (b) of Section 3 of Article I of the  
17 California Constitution, the Legislature makes the following  
18 findings:

19 This act is necessary to ensure minimum standards for public  
20 participation allowing for greater public participation in  
21 teleconference meetings.

22 SEC. 5. (a) The Legislature finds and declares that during the  
23 COVID-19 public health emergency, certain requirements of the  
24 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)  
25 of Part 1 of Division 2 of Title 5 of the Government Code) and the  
26 Bagley-Keene Open Meeting Act (Article 9 (commencing with  
27 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of  
28 the Government Code) were suspended by Executive Order No.  
29 N-29-20. Audio and video teleconference were widely used to  
30 conduct public meetings in lieu of physical location meetings, and  
31 public meetings conducted by teleconference during the COVID-19  
32 public health emergency have been productive, have increased  
33 public participation by all members of the public regardless of  
34 their location in the state and ability to travel to physical meeting  
35 locations, have protected the health and safety of civil servants  
36 and the public, and have reduced travel costs incurred by members  
37 of state bodies and reduced work hours spent traveling to and from  
38 meetings.

39 (b) The Legislature finds and declares that Sections 1, 2, and 3  
40 of this act, which amend, repeal, and add Section 54953 of the



1 Government Code, impose a potential limitation on the public's  
2 right of access to the meetings of public bodies or the writings of  
3 public officials and agencies within the meaning of Section 3 of  
4 Article I of the California Constitution. Pursuant to that  
5 constitutional provision, the Legislature makes the following  
6 findings to demonstrate the interest protected by this potential  
7 limitation and the need for protecting that interest:

8 By removing the requirement for each teleconference location  
9 to be identified in the notice and agenda, including the member's  
10 private home address, and by providing exceptions to the  
11 requirements that each teleconference location must be accessible  
12 to the public and that members of the public be given the  
13 opportunity to address the legislative body directly at each  
14 teleconference location, this act protects the personal, private  
15 information and location of public officials and their families while  
16 preserving the public's right to access information concerning the  
17 conduct of the people's business.

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AMENDED IN ASSEMBLY MAY 23, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2449**

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**Introduced by Assembly Member Blanca Rubio**

February 17, 2022

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An act to ~~amend~~ *amend, repeal, and add* Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, as amended, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified

teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would *revise and recast those teleconferencing provisions and, until January 1, 2028, would* authorize a local agency to use teleconferencing without complying with ~~those specified~~ *the* teleconferencing requirements *that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public* if 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 local agency's jurisdiction. ~~The~~ *Under this exception, the bill would authorize a member to participate remotely only under specified circumstances and for a period of three consecutive months.*

*This* bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.

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.

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

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

1 SECTION 1. Section 54953 of the Government Code, as  
2 amended by Section 3 of Chapter 165 of the Statutes of 2021, is  
3 amended to read:

4 54953. (a) All meetings of the legislative body of a local  
5 agency shall be open and public, and all persons shall be permitted  
6 to attend any meeting of the legislative body of a local agency,  
7 except as otherwise provided in this chapter.

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

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

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

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

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

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

33 (3) If the legislative body of a local agency elects to use  
34 teleconferencing, it shall post agendas at all teleconference  
35 ~~locations and conduct teleconference meetings in a manner that~~  
36 ~~protects the statutory and constitutional rights of the parties or the~~  
37 ~~public appearing before the legislative body of a local agency.~~  
38 *locations.* Each teleconference location shall be identified in the

1 notice and agenda of the meeting or proceeding, and each  
2 teleconference location shall be accessible to the public. During  
3 the teleconference, at least a quorum of the members of the  
4 legislative body shall participate from locations within the  
5 boundaries of the territory over which the local agency exercises  
6 jurisdiction, except as provided in subdivisions (d) and (e). ~~The~~  
7 ~~agenda shall provide an opportunity for members of the public to~~  
8 ~~address the legislative body directly pursuant to Section 54954.3~~  
9 ~~at each teleconference location.~~

10 ~~(4) For the purposes of this section, "teleconference" means a~~  
11 ~~meeting of a legislative body, the members of which are in different~~  
12 ~~locations, connected by electronic means, through either audio or~~  
13 ~~video, or both. Nothing in this section shall prohibit a local agency~~  
14 ~~from providing the public with additional teleconference locations.~~

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

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

20 (3) Prior to taking final action, the legislative body shall orally  
21 report a summary of a recommendation for a final action on the  
22 salaries, salary schedules, or compensation paid in the form of  
23 fringe benefits of a local agency executive, as defined in  
24 subdivision (d) of Section 3511.1, during the open meeting in  
25 which the final action is to be taken. This paragraph shall not affect  
26 the public's right under the California Public Records Act (Division  
27 10 (commencing with Section 7920.000) ~~of~~ of Title 1) to inspect  
28 or copy records created or received in the process of developing  
29 the recommendation.

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

1 number and access codes are identified in the notice and agenda  
2 of the meeting.

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

10 (3) For purposes of this subdivision, a health authority means  
11 any entity created pursuant to Sections 14018.7, 14087.31,  
12 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare  
13 and Institutions Code, any joint powers authority created pursuant  
14 to Article 1 (commencing with Section 6500) of Chapter 5 of  
15 Division 7 for the purpose of contracting pursuant to Section  
16 14087.3 of the Welfare and Institutions Code, and any advisory  
17 committee to a county-sponsored health plan licensed pursuant to  
18 Chapter 2.2 (commencing with Section 1340) of Division 2 of the  
19 Health and Safety Code if the advisory committee has 12 or more  
20 members.

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

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

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

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

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

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

3 ~~(B) The legislative body shall allow members of the public to~~  
 4 ~~access the meeting and the agenda shall provide an opportunity~~  
 5 ~~for members of the public to address the legislative body directly~~  
 6 ~~pursuant to Section 54954.3. In~~

7 ~~(A) In each instance in which notice of the time of the~~  
 8 ~~teleconferenced meeting is otherwise given or the agenda for the~~  
 9 ~~meeting is otherwise posted, the legislative body shall also give~~  
 10 ~~notice of the means by which members of the public may access~~  
 11 ~~the meeting and offer public comment. The agenda shall identify~~  
 12 ~~and include an opportunity for all persons to attend via a call-in~~  
 13 ~~option or an internet-based service option. This subparagraph shall~~  
 14 ~~not be construed to require the legislative body to provide a~~  
 15 ~~physical location from which the public may attend or comment.~~

16 ~~(C) The legislative body shall conduct teleconference meetings~~  
 17 ~~in a manner that protects the statutory and constitutional rights of~~  
 18 ~~the parties and the public appearing before the legislative body of~~  
 19 ~~a local agency.~~

20 ~~(D)~~

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

33 ~~(E)~~

34 ~~(C) The legislative body shall not require public comments to~~  
 35 ~~be submitted in advance of the meeting and must provide an~~  
 36 ~~opportunity for the public to address the legislative body and offer~~  
 37 ~~comment in real time. This subparagraph shall not be construed~~  
 38 ~~to require the legislative body to provide a physical location from~~  
 39 ~~which the public may attend or comment.~~

40 ~~(F)~~

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

7 ~~(G)~~

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

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

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

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

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

35 (B) Any of the following circumstances exist:

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

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



1 ~~(4) For the purposes of this subdivision, “state of emergency”~~  
 2 ~~means a state of emergency proclaimed pursuant to Section 8625~~  
 3 ~~of the California Emergency Services Act (Article 1 (commencing~~  
 4 ~~with Section 8550) of Chapter 7 of Division 1 of Title 2).~~

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

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

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

19 ~~(2) All members of the legislative body attending the meeting~~  
 20 ~~by teleconference shall participate only through both audio and~~  
 21 ~~visual technology.~~

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

26 ~~(i) A two-way audio-visual platform.~~

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

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

34 ~~(3) The legislative body shall allow members of the public to~~  
 35 ~~access the meeting and the agenda shall provide an opportunity~~  
 36 ~~for members of the public to address the legislative body directly~~  
 37 ~~pursuant to Section 54954.3. In each instance in which notice of~~  
 38 ~~the time of the meeting is otherwise given or the agenda for the~~  
 39 ~~meeting is otherwise posted, the legislative body shall also give~~

1 notice of the means by which members of the public may access  
2 the meeting and offer public comment. The

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

9 (4) ~~The legislative body shall conduct teleconference meetings~~  
10 ~~in a manner that protects the statutory and constitutional rights of~~  
11 ~~the parties and the public appearing before the legislative body of~~  
12 ~~a local agency, and at the in-person location of the meeting.~~

13 (5)

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

26 (6)

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

31 (7)

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

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

1 (A) *One of the following circumstances applies:*

2 (i) *The agenda identifies that the member of the legislative body*  
3 *will participate in the meeting remotely and provides a brief*  
4 *general description of the circumstances relating to their need to*  
5 *appear remotely at the given meeting. A brief general description*  
6 *of an item generally needs not to exceed 20 words.*

7 (ii) *The circumstances relating to the member's need to*  
8 *participate remotely arose after the agenda for the meeting was*  
9 *posted and those circumstances are publicly disclosed at the*  
10 *meeting before any action is taken.*

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

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

18 (3) *The provisions of this subdivision shall not serve as a means*  
19 *for any member of a legislative body to participate in meetings of*  
20 *the legislative body solely by teleconference from a remote location*  
21 *for a period of three consecutive months.*

22 ~~(8)~~

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

32 (h) *The legislative body shall conduct meetings subject to this*  
33 *chapter consistent with applicable state and federal civil rights*  
34 *laws, including, but not limited to, the language access and other*  
35 *nondiscrimination obligations of Section 11135 and Subchapter*  
36 *V (commencing with Section 2000d) of Chapter 21 of Title 42 of*  
37 *the United States Code.*

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

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

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

7 (1) *“Remote location” means a location from which a member*  
8 *of a legislative body participates in a meeting pursuant to*  
9 *subdivision (f), other than any physical meeting location designated*  
10 *in the notice of the meeting. Remote locations need not be*  
11 *accessible to the public.*

12 (2) *“Remote participation” means participation in a meeting*  
13 *by teleconference at a location other than any physical meeting*  
14 *location designated in the notice of the meeting. Watching or*  
15 *listening to a meeting via webcasting or another similar electronic*  
16 *medium that does not permit members to interactively hear,*  
17 *discuss, or deliberate on matters, does not constitute remote*  
18 *participation.*

19 (3) *“State of emergency” means a state of emergency*  
20 *proclaimed pursuant to Section 8625 of the California Emergency*  
21 *Services Act (Article 1 (commencing with Section 8550) of Chapter*  
22 *7 of Division 1 of Title 2).*

23 (4) *“Teleconference” means a meeting of a legislative body,*  
24 *the members of which are in different locations, connected by*  
25 *electronic means, through either audio or video, or both.*

26 (5) *“Two-way audio-visual platform” means an online platform*  
27 *that provides participants with the ability to participate in a*  
28 *meeting via both an interactive video conference and a two-way*  
29 *telephonic function.*

30 (6) *“Two-way telephonic service” means a telephone service*  
31 *that does not require internet access, is not provided as part of a*  
32 *two-way audio-visual platform, and allows participants to dial a*  
33 *telephone number to listen and verbally participate.*

34 (7) *“Webcasting” means a streaming video broadcast online*  
35 *or on television, using streaming media technology to distribute*  
36 *a single content source to many simultaneous listeners and viewers.*

37 ~~(g)~~

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

1 SEC. 2. Section 54953 of the Government Code, as added by  
2 Section 4 of Chapter 165 of the Statutes of 2021, is amended to  
3 read:

4 54953. (a) All meetings of the legislative body of a local  
5 agency shall be open and public, and all persons shall be permitted  
6 to attend any meeting of the legislative body of a local agency,  
7 except as otherwise provided in this chapter.

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

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

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

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

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

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

33 (3) If the legislative body of a local agency elects to use  
34 teleconferencing, it shall post agendas at all teleconference  
35 ~~locations and conduct teleconference meetings in a manner that~~  
36 ~~protects the statutory and constitutional rights of the parties or the~~  
37 ~~public appearing before the legislative body of a local agency.~~  
38 *locations.* Each teleconference location shall be identified in the  
39 notice and agenda of the meeting or proceeding, and each  
40 teleconference location shall be accessible to the public. During

1 the teleconference, at least a quorum of the members of the  
2 legislative body shall participate from locations within the  
3 boundaries of the territory over which the local agency exercises  
4 jurisdiction, except as provided in subdivision (d). ~~The agenda~~  
5 ~~shall provide an opportunity for members of the public to address~~  
6 ~~the legislative body directly pursuant to Section 54954.3 at each~~  
7 ~~teleconference location.~~

8 (4) ~~For the purposes of this section, "teleconference" means a~~  
9 ~~meeting of a legislative body, the members of which are in different~~  
10 ~~locations, connected by electronic means, through either audio or~~  
11 ~~video, or both. Nothing in this section shall prohibit a local agency~~  
12 ~~from providing the public with additional teleconference locations~~

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

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

18 (3) Prior to taking final action, the legislative body shall orally  
19 report a summary of a recommendation for a final action on the  
20 salaries, salary schedules, or compensation paid in the form of  
21 fringe benefits of a local agency executive, as defined in  
22 subdivision (d) of Section 3511.1, during the open meeting in  
23 which the final action is to be taken. This paragraph shall not affect  
24 the public's right under the California Public Records Act (Division  
25 10 (commencing with Section 7920.000) of Title 1) to inspect or  
26 copy records created or received in the process of developing the  
27 recommendation.

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

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

8 (3) For purposes of this subdivision, a health authority means  
9 any entity created pursuant to Sections 14018.7, 14087.31,  
10 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare  
11 and Institutions Code, any joint powers authority created pursuant  
12 to Article 1 (commencing with Section 6500) of Chapter 5 of  
13 Division 7 for the purpose of contracting pursuant to Section  
14 14087.3 of the Welfare and Institutions Code, and any advisory  
15 committee to a county-sponsored health plan licensed pursuant to  
16 Chapter 2.2 (commencing with Section 1340) of Division 2 of the  
17 Health and Safety Code if the advisory committee has 12 or more  
18 members.

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

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

30 ~~(2) All members of the legislative body attending the meeting~~  
31 ~~by teleconference shall participate only through both audio and~~  
32 ~~visual technology.~~

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

37 (i) *A two-way audio-visual platform.*

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

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

6 ~~(3) The legislative body shall allow members of the public to~~  
7 ~~access the meeting and the agenda shall provide an opportunity~~  
8 ~~for members of the public to address the legislative body directly~~  
9 ~~pursuant to Section 54954.3. In each instance in which notice of~~  
10 ~~the time of the meeting is otherwise given or the agenda for the~~  
11 ~~meeting is otherwise posted, the legislative body shall also give~~  
12 ~~notice of the means by which members of the public may access~~  
13 ~~the meeting and offer public comment. The~~

14 (C) The agenda shall identify and include an opportunity for  
15 all persons to attend *and address the legislative body directly*  
16 *pursuant to Section 54954.3* via a call-in option or option, via an  
17 internet-based service option, and an opportunity for members of  
18 ~~the public to attend and address the legislative body~~ at the in-person  
19 location of the meeting.

20 ~~(4) The legislative body shall conduct teleconference meetings~~  
21 ~~in a manner that protects the statutory and constitutional rights of~~  
22 ~~the parties and the public appearing before the legislative body of~~  
23 ~~a local agency.~~

24 ~~(5)~~

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

37 ~~(6)~~

38 (E) The legislative body shall not require public comments to  
39 be submitted in advance of the meeting and must provide an



1 opportunity for the public to address the legislative body and offer  
2 comment in real time.

3 ~~(7)~~

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

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

13 (A) *One of the following circumstances applies:*

14 (i) *The agenda identifies that the member of the legislative body*  
15 *will participate in the meeting remotely and provides a brief*  
16 *general description of the circumstances relating to their need to*  
17 *appear remotely at the given meeting. A brief general description*  
18 *of an item generally need not exceed 20 words.*

19 (ii) *The circumstances relating to the member's need to*  
20 *participate remotely arose after the agenda for the meeting was*  
21 *posted and those circumstances are publicly disclosed at the*  
22 *meeting before any action is taken.*

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

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

30 (3) *The provisions of this subdivision shall not serve as a means*  
31 *for any member of a legislative body to participate in meetings of*  
32 *the legislative body solely by teleconference from a remote location*  
33 *for a period of three consecutive months.*

34 ~~(8)~~

35 (f) The legislative body shall have and implement a procedure  
36 for receiving and swiftly resolving requests for reasonable  
37 accommodation for individuals with disabilities, consistent with  
38 the federal Americans with Disabilities Act of 1990 (42 U.S.C.  
39 Sec. 12132), and resolving any doubt in favor of accessibility. In  
40 each instance in which notice of the time of the meeting is

1 otherwise given or the agenda for the meeting is otherwise posted,  
2 the legislative body shall also give notice of the procedure for  
3 receiving and resolving requests for accommodation.

4 (g) *The legislative body shall conduct meetings subject to this*  
5 *chapter consistent with applicable state and federal civil rights*  
6 *laws, including, but not limited to, the language access and other*  
7 *nondiscrimination obligations of Section 11135 and Subchapter*  
8 *V (commencing with Section 2000d) of Chapter 21 of Title 42 of*  
9 *the United States Code.*

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

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

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

18 (1) *“Remote location” means a location from which a member*  
19 *of a legislative body participates in a meeting pursuant to*  
20 *subdivision (e), other than any physical meeting location*  
21 *designated in the notice of the meeting. Remote locations need not*  
22 *be accessible to the public.*

23 (2) *“Remote participation” means participation in a meeting*  
24 *by teleconference at a location other than any physical meeting*  
25 *location designated in the notice of the meeting. Watching or*  
26 *listening to a meeting via webcasting or another similar electronic*  
27 *medium that does not permit members to interactively hear,*  
28 *discuss, or deliberate on matters, does not constitute remote*  
29 *participation.*

30 (3) *“Teleconference” means a meeting of a legislative body,*  
31 *the members of which are in different locations, connected by*  
32 *electronic means, through either audio or video, or both.*

33 (4) *“Two-way audio-visual platform” means an online platform*  
34 *that provides participants with the ability to participate in a*  
35 *meeting via both an interactive video conference and a two-way*  
36 *telephonic function.*

37 (5) *“Two-way telephonic service” means a telephone service*  
38 *that does not require internet access, is not provided as part of a*  
39 *two-way audio-visual platform, and allows participants to dial a*  
40 *telephone number to listen and verbally participate.*

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

4 (f)

5 (j) This section shall become operative January 1, ~~2024~~. 2024,  
6 shall remain in effect only until January 1, 2028, and as of that  
7 date is repealed.

8 SEC. 3. Section 54953 is added to the Government Code, to  
9 read:

10 54953. (a) All meetings of the legislative body of a local  
11 agency shall be open and public, and all persons shall be permitted  
12 to attend any meeting of the legislative body of a local agency,  
13 except as otherwise provided in this chapter.

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

22 (2) Teleconferencing, as authorized by this section, may be used  
23 for all purposes in connection with any meeting within the subject  
24 matter jurisdiction of the legislative body. All votes taken during  
25 a teleconferenced meeting shall be by rollcall.

26 (3) If the legislative body of a local agency elects to use  
27 teleconferencing, it shall post agendas at all teleconference  
28 locations and conduct teleconference meetings in a manner that  
29 protects the statutory and constitutional rights of the parties or  
30 the public appearing before the legislative body of a local agency.  
31 Each teleconference location shall be identified in the notice and  
32 agenda of the meeting or proceeding, and each teleconference  
33 location shall be accessible to the public. During the  
34 teleconference, at least a quorum of the members of the legislative  
35 body shall participate from locations within the boundaries of the  
36 territory over which the local agency exercises jurisdiction, except  
37 as provided in subdivision (d). The agenda shall provide an  
38 opportunity for members of the public to address the legislative  
39 body directly pursuant to Section 54954.3 at each teleconference  
40 location.

1 (4) For the purposes of this section, “teleconference” means a  
2 meeting of a legislative body, the members of which are in different  
3 locations, connected by electronic means, through either audio or  
4 video, or both. Nothing in this section shall prohibit a local agency  
5 from providing the public with additional teleconference locations

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

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

11 (3) Prior to taking final action, the legislative body shall orally  
12 report a summary of a recommendation for a final action on the  
13 salaries, salary schedules, or compensation paid in the form of  
14 fringe benefits of a local agency executive, as defined in subdivision  
15 (d) of Section 3511.1, during the open meeting in which the final  
16 action is to be taken. This paragraph shall not affect the public’s  
17 right under the California Public Records Act (Chapter 3.5  
18 (commencing with Section 6250) of Division 7 of Title 1) to inspect  
19 or copy records created or received in the process of developing  
20 the recommendation.

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

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

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

12 (e) This section shall become operative January 1, 2028.

13 ~~SEC. 3.~~

14 SEC. 4. The Legislature finds and declares that Sections 1 and  
 15 2 of this act, which amend Section 54953 of the Government Code,  
 16 impose a limitation on the public's right of access to the meetings  
 17 of public bodies or the writings of public officials and agencies  
 18 within the meaning of Section 3 of Article I of the California  
 19 Constitution. Pursuant to that constitutional provision, the  
 20 Legislature makes the following findings to demonstrate the interest  
 21 protected by this limitation and the need for protecting that interest:

22 By removing the requirement for agendas to be placed at the  
 23 location of each public official participating in a public meeting  
 24 remotely, including from the member's private home or hospital  
 25 room, this act protects the personal, private information of public  
 26 officials and their families while preserving the public's right to  
 27 access information concerning the conduct of the people's business.

28 ~~SEC. 4.~~

29 SEC. 5. The Legislature finds and declares that Sections 1 and  
 30 2 of this act, which amend Section 54953 of the Government Code,  
 31 further, within the meaning of paragraph (7) of subdivision (b) of  
 32 Section 3 of Article I of the California Constitution, the purposes  
 33 of that constitutional section as it relates to the right of public  
 34 access to the meetings of local public bodies or the writings of  
 35 local public officials and local agencies. Pursuant to paragraph (7)  
 36 of subdivision (b) of Section 3 of Article I of the California  
 37 Constitution, the Legislature makes the following findings:

- 1 This act is necessary to ensure minimum standards for public
- 2 participation and notice requirements allowing for greater public
- 3 participation in teleconference meetings.

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AMENDED IN ASSEMBLY APRIL 19, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2647**

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**Introduced by Assembly Member Levine**

February 18, 2022

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An act to amend Section 54957.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2647, as amended, Levine. Local government: open meetings.

Existing law, the California Public Records Act, requires state agencies and local agencies to make public records available for inspection, subject to specified criteria, and with specified exceptions. Existing law, the Ralph M. Brown Act, requires the meetings of the legislative body of a local agency to be conducted openly and publicly, with specified exceptions. Existing law makes agendas of public meetings and other writings distributed to the members of the governing board disclosable public records, with certain exceptions.

Existing law requires a local agency to make those writings distributed to the members of the governing board *less than 72 hours before a meeting* available for public ~~inspection~~ *inspection, as specified*, at a public office or location that the agency designates. Existing law also requires the local agency to list the address of the office or location on the agenda for all meetings of the legislative body of the agency. Existing law authorizes a local agency to post the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

This bill would instead require a local agency to make those writings distributed to the members of the governing board available for public

inspection at a public office or location that the agency designates ~~or post~~ and list the address of the office or location on the agenda for all meetings of the legislative body of the agency unless the local agency meets certain requirements, including the local agency immediately posts the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

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.

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

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

1 SECTION 1. Section 54957.5 of the Government Code, as  
2 amended by Section 208 of Chapter 615 of the Statutes of 2021,  
3 is amended to read:

4 54957.5. (a) ~~Notwithstanding Section 7922.000 or any other~~  
5 ~~law, agendas~~ Agendas of public meetings ~~and any other writings,~~  
6 ~~when distributed to all, or a majority of all, of the members of a~~  
7 ~~legislative body of a local agency by any person in connection~~  
8 ~~with a matter subject to discussion or consideration at an open~~  
9 ~~meeting of the body,~~ are disclosable public records under the  
10 California Public Records Act (Division 10 (commencing with  
11 Section 7920.000) of Title 1), and shall be made available ~~upon~~  
12 ~~request without delay.~~ pursuant to subdivision (b). However, this  
13 section shall not include any writing exempt from public disclosure  
14 under Section 7924.100, 7924.105, 7924.110, 7924.510, 7924.700,  
15 7926.205, 7927.410, 7927.605, 7928.300, or 7928.710, or any  
16 provision listed in Section 7920.505, apply to a writing, or portion  
17 thereof, that is exempt from public disclosure.

18 (b) (1) If a writing that is a public record under subdivision (a),  
19 and that relates related to an agenda item for an open session of a  
20 regular meeting of the legislative body of a local ~~agency,~~ agency  
21 and is distributed to all, or a majority of all, of the members of a



1 *legislative body of a local agency by a person in connection with*  
 2 *a matter subject to discussion or consideration at an open meeting*  
 3 *of the body less than 72 hours ~~prior to~~ before that meeting, the*  
 4 *writing shall be made available for public inspection pursuant to*  
 5 *paragraph (2) at the time the writing is distributed to all, or a*  
 6 *majority of all, of the members of the body.*

7 (2) (A) Except as provided in subparagraph (B), a local agency  
 8 shall comply with both of the following requirements:

9 (i) A local agency shall make any writing described in paragraph  
 10 (1) available for public inspection at a public office or location  
 11 that the agency shall designate for this purpose.

12 (ii) ~~Each~~ A local agency shall list the address of ~~this~~ *the* office  
 13 or location *designated pursuant to clause (i)* on the agendas for  
 14 all meetings of the legislative body of that agency.

15 (B) A local agency shall not be required to comply with *the*  
 16 requirements of subparagraph (A) if ~~both~~ *all* of the following  
 17 requirements are met:

18 (i) The local agency ~~shall post~~ *immediately posts* any writing  
 19 described in paragraph (1) on the local agency's internet website  
 20 in a position and manner that makes it clear that the writing relates  
 21 to an agenda item for an upcoming meeting.

22 (ii) The local agency ~~shall list~~ *lists* the web address of the local  
 23 agency's internet website on the agendas for all meetings of the  
 24 legislative body of that agency.

25 (iii) *The local agency makes physical copies available for public*  
 26 *inspection, beginning the next regular business hours for the local*  
 27 *agency, at a public office or location that the agency shall*  
 28 *designate for this purpose.*

29 (c) Writings that are public records ~~under subdivision (a)~~  
 30 *described in subdivision (b)* and ~~that are~~ distributed during a public  
 31 meeting shall be made available for public inspection at the meeting  
 32 if prepared by the local agency or a member of its legislative body,  
 33 or after the meeting if prepared by some other person. These  
 34 writings shall be made available in appropriate alternative formats  
 35 upon request by a person with a disability, as required by Section  
 36 202 of the Americans with Disabilities Act of 1990 (42 U.S.C.  
 37 Sec. 12132), and the federal rules and regulations adopted in  
 38 implementation thereof.

39 (d) This chapter shall not be construed to prevent the legislative  
 40 body of a local agency from charging a fee or deposit for a copy

1 of a public record pursuant to Section 7922.530, except that a  
 2 surcharge shall not be imposed on persons with disabilities in  
 3 violation of Section 202 of the Americans with Disabilities Act of  
 4 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations  
 5 adopted in implementation thereof.

6 (e) This section shall not be construed to limit or delay the  
 7 public's right to inspect or obtain a copy of any record required to  
 8 be disclosed under the requirements of the California Public  
 9 Records Act (Division 10 (commencing with Section 7920.000)  
 10 of Title 1). ~~This 1~~, including, but not limited to, the ability of the  
 11 public to inspect public records pursuant to Section 7922.525 and  
 12 obtain copies of public records pursuant to either subdivision (b)  
 13 of Section 7922.530 or Section 7922.535. This chapter shall not  
 14 be construed to require a legislative body of a local agency to place  
 15 any paid advertisement or any other paid notice in any publication.

16 SEC. 2. The Legislature finds and declares that Section 1 of  
 17 this act, which amends Section 54957.5 of the Government Code,  
 18 furthers, within the meaning of paragraph (7) of subdivision (b)  
 19 of Section 3 of Article I of the California Constitution, the purposes  
 20 of that constitutional section as it relates to the right of public  
 21 access to the meetings of local public bodies or the writings of  
 22 local public officials and local agencies. Pursuant to paragraph (7)  
 23 of subdivision (b) of Section 3 of Article I of the California  
 24 Constitution, the Legislature makes the following findings:

25 Because this act would authorize local agencies to make public  
 26 documents available by posting the public documents on the local  
 27 agency's internet website, thus making the public documents  
 28 available by local agencies more quickly and cost effectively, this  
 29 act furthers the purpose of Section 3 of Article I of the California  
 30 Constitution.

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AMENDED IN SENATE APRIL 21, 2022

AMENDED IN SENATE APRIL 7, 2022

AMENDED IN SENATE MARCH 21, 2022

AMENDED IN SENATE MARCH 9, 2022

**SENATE BILL**

**No. 1100**

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**Introduced by Senator Cortese**  
(Principal coauthor: Assembly Member Low)

February 16, 2022

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An act to add Section 54957.95 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1100, as amended, Cortese. Open meetings: orderly conduct.

(1) Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Existing law requires every agenda for regular meetings of a local agency to provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body. Existing law authorizes the legislative body to adopt reasonable regulations to ensure that the intent of the provisions relating to this public comment requirement is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Existing law authorizes the members of the legislative body conducting the meeting to order the meeting room cleared and continue in session,

as prescribed, if a group or groups have willfully interrupted the orderly conduct of a meeting and order cannot be restored by the removal of individuals who are willfully interrupting the meeting.

This bill would authorize the presiding member of the legislative body conducting a meeting to remove an individual for disrupting the meeting. *The bill, except as provided, would require removal to be preceded by a warning by the presiding member of the legislative body that the individual is disrupting the proceedings, a request that the individual curtail their disruptive behavior or be subject to removal, and a reasonable opportunity to curtail their disruptive behavior.* The bill would define “disrupting” for this purpose. By establishing new requirements for local legislative bodies, this bill would impose a state-mandated program.

(2) 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.

(3) 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.

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

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

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) It is the intent of the Legislature to prescribe requirements  
3 for governing public meetings that are consistent with subdivision  
4 (c) of Section 54954.3 of the Government Code, which provides  
5 that a legislative body of a local agency shall not prohibit public  
6 criticism of the policies, procedures, programs, or services of the  
7 agency, or of the acts or omissions of the legislative body.

8 (b) It is further the intent of the Legislature to prescribe  
9 requirements for governing public meetings to protect civil liberties

1 in accordance with the United States Constitution, the California  
2 Constitution, and relevant law.

3 (c) It is further the intent of the Legislature to codify the  
4 authority and standards for governing public meetings in  
5 accordance with *Acosta v. City of Costa Mesa*, 718 F.3d 800, 811  
6 (9th Cir. 2013), in which the court explained that an ordinance  
7 governing the decorum of a city council meeting is not facially  
8 overbroad if it only permits a presiding officer to eject an attendee  
9 for actually disturbing or impeding a meeting.

10 SEC. 2. Section 54957.95 is added to the Government Code,  
11 to read:

12 54957.95. (a) ~~In~~(1) *In* addition to authority exercised pursuant  
13 to Sections 54954.3 and 54957.9, the presiding member of the  
14 legislative body conducting a meeting may remove an individual  
15 for disrupting the meeting.

16 (2) *Removal pursuant to this subdivision shall be preceded by*  
17 *a warning from the presiding member of the legislative body that*  
18 *the individual is disrupting the proceedings, a request that the*  
19 *individual curtail their disruptive behavior or be subject to*  
20 *removal, and a reasonable opportunity to curtail their disruptive*  
21 *behavior. This paragraph does not apply to any behavior described*  
22 *in paragraph (2) of subdivision (b).*

23 (b) As used in this section, “disrupting” means engaging in  
24 behavior during a meeting of a legislative body that actually  
25 disrupts, disturbs, impedes, or renders infeasible the orderly  
26 conduct of the meeting and includes, but is not limited to, both of  
27 the following:

28 (1) A failure to comply with reasonable and lawful regulations  
29 adopted by a legislative body pursuant to Section 54954.3 or  
30 54957.9 or any other law.

31 (2) Engaging in behavior that includes use of force or true threats  
32 of force.

33 SEC. 3. The Legislature finds and declares that Section 2 of  
34 this act, which adds Section 54957.95 to the Government Code,  
35 imposes a limitation on the public’s right of access to the meetings  
36 of public bodies or the writings of public officials and agencies  
37 within the meaning of Section 3 of Article I of the California  
38 Constitution. Pursuant to that constitutional provision, the  
39 Legislature makes the following findings to demonstrate the interest  
40 protected by this limitation and the need for protecting that interest:

1 This act is necessary to give legislative bodies clear authorization  
2 to restore order to meetings in the event of actual disruptions that  
3 are disturbing, disrupting, impeding, or rendering infeasible the  
4 orderly conduct of the meeting and, thereby, preserve the rights  
5 of other members of the public at the meeting and allow the  
6 legislative body to continue its work on behalf of the public.

7 SEC. 4. The Legislature finds and declares that Section 2 of  
8 this act, which adds Section 54957.95 to the Government Code,  
9 furthers, within the meaning of paragraph (7) of subdivision (b)  
10 of Section 3 of Article I of the California Constitution, the purposes  
11 of that constitutional section as it relates to the right of public  
12 access to the meetings of local public bodies or the writings of  
13 local public officials and local agencies. Pursuant to paragraph (7)  
14 of subdivision (b) of Section 3 of Article I of the California  
15 Constitution, the Legislature makes the following findings:

16 This act is necessary to give legislative bodies clear authorization  
17 to restore order to meetings in the event of actual disruptions that  
18 are disturbing, disrupting, impeding, or rendering infeasible the  
19 orderly conduct of the meeting and, thereby, preserve the rights  
20 of other members of the public at the meeting and allow the  
21 legislative body to continue its work on behalf of the public.

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AMENDED IN SENATE APRIL 19, 2022

AMENDED IN SENATE MARCH 16, 2022

**SENATE BILL**

**No. 1449**

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**Introduced by Senator Caballero**

February 18, 2022

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An act to add Section 65040.16 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1449, as amended, Caballero. Office of Planning and Research: grant program: annexation of unincorporated areas.

Existing law establishes, within the Governor's office, the Office of Planning and Research to constitute the comprehensive state planning agency, under the control of the Director of State Planning. Existing law requires the office to, among other things, accept and allocate or expend grants and gifts from any source, public or private, for the purpose of state planning and undertake other planning and coordinating activities, as specified, and encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the authority and procedure for the initiation, conduct, and completion of changes of organization, reorganization, and sphere of influence changes for cities and districts, as specified. Existing law requires that an applicant seeking a change of organization or reorganization submit a plan for providing services within the affected territory that includes, among other requirements, an enumeration and description of the services to be extended to the affected territory and an indication of when those services can feasibly be extended.

This bill would require the office to, upon appropriation by the Legislature, establish the Unincorporated Area Annexation Incentive Program, authorizing the office to issue a grant to a city for the purpose of funding infrastructure projects related to the proposed or completed annexation of a substantially surrounded unincorporated area, as defined, subject to approval by the director after the city submits an application containing specified information. The bill would require the office to match, on a dollar-for-dollar basis, any dollar contribution a city makes toward a project funded by the program, subject to a maximum funding threshold as determined by the director. *The bill would, by September 1, 2023, require the office to develop guidelines, and consult with various local representatives to prepare those guidelines, for purposes of implementing the program, and would provide that the guidelines are not subject to the rulemaking requirements of the Administrative Procedure Act.*

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

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

- 1 SECTION 1. Section 65040.16 is added to the Government  
2 Code, to read:  
3 65040.16. (a) For purposes of this section, the following  
4 definitions apply:  
5 (1) “City” means any incorporated chartered or general law city,  
6 including any city the name of which includes the word “town.”  
7 (2) “Director” refers to the Director of State Planning and  
8 Research.  
9 (3) “Fully surrounded” means the entire perimeter of the  
10 unincorporated area adjoins, or is separated only by an improved  
11 public right-of-way from, parcels that are developed with qualified  
12 urban uses.  
13 (4) “Program” refers to the Unincorporated Area Annexation  
14 Incentive Program.  
15 (5) “Qualified urban use” means any residential, commercial,  
16 public institutional, transit or transportation passenger facility, or  
17 retail use, or any combination of those uses.  
18 (6) “Substantially surrounded” means at least 75 percent of the  
19 perimeter of the unincorporated area adjoins, or is separated only



1 by an improved public right-of-way from, parcels that are  
2 developed with qualified urban uses.

3 (7) "Unincorporated area" means inhabited territory, as defined  
4 by Section 56046, that is not part of a city or that a city has annexed  
5 according to the process described in the Cortese-Knox-Hertzberg  
6 Local Government Reorganization Act of 2000 (Division 3  
7 (commencing with Section 56000) of Title 5).

8 (b) The Office of Planning and Research shall establish, upon  
9 appropriation by the Legislature, the Unincorporated Area  
10 Annexation Incentive Program.

11 (c) Pursuant to the program, the office may issue, subject to  
12 approval by the director, a grant to a city for the purpose of funding  
13 projects related to the proposed or completed annexation of an  
14 unincorporated area into the city.

15 (1) The director shall not issue a grant to a project unless that  
16 project is related to the annexation of a substantially surrounded  
17 unincorporated area.

18 ~~(2) The director shall prioritize the issuance of grants to projects  
19 related to the annexation of fully surrounded unincorporated areas.~~

20 ~~(3) The director shall prioritize the issuance of grants that fund  
21 projects related to public health and safety infrastructure.~~

22 ~~(4)~~

23 (2) The director may issue grants that fund projects related to  
24 municipal infrastructure including, but not limited to, roads, street  
25 lighting, sidewalks, curbs, gutters, ~~storm water~~ *stormwater*  
26 management infrastructure, parks, and greenways.

27 (3) *The director shall prioritize the issuance of grants to  
28 applications to fund projects related to any of the following:*

29 (A) *Annexation of fully surrounded unincorporated areas.*

30 (B) *Annexations that would result in the improvement of public  
31 health and safety infrastructure.*

32 (C) *Annexation of disadvantaged unincorporated communities,  
33 as defined in Section 56033.5.*

34 (d) The director shall require a city to submit an application to  
35 the office in order to participate in the program. The application  
36 shall include, but not be limited to, all of the following:

37 (1) A description of the unincorporated area and the population  
38 that resides in the unincorporated area.

39 (2) A statement on the infrastructure that the project proposes  
40 to construct or improve, including the estimated capital cost of the

1 infrastructure and the timeline for the development of the  
2 infrastructure.

3 (3) A funding plan, including estimated funds from the program,  
4 for the costs and ongoing maintenance of the infrastructure.

5 (e) A project funded by the program shall not receive funding  
6 pursuant to this section that exceeds a maximum threshold  
7 determined by the director.

8 (f) Any dollar contribution a city makes toward a project funded  
9 by the program shall be matched by the office on a dollar-for-dollar  
10 basis. Matching funds from the office shall be subject to the  
11 maximum threshold determined pursuant to subdivision (e).

12 (g) (1) *The office shall develop guidelines for purposes of*  
13 *implementing the program no later than September 1, 2023. In*  
14 *preparing the guidelines, the office shall consult with*  
15 *representatives of all of the following:*

16 (A) *Local agency formation commissions.*

17 (B) *Counties.*

18 (C) *Cities.*

19 (D) *Residents of disadvantaged unincorporated communities,*  
20 *as defined in Section 56033.5.*

21 (2) *The guidelines developed pursuant to paragraph (1) shall*  
22 *not be subject to the requirements of Chapter 3.5 (commencing*  
23 *with Section 11340) of Part 1 of Division 3 of Title 2.*

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**CALAFCO List of Current Bills  
6/10/2022**

**1**

**AB 2957 (Committee on Local Government) Local government: reorganization.**

**Current Text:** Enrollment: 6/9/2022 [html](#) [pdf](#)

**Introduced:** 3/2/2022

**Last Amend:** 4/18/2022

**Status:** 6/9/2022-Read third time. Passed. Ordered to the Assembly. (Ayes 38. Noes 0.). In Assembly. Ordered to Engrossing and Enrolling.

**Location:** 6/9/2022-A. ENROLLMENT

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered	
1st House				2nd House								

**Summary:** The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the authority and procedure for the initiation, conduct, and completion of changes of organization, reorganization, and sphere of influence changes for cities and districts, as specified. Current law requires that an applicant seeking a change of organization or reorganization to submit a plan for providing services within the affected territory. Current law requires a petitioner or legislative body desiring to initiate proceedings to submit an application to the executive officer of the local agency formation commission, and requires the local agency formation commission, with regard to an application that includes an incorporation, to immediately notify all affected local agencies and any applicable state agency, as specified. This bill would define the term "successor agency," for these purposes to mean the local agency a commission designates to wind up the affairs of a dissolved district.

**Position**  
Sponsor

**Subject**  
CKH General  
Procedures

**CALAFCO Comments:** This is the annual Omnibus bill sponsored by CALAFCO. As introduced it makes 3 minor, technical non-substantive changes in CKH: (1) Replaces "to be completed and in existence" with "take effect" under GCS 56102; (2) Adds GCS 56078.5: "Successor Agency" means the local agency the Commission designates to wind up the affairs of a dissolved district; and (3) Replaces "proposals" with "applications" within GCS 56653(a), 56654(a), (b), and (c), and 56658(b)(1) and (b) (2).

CALAFCO support letter and LAFCo support letter template are in the attachments section.

April 18, 2022 bill amended with additional changes requested by CALAFCO. Amendments include grammatical changes, the correction of a PUC citation in GC Sec 56133(e)(5) from 9604 to 224.3, the extension of the sunset date within R&T Section 99(b)(8)(B) to January 1, 2028, and it renumbers remaining provisions as needed due to the above changes.

**SB 938 (Hertzberg D) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: protest proceedings: procedural consolidation.**

**Current Text:** Amended: 6/9/2022 [html](#) [pdf](#)

**Introduced:** 2/8/2022

**Last Amend:** 6/9/2022

**Status:** 6/9/2022-Read second time and amended. Ordered to second reading.

**Location:** 6/9/2022-A. SECOND READING

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	<b>Floor</b>	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

**Calendar:** 6/13/2022 #1 ASSEMBLY SECOND READING FILE -- SENATE BILLS

**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. Under existing law, in each county there is a local agency formation commission (commission) that oversees these changes of organization and reorganization. Current law authorizes a commission to dissolve an inactive district if specified conditions are satisfied. This bill would also authorize a commission to initiate a proposal for the dissolution of a district, as described, if the commission approves, adopts, or accepts a specified study that includes a finding, based on a preponderance of the evidence, that, among other things, the district has one or more documented chronic service provision deficiencies, the district spent public funds in an unlawful or reckless manner, or the district has shown willful neglect by failing to consistently adhere to the California Public Records Act. The bill would require the commission to adopt a resolution of intent to initiate a dissolution based on these provisions and to provide a remediation

period of at least 12 months, during which the district may take steps to remedy the stated deficiencies.

**Position**  
Sponsor

**Subject**  
CKH General  
Procedures,  
Other

**CALAFCO Comments:** CALAFCO is the sponsor of this bill. SB 839 represents a collaborative three-year effort (by an 18-member working group) to clean up, consolidate, and clarify existing statutory provisions associated with consolidations and dissolutions, as well as codify the conditions under which a LAFCo may initiate dissolution of a district at the 25 percent protest threshold. In response to a recommendation made in the 2017 Little Hoover Commission report (Special Districts: Improving Oversight and Transparency), CALAFCO initiated a working group of stakeholders in early 2019 to discuss the protest process for dissolutions of special districts.

The bill's current format (dated 2/8/22) represents the restructuring of existing protest provisions scattered throughout CKH. There have been some minor technical language added for clarifications. These changes are all minor in nature (by legislative standards).

The bill will be amended to reflect the newly designed process that codifies the ability for LAFCo to initiate a district dissolution at 25% protest threshold. The conditions under which this can occur include one or more of the following, any/all of which must be documented via determinations in a Municipal Service Review (MSR):

1. The agency has one or more documented chronic service provision deficiencies that substantially deviate from industry or trade association standards or other government regulations and its board or management is not actively engaged in efforts to remediate the documented service deficiencies;
2. The agency spent public funds in an unlawful or reckless manner inconsistent with the principal act or other statute governing the agency and has not taken any action to prevent similar future spending;
3. The agency has consistently shown willful neglect by failing to consistently adhere to the California Public Records Act and other public disclosure laws the agency is subject to;
4. The agency has failed to meet the minimum number of times required in its governing act in the prior calendar year and has taken no action to remediate the failures to meet to ensure future meetings are conducted on a timely basis;
5. The agency has consistently failed to perform timely audits in the prior three years, or failed to meet minimum financial requirements under Government Code section 26909 over the prior five years as an alternative to performing an audit, or the agency's recent annual audits show chronic issues with the agency's fiscal controls and the agency has taken no action to remediate the issues.

The proposed process is:

1. LAFCo to present the MSR in a 21-day noticed public hearing. At that time the LAFCo may choose to adopt a resolution of intent to dissolve the district. The resolution shall contain a minimum 12-month remediation period.
2. The district will have a minimum of 12 months to remediate the deficiencies.
3. Half-way through the remediation period, the district shall provide LAFCo a written report on the progress of their remediation efforts. The report is to be placed on a LAFCo meeting agenda and presented at that LAFCo meeting.
4. At the conclusion of the remediation period, LAFCo conducts another 21-day noticed public hearing to determine if district has remedied deficiencies. If the district has resolved issues, commission rescinds the resolution of intent to dissolve the district and the matter is dropped. If not, commission adopts a resolution making determinations to dissolve the district.
5. Standard 30-day reconsideration period.
6. Protest proceedings at 25% threshold can be noticed with a required 60-day protest period.
7. Protest hearing is held and amount of qualified protests determined based on 25% threshold. LAFCo either orders dissolution, election, or termination.

As this bill - when amended - adds requirements for LAFCos and districts, it will likely be keyed fiscal (for now it is not). An author fact sheet and CALAFCO fact sheet are posted in our attachments section as well as the CALAFCO Support letter and LAFCo support letter template.

**SB 1490**

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

**Current Text:** Introduced: 2/28/2022 [html](#) [pdf](#)

**Introduced:** 2/28/2022

**Status:** 6/9/2022-Read second time. Ordered to consent calendar.

**Location:** 6/8/2022-A. CONSENT CALENDAR

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	<b>Floor</b>	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Calendar:** 6/13/2022 #35 ASSEMBLY CONSENT CALENDAR 1ST DAY SENATE BILLS

**Summary:** Would enact the First Validating Act of 2022, which would validate the organization,

boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position**  
Support

**Subject**  
LAFCo  
Administration

**CALAFCO Comments:** This is the first of three annual validating acts. The CALAFCO Support letter is posted in our attachments.

**SB 1491 (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/28/2022 [html](#) [pdf](#)

**Introduced:** 2/28/2022

**Status:** 6/9/2022-Read second time. Ordered to consent calendar.

**Location:** 6/8/2022-A. CONSENT CALENDAR

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	<b>Floor</b>	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

**Calendar:** 6/13/2022 #36 ASSEMBLY CONSENT CALENDAR 1ST DAY SENATE BILLS

**Summary:** Would enact the Second Validating Act of 2022, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position**  
Support

**Subject**  
LAFCo  
Administration

**CALAFCO Comments:** This is the second of three annual validating acts. The CALAFCO Support letter is posted in our attachments.

**SB 1492 (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/28/2022 [html](#) [pdf](#)

**Introduced:** 2/28/2022

**Status:** 6/9/2022-Read second time. Ordered to consent calendar.

**Location:** 6/8/2022-A. CONSENT CALENDAR

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	<b>Floor</b>	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

**Calendar:** 6/13/2022 #37 ASSEMBLY CONSENT CALENDAR 1ST DAY SENATE BILLS

**Summary:** Would enact the Third Validating Act of 2022, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position**  
Support

**Subject**  
LAFCo  
Administration

**CALAFCO Comments:** This is the third of three annual validating acts. The CALAFCO Support letter is posted in our attachments.

**AB 1640 (Ward D) Office of Planning and Research: regional climate networks: regional climate adaptation and resilience action plans.**

**Current Text:** Amended: 5/19/2022 [html](#) [pdf](#)

**Introduced:** 1/12/2022

**Last Amend:** 5/19/2022

**Status:** 6/9/2022-Action rescinded whereby the bill was referred to Com. on GOV. & F.

**Location:** 6/9/2022-S. E.Q.

Desk	Policy	Fiscal	Floor	Desk	<b>Policy</b>	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

**Summary:** Current law establishes the Integrated Climate Adaptation and Resiliency Program to be administered by the Office of Planning and Research to coordinate regional and local efforts with state climate adaptation strategies to adapt to the impacts of climate change, as prescribed. This bill would authorize eligible entities, as defined, to establish and participate in a regional climate network, as defined. The bill would require the office, through the program, to encourage the inclusion of eligible entities with land use planning and hazard mitigation planning authority into regional climate networks. The bill would authorize a regional climate network to engage in activities to address climate change, as specified.

**Position**  
Support

**Subject**  
Climate Change

**CALAFCO Comments:** This bill is a follow up and very similar to AB 897 (2021). The bill would authorize eligible entities, as defined (including LAFCo), to establish and participate in a regional climate network, as defined. The bill would authorize a regional climate network to engage in activities to address climate change, as specified. Further, it requires a regional climate network to develop a regional climate adaptation and resilience action plan and to submit the plan to OPR for review, comments, and certification. The bill would require OPR to: (1) encourage the inclusion of eligible entities with land use planning and hazard mitigation planning authority into regional climate networks; (2) develop and publish guidelines on how eligible entities may establish regional climate networks and how governing boards may be established within regional climate networks by 7-1-23; and (3) provide technical assistance to regions seeking to establish a regional climate network, facilitate coordination between regions, and encourage regions to incorporate as many eligible entities into one network as feasible.

The difference between this bill and AB 897 is this bill removes requirements for OPR to develop guidelines and establish standards and required content for a regional climate adaptation and resilience action plan (to be produced by the network), and removes some specified technical support requirements by OPR. Those requirements were covered in SB 170, a budget trailer bill from 2021.

The bill is author-sponsored and keyed fiscal. An author fact sheet is included in our attachments area, as well as the CALAFCO Support letter.

Amended 3/23/2022 to provide that regional climate networks MAY be developed rather than the former requirement. Minor clean ups of other superfluous language.

Amended 5/19/2022 to remove the deadline for OPR to develop and publish guidelines for eligible entities to establish regional climate networks, removed an exemption to cover multiple counties when population was greater than 2 million people, removed requirements for membership and biennial reports to OPR.

**AB 1773 (Patterson R) Williamson Act: subvention payments: appropriation.**

**Current Text:** Introduced: 2/3/2022 [html](#) [pdf](#)

**Introduced:** 2/3/2022

**Status:** 5/19/2022-In committee: Held under submission.

**Location:** 5/4/2022-A. APPR. SUSPENSE FILE

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

**Summary:** The Williamson Act, also known as the California Land Conservation Act of 1965, authorizes a city or county to enter into contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Current law sets forth procedures for reimbursing cities and counties for property tax revenues not received as a result of these contracts and continuously appropriates General Fund moneys for that purpose. This bill, for the 2022-23 fiscal year, would appropriate an additional \$40,000,000 from the General Fund to the Controller to make subvention payments to counties, as provided, in proportion to the losses incurred by those counties by reason of the reduction of assessed property taxes.

**Position**  
Support

**Subject**  
Ag Preservation  
- Williamson

**CALAFCO Comments:** AB 1773 resurrects funding the Williamson Act for the 2022-2023 budget year. The Williamson Act was created to preserve open space and conserve agricultural land. For many years, the state funded the Act at around \$35-\$40 million per year. This funding ceased during the recession, and has not been reinstated since. AB 1773 would allocate \$40 million from the General Fund to the Williamson Act for the purpose of subvention payments.

The bill is author-sponsored, has a general-fund appropriation, and is keyed fiscal. An author fact sheet is posted in our attachments section, along with the CALAFCO Support letter.

**AB 1944 (Lee D) Local government: open and public meetings.**

**Current Text:** Amended: 5/25/2022 [html](#) [pdf](#)

**Introduced:** 2/10/2022

**Last Amend:** 5/25/2022

**Status:** 6/8/2022-Referred to Coms. on GOV. & F. and JUD.

**Location:** 6/8/2022-S. GOV. & F.

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, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. This bill would require the agenda to identify any member of the legislative body that will participate in the meeting remotely.

**Position**  
Watch

**Subject**  
Brown Act

**CALAFCO Comments:** This bill would delete the requirement that an individual participating in a Brown Act meeting remotely from a non-public location must disclose the address of the location. If the governing body chooses to allow for remote participation, it must also provide video streaming and offer public comment via video or phone.

The bill is author sponsored and keyed fiscal. The author's fact sheet is posted in our attachments area.

Amended 5/25/2022 to add that for this provision to apply, no less than a quorum of members of the legislative body must participate from a single physical location that is identified on the agenda, open to the public, and situated within the boundaries of the legislative body.

**AB 2081 (Garcia, Eduardo D) Municipal water districts: water service: Indian lands.**

**Current Text:** Amended: 5/12/2022 [html](#) [pdf](#)

**Introduced:** 2/14/2022

**Last Amend:** 5/12/2022

**Status:** 6/9/2022-In committee: Hearing postponed by committee.

**Location:** 6/1/2022-S. APPR.

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

**Summary:** The Municipal Water District Law of 1911 provides for the formation of municipal water districts and grants to those districts specified powers. Current law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district. Current law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe's lands that are not within a district, as prescribed. Current law also authorizes a district, until January 1, 2023, under specified circumstances, to apply to the applicable local agency formation commission to provide this service of water to Indian lands, as defined, that are not within the district and requires the local agency formation commission to approve such an application. This bill, among other things, would extend the above provisions regarding the application to the applicable local agency formation commission to January 1, 2027.

**Position**  
Oppose

**Subject**  
Water

**CALAFCO Comments:** This bill extends the sunset date created in AB 1361 (2017). Current law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe's lands that are not within a district, as prescribed. Current law also authorizes a district, under specified circumstances, to apply to the applicable LAFCo to provide this service of water to Indian lands, as defined, that are not within the district and requires the LAFCo to approve such an application. This bill extends the sunset date from January 1, 2023 to January 1, 2025.

CALAFCO opposed AB 1361 in 2017 as the process requires LAFCo to approve the extension of service, requires the district to extend the service, and does not require annexation upon extension of service. CALAFCO reached out to the author's office requesting information as to the reason for the extension and we have not been given a reason.

The bill is keyed fiscal. An author fact sheet is included in the attachments area, as well as the CALAFCO letter in opposition.

**AB 2449 (Rubio, Blanca D) Open meetings: local agencies: teleconferences.**

**Current Text:** Amended: 5/23/2022 [html](#) [pdf](#)



**Introduced:** 2/17/2022

**Last Amend:** 5/23/2022

**Status:** 6/8/2022-Referred to Coms. on GOV. & F. and JUD.

**Location:** 6/8/2022-S. GOV. & F.

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, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. This bill would revise and recast those teleconferencing provisions and, until January 1, 2028, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public if 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 local agency's jurisdiction.

**Position**

Watch

**Subject**

Brown Act

**CALAFCO Comments:** This bill authorizes the use of teleconferencing without noticing and making available to the public teleconferencing locations if a quorum of the members of the legislative body participate in person from a singular location that is noticed and open to the public and require the legislative body to offer public comment via video or phone.

CALAFCO reached out to the author's office for information and we've not yet heard back. The bill is not keyed fiscal.

**AB 2647**

**(Levine D) Local government: open meetings.**

**Current Text:** Amended: 4/19/2022 [html](#) [pdf](#)

**Introduced:** 2/18/2022

**Last Amend:** 4/19/2022

**Status:** 5/25/2022-Referred to Com. on GOV. & F.

**Location:** 5/25/2022-S. GOV. & F.

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

**Summary:** Current law makes agendas of public meetings and other writings distributed to the members of the governing board disclosable public records, with certain exceptions. Current law requires a local agency to make those writings distributed to the members of the governing board less than 72 hours before a meeting available for public inspection, as specified, at a public office or location that the agency designates. Current law also requires the local agency to list the address of the office or location on the agenda for all meetings of the legislative body of the agency. Current law authorizes a local agency to post the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting. This bill would instead require a local agency to make those writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates and list the address of the office or location on the agenda for all meetings of the legislative body of the agency unless the local agency meets certain requirements, including the local agency immediately posts the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

**Position**

Watch

**Subject**

Brown Act

**CALAFCO Comments:** This bill seeks to amend the law to make clear that writings that have been distributed to a majority of a local legislative body less than 72 hours before a meeting can be posted online in order to satisfy the law.

Amended on April 19, 2022, to add a provision that agendas will note the physical location from which hard copies of such post-agenda documents can be retrieved.

The bill is sponsored by the League of Cities and is not keyed fiscal.

**SB 852**

**(Dodd D) Climate resilience districts: formation: funding mechanisms.**

**Current Text:** Amended: 6/6/2022 [html](#) [pdf](#)

**Introduced:** 1/18/2022

**Last Amend:** 6/6/2022

**Status:** 6/6/2022-From committee with author's amendments. Read second time and amended. Re-referred to Com. on L. GOV.

**Location:** 5/27/2022-A. L. GOV.

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

**Calendar:** 6/15/2022 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

**Summary:** Would authorize a city, county, city and county, special district, or a combination of any of those entities to form a climate resilience district, as defined, for the purposes of raising and allocating funding for eligible projects and the operating expenses of eligible projects. The bill would deem each district to be an enhanced infrastructure financing district and would require each district to comply with existing law concerning enhanced infrastructure financing districts, unless the district is specified as otherwise. The bill would require a district to finance only specified projects that meet the definition of an eligible project. The bill would define "eligible project" to mean projects that address sea level rise, extreme heat, extreme cold, the risk of wildfire, drought, and the risk of flooding, as specified. The bill would establish project priorities and would authorize districts to establish additional priorities.

**Position**  
Watch

**Subject**  
Special District  
Principle Acts

**CALAFCO Comments:** This bill creates the Climate Resilience Districts Act. The bill completely bypasses LAFCo in the formation and oversight of these new districts because the districts are primarily being created as a funding mechanism for local climate resilience projects (as a TIF or tax increment finance district - for which LAFCos also have no involvement).

The bill authorizes a city, county, city and county, special district, or a combination of any of those entities to form a climate resilience district for the purposes of raising and allocating funding for eligible projects and the operating expenses of eligible projects. The bill defines "eligible project" to mean projects that address sea level rise, extreme heat, extreme cold, the risk of wildfire, drought, and the risk of flooding, as specified. The bill authorizes a district created pursuant to these provisions to have boundaries that are identical to the boundaries of the participating entities or within the boundaries of the participating entities. The bill also authorizes specified local entities to adopt a resolution to provide property tax increment revenues to the district. The bill would also authorize specified local entities to adopt a resolution allocating other tax revenues to the district, subject to certain requirements. The bill would provide for the financing of the activities of the district by, among other things, levying a benefit assessment, special tax, property-related fee, or other service charge or fee consistent with the requirements of the California Constitution. It requires 95% of monies collected to fund eligible projects, and 5% for district administration. The bill would require each district to prepare an annual expenditure plan and an operating budget and capital improvement budget, which must be adopted by the governing body of the district and subject to review and revision at least annually.

Section 62304 details the formation process, Section 62305 addresses the district's governance structure, and 62307 outlines the powers of the district.

This bill is sponsored by the Local Government Commission and is keyed fiscal. A fact sheet is included in our attachments section.

Amended 5/18/2022 to impose requirements on projects undertaken or financed by a district, including requiring a district to obtain an enforceable commitment from the developer that contractors and subcontractors performing the work use a skilled and trained workforce, and would expand the crime of perjury to these certifications.

**SB 1100**

**(Cortese D) Open meetings: orderly conduct.**

**Current Text:** Amended: 6/6/2022 [html](#) [pdf](#)

**Introduced:** 2/16/2022

**Last Amend:** 6/6/2022

**Status:** 6/6/2022-From committee with author's amendments. Read second time and amended. Re-referred to Com. on L. GOV.

**Location:** 5/5/2022-A. L. GOV.

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

**Calendar:** 6/15/2022 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

**Summary:** The Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Current law requires every agenda for regular meetings of a local agency to provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body. Current law authorizes the legislative body to adopt reasonable regulations to ensure that the intent of the provisions relating to this public comment requirement is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Current law authorizes the members of the legislative body conducting the meeting to order the meeting room cleared and continue in session, as prescribed, if a group or groups have willfully interrupted the orderly conduct of a meeting and order cannot be restored by the removal of individuals who are willfully interrupting the meeting. This bill would authorize the presiding member of the legislative body conducting a meeting to remove an individual for disrupting the meeting. The bill, except as provided, would require removal to be preceded by a warning to the individual by the presiding member of the legislative body or their designee that the individual's behavior is disrupting the meeting and that the individual's failure to cease their behavior may result in their removal.

**Position**

Watch

**Subject**

Brown Act

**CALAFCO Comments:** This bill would authorize the removal of an individual from a public meeting who is "willfully interrupting" the meeting after a warning and a request to stop their behavior. "Willfully interrupting" is defined as intentionally engaging in behavior during a meeting of a legislative body that substantially impairs or renders infeasible the orderly conduct of the meeting in accordance with law.

The bill is author-sponsored and keyed fiscal. An author fact sheet is posted in our attachments section.

**SB 1449 (Caballero D) Office of Planning and Research: grant program: annexation of unincorporated areas.**

**Current Text:** Amended: 4/19/2022 [html](#) [pdf](#)

**Introduced:** 2/18/2022

**Last Amend:** 4/19/2022

**Status:** 6/2/2022-Referred to Com. on L. GOV.

**Location:** 6/2/2022-A. L. GOV.

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

**Summary:** Would require the Office of Planning and Research to, upon appropriation by the Legislature, establish the Unincorporated Area Annexation Incentive Program, authorizing the office to issue a grant to a city for the purpose of funding infrastructure projects related to the proposed or completed annexation of a substantially surrounded unincorporated area, as defined, subject to approval by the Director of State Planning after the city submits an application containing specified information. The bill would require the office to match, on a dollar-for-dollar basis, any dollar contribution a city makes toward a project funded by the program, subject to a maximum funding threshold as determined by the director. The bill would, by September 1, 2023, require the office to develop guidelines, and consult with various local representatives to prepare those guidelines, for purposes of implementing the program, and would provide that the guidelines are not subject to the rulemaking requirements of the Administrative Procedure Act.

**Position**

Watch

**Subject**

Annexation Proceedings

**CALAFCO Comments:** This is currently a spot bill. According to the author's office, they are working on state funding to incentivize annexation of inhabited territory (when the VLF was taken away, so too was any financial incentive to annex inhabited territory). For many years bills have been run to reinstate funding, none of which have ever successfully passed. There is no other information available on this bill at this time. CALAFCO will continue conversations with the author's office as this is an important topic for LAFcos. (The bill will remain a P-3 until amended.)

Amended 3/16/2022 to remove spot holder language, add definitions and other language tying to CKH, and add language more specific to a grant program.

**AB 897 (Mullin D) Office of Planning and Research: regional climate networks: regional climate adaptation and resilience action plans.**

**Current Text:** Amended: 7/14/2021 [html](#) [pdf](#)

**Introduced:** 2/17/2021

**Last Amend:** 7/14/2021

**Status:** 8/27/2021-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/16/2021)(May be acted upon Jan 2022)

**Location:** 8/27/2021-S. 2 YEAR

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

**Summary:** Current law requires, by July 1, 2017, and every 3 years thereafter, the Natural Resources Agency to update, as prescribed, the state's climate adaptation strategy, known as the Safeguarding California Plan. Current law establishes the Office of Planning and Research in state government in the Governor's office. Current law establishes the Integrated Climate Adaptation and Resiliency Program to be administered by the office to coordinate regional and local efforts with state climate adaptation strategies to adapt to the impacts of climate change, as prescribed. This bill would authorize eligible entities, as defined, to establish and participate in a regional climate network, as defined. The bill would require the office, through the program, to encourage the inclusion of eligible entities with land use planning and hazard mitigation planning authority into regional climate networks. The bill would authorize a regional climate network to engage in activities to address climate change, as specified.

**Position**

Support

**Subject**

Climate Change

**CALAFCO Comments:** As introduced, the bill builds on existing programs through OPR by promoting regional collaboration in climate adaptation planning and providing guidance for regions to identify and prioritize projects necessary to respond to the climate vulnerabilities of their region.

As amended, the bill requires OPR to develop guidelines (the scope of which are outlined in the bill) for Regional Climate Adaptation Action Plans (RCAAPs) by 1-1-23 through their normal public process. Further the bill requires OPR to make recommendations to the Legislature on potential sources of financial assistance for the creation & implementation of RCAAPs, and ways the state can support the creation and ongoing work of regional climate networks. The bill outlines the authority of a regional climate network, and defines eligible entities. Prior versions of the bill kept the definition as rather generic and with each amended version gets more specific. As a result, CALAFCO has requested the author add LAFCOs explicitly to the list of entities eligible to participate in these regional climate networks.

As amended on 4/7, AB 11 (Ward) was joined with this bill - specifically found in 71136 in the Public Resources Code as noted in the amended bill. Other amendments include requiring OPR to, before 7-1-22, establish geographic boundaries for regional climate networks and prescribes requirements in doing so.

This is an author-sponsored bill. The bill necessitates additional resources from the state to carry out the additional work required of OPR (there is no current budget appropriation). A fact sheet is posted in the tracking section of the bill.

As amended 4/19/21: There is no longer a requirement for OPR to include in their guidelines how a regional climate network may develop their plan: it does require ("may" to "shall") a regional climate network to develop a regional climate adaptation plan and submit it to OPR for approval; adds requirements of what OPR shall publish on their website; and makes several other minor technical changes.

As amended 7/1/21, the bill now explicitly names LAFCo as an eligible entity. It also adjusts several timelines for OPR's requirements including establishing boundaries for the regional climate networks, develop guidelines and establish standards for the networks, and to make recommendations to the Legislature related to regional adaptation. Give the addition of LAFCo as an eligible entity, CALAFCO is now in support of the bill.

Amendments of 7/14/21, as requested by the Senate Natural Resources & Water Committee, mostly do the following: (1) Include "resilience" to climate adaptation; (2) Prioritize the most vulnerable communities; (3) Add definitions for "under-resourced" and "vulnerable" communities; (4) Remove the requirement for OPR to establish geographic boundaries for the regional climate networks; (5) Include agencies with hazard mitigation authority and in doing so also include the Office of Emergency Services to work with OPR to establish guidelines and standards required for the climate adaptation and resilience plan; and (6) Add several regional and local planning documents to be used in the creation of guidelines.

2/24/22 UPDATE: It appears this bill is being replaced with AB 1640 (Ward, Mullin, etc.). CALAFCO will keep this bill on Watch and follow the new bill.

**Current Text:** Amended: 4/19/2021 [html](#) [pdf](#)

**Introduced:** 2/17/2021

**Last Amend:** 4/19/2021

**Status:** 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was GOV. & F. on 5/19/2021)(May be acted upon Jan 2022)

**Location:** 7/14/2021-S. 2 YEAR

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

**Summary:** Would require the dissolution of the Los Medanos Community Healthcare District, as specified. The bill would require the County of Contra Costa to be successor of all rights and responsibilities of the district, and require the county to develop and conduct the Los Medanos Area Health Plan Grant Program focused on comprehensive health-related services in the district's territory. The bill would require the county to complete a property tax transfer process to ensure the transfer of the district's health-related ad valorem property tax revenues to the county for the sole purpose of funding the Los Medanos Area Health Plan Grant Program. By requiring a higher level of service from the County of Contra Costa as specified, the bill would impose a state-mandated local program.

**Position**

Watch

**Subject**

**CALAFCO Comments:** This bill mandates the dissolution of the Los Medanos Community Healthcare District with the County as the successor agency, effective 2-1-22. The bill requires the County to perform certain acts prior to the dissolution. The LAFCo is not involved in the dissolution as the bill is written. Currently, the district is suing both the Contra Costa LAFCo and the County of Contra Costa after the LAFCo approved the dissolution of the district upon application by the County and the district failed to get enough signatures in the protest process to go to an election.

The amendment on 4/5/21 was just to correct a typo in the bill.

As amended on 4/19/21, the bill specifies monies received by the county as part of the property tax transfer shall be used specifically to fund the Los Medanos Area Health Plan Grant Program within the district's territory. It further adds a clause that any new or existing profits shall be used solely for the purpose of the grant program within the district's territory.

The bill did not pass out of Senate Governance & Finance Committee and will not move forward this year. It may be acted on in 2022.

2022 UPDATE: Given Member Frazier is no longer in the Assembly and the appellate court overturned the lower court's decision, it is likely the bill will not move forward. CALAFCO will retain WACTH on the bill.

**[AB 975](#)**

**(Rivas, Luz D) Political Reform Act of 1974: filing requirements and gifts.**

**Current Text:** Amended: 5/5/2022 [html](#) [pdf](#)

**Introduced:** 2/18/2021

**Last Amend:** 5/5/2022

**Status:** 5/5/2022-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on E. & C.A.

**Location:** 5/4/2022-S. E. & C.A.

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

**Calendar:** 6/13/2022 9:30 a.m. - 1021 O Street, Room 2100 SENATE ELECTIONS AND CONSTITUTIONAL AMENDMENTS, GLAZER, Chair

**Summary:** The Political Reform Act of 1974 generally requires elected officials, candidates for elective offices, and committees formed primarily to support or oppose a candidate for public office or a ballot measure, along with other persons and entities, to file periodic campaign statements and certain reports concerning campaign finances and related matters. Current law permits a report or statement that has been on file for at least two years to be retained by a filing officer as a copy on microfilm or other space-saving materials and, after the Secretary of State certifies an online filing and disclosure system, as an electronic copy. This bill would permit a filing officer to retain a report or statement filed in a paper format as a copy on microfilm or other space-saving materials or as an electronic copy, as specified, without a two-year waiting period.

**Position**

Watch

**Subject**

FPPC

**CALAFCO Comments:** As introduced, this bill makes two notable changes to the current requirements of gift notification and reporting: (1) It increases the period for public officials to reimburse, in full or part, the value of attending an invitation-only event, for purposes of the gift rules, from 30 days from receipt to 30 days following the calendar quarter in which the gift was received; and (2) It reduces the gift notification period for lobbyist employers from 30 days after the end of the calendar quarter in

which the gift was provided to 15 days after the calendar quarter. Further it requires the FPPC to have an online filing system and to redact contact information of filers before posting.

The amendment on 4/21/21 just corrects wording (technical, non-substantive change).

The amendments on 5/18/21 clarify who is to file a statement of economic interest to include candidates (prior text was office holders).

UPDATE AS OF 2/24/22 - The author's office indicates they are moving forward with the bill this year and are planning amendments. They are not clear what those amendments will be so CALAFCO will retain a WATCH position on the bill.

**AB 1195 (Garcia, Cristina D) Limited Eligibility and Appointment Program: lists.**

**Current Text:** Amended: 5/18/2022 [html](#) [pdf](#)

**Introduced:** 2/18/2021

**Last Amend:** 5/18/2022

**Status:** 5/25/2022-Re-referred to Com. on L., P.E. & R.

**Location:** 5/25/2022-S. L., P.E. & R.

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

**Summary:** Current law specifically grants the Department of Human Resources the powers, duties, and authority necessary to operate the state civil service system in accordance with Article VII of the California Constitution, the Government Code, the merit principle, and applicable rules duly adopted by the State Personnel Board. Current law creates the Limited Examination and Appointment Program (LEAP), which the Department of Human Resources administers, to provide an alternative to the traditional civil service examination and appointment process to facilitate the hiring of persons with disabilities. Current law requires the Department of Human Resources, when an appointing power seeks to fill a vacant position by using an employment list, to provide the appointing power with a certified list of the names and addresses of all eligible candidates, as specified. Current law requires the department to provide a single certified list of eligible candidates if more than one employment list or LEAP referral list exists, and the department is required to combine the names and addresses of all eligible candidates. This bill would, notwithstanding those provisions, require the department to, upon request of the appointing power, provide the appointing power a LEAP referral list without combining that list with a parallel list and would authorize the appointing power to select and hire any individual from that a referral list to fill any vacancy.

**Position**

Watch

**Subject**

Water

**CALAFCO Comments:** As amended on 4-6-21, the bill was gut and amended and now creates the So LA County Human Rights to Water Collaboration Act. It requires the Water Board to appoint a commissioner to implement the Safe & Affordable Funding for Equity & Resilience Program and gives the commissioner certain authorities (although they are not clearly spelled out). It requires the commissioner by 12-31-24 to submit to the Water Board a plan for the long-term sustainability of public water systems in southern LA County and prescribes what shall be included in the plan. The bill also creates a technical advisory board and requires the commissioner to oversee the Central Basin Municipal Water District.

In its current form the bill creates numerous concerns. CALAFCO's letter of concern is posted in the tracking section of the bill, and includes: (1) Focus of the bill is very broad as is the focus of the commissioner; (2) In an attempt to prevent privatization of water systems there is language regarding severing water rights. That language could be problematic should a consolidation be ordered; (3) Diminishing local control that is being invested in the state (an ongoing concern since SB 88); (4) A clear distinction needs to be made between an Administrator and Commissioner; (5) The poorly written section on the technical advisory board; and (6) The lack of LAFCo involvement in any consolidation process.

As amended on 5-24-21, the bill changes the water rights provision now requiring approval by the water Board; uses the definitions of "at risk system" and "at risk domestic well" found in SB 403 (Gonzalez) as well as the 3,300 connect cap; requires the commissioner appointed by the board to be from the local area; requires the commissioner to do certain things prior to completing the regional plan; and requires the commissioner to apply to LA LAFCo for extension of service, consolidation or dissolution as appropriate. The bill also creates a pilot program for LA LAFCo giving them the authority to take action rather than the water board, providing it is within 120 days of receipt of a completed application. If the LAFCo fails to take action within that time, the matter goes to the water board for their action.

The pilot program also gives LA LAFCo the authority to approve, approve with conditions or deny the application; further giving LAFCo authority to consider consolidation or extension of service with a local publicly owned utility that provides retail water, a private water company or mutual; the bill also

waives protest proceedings, gives the LAFCo authority to address governance structure and CEQA is waived, provides full LAFCo indemnification and funding.

There are still issues with the proposed technical advisory board section of the bill, and questions about timing of some of the processes. CALAFCO continues to work with the author and speakers' offices as well as other stakeholders on ongoing amendments.

The bill is author-sponsored and we understand there is currently no funding source. A fact sheet is posted in the tracking section of the bill. CALAFCO's letter of concern is also posted there.

THIS IS NOW A 2-YEAR BILL.

UPDATE AS OF 2/10/22 - According to the author's office, the author is not intending to move the bill forward at this time. CALAFCO will continue to WATCH and monitor the bill. As a result, the bill was downgraded from a P-1 to a P-3.

GUTTED AND AMENDED on 5/18/2022 to remove previous verbiage regarding water. The bill now addresses the State Department of Human Resources and the Limited Eligibility and Appointment Program (LEAP), which the Department of Human Resources administers, to provide an alternative to the traditional civil service examination and appointment process to facilitate the hiring of persons with disabilities. Downgraded to Watch, from Watch with Concerns.

**AB 1757 (Haney D) Groundwater sustainability agency.**

**Current Text:** Amended: 5/10/2022 [html](#) [pdf](#)

**Introduced:** 2/2/2022

**Last Amend:** 5/10/2022

**Status:** 6/1/2022-Referred to Com. on N.R. & W.

**Location:** 6/1/2022-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 that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. The act authorizes any local agency or combination of local agencies overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin. Current law governs the formation of a groundwater sustainability agency. This bill would authorize a conservation district overlying a groundwater basin in this state to decide to become a groundwater sustainability agency for that basin and would make the law governing the formation of a groundwater sustainability agency applicable to that district.

**Position**  
Watch

**Subject**  
Water

**AB 2041 (Garcia, Eduardo D) California Safe Drinking Water Act: primary drinking water standards: compliance.**

**Current Text:** Amended: 4/18/2022 [html](#) [pdf](#)

**Introduced:** 2/14/2022

**Last Amend:** 4/18/2022

**Status:** 5/20/2022-Failed Deadline pursuant to Rule 61(b)(8). (Last location was A. APPR. SUSPENSE FILE on 5/11/2022)

**Location:** 5/20/2022-A. DEAD

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

**Summary:** Would require the State Water Resources Control Board to take specified actions if the state board adopts a primary drinking water standard with a compliance period for which public water systems are given a designated period of time to comply with the primary drinking water standard without being held in violation of the primary drinking water standard. Specifically, the bill would require the state board to determine which public water system may not be able to comply with the primary drinking water standard without receiving financial assistance and develop a compliance plan, including a financial plan to assist that public water system in complying with the primary drinking water standard. The bill would also require the state board, if a public water system is in violation of the primary drinking water standard after the compliance period, to take into consideration whether or not the public water system implemented the compliance plan.

**Position**

**Subject**

**CALAFCO Comments:** This bill would require the SWRCB to take specified actions if the SWRCB adopts a primary drinking water standard with a compliance period for which public water systems are given a designated period of time to install necessary measures, including, but not limited to, installation of water treatment systems, to comply with the primary drinking water standard without being held in violation of the primary drinking water standard. Those actions would include, among other actions, developing a financial plan to assist public water systems that will require financial assistance in procuring and installing the necessary measures.

CALAFCO reached out to the author's office for information on the bill and has not heard back. The bill is keyed fiscal. An author fact sheet is attached.

**AB 2201 (Bennett D) Groundwater sustainability agency: groundwater extraction permit: verification.**

**Current Text:** Amended: 4/27/2022 [html](#) [pdf](#)

**Introduced:** 2/15/2022

**Last Amend:** 4/27/2022

**Status:** 6/1/2022-Referred to Coms. on N.R. & W. and GOV. & F.

**Location:** 6/1/2022-S. N.R. & W.

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

**Calendar:** 6/14/2022 9 a.m. - 1021 O Street, Room 2200 SENATE NATURAL RESOURCES AND WATER, STERN, Chair

**Summary:** The Sustainable Groundwater Management Act requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. Current law authorizes any local agency or combination of local agencies overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin and imposes specified duties upon that agency or combination of agencies, as provided. Current law also authorizes the State Water Resources Control Board to designate a high- or medium-priority basin as a probationary basin under certain conditions for specified purposes. This bill would prohibit a local agency, as defined, from approving a permit for a new groundwater well or for an alteration to an existing well in a basin subject to the act and classified as medium- or high-priority until it obtains a written verification, from the groundwater sustainability agency that manages the basin or area of the basin where the well is proposed to be located, determining that certain factors are present.

**Position**  
Watch

**Subject**  
Water

**CALAFCO Comments:** 2/15/2022: As introduced, a spot holder.

3/17/2022: As amended, this bill now seeks to add a new section into the Water Code that would require, after July 1, 2023, designated extraction facilities to procure permits from the Department of Water Resources (DWR.) Extraction facilities are defined as those located in a basin that has already been designated by DWR as subject to critical overdraft conditions. It would also define times when permits are not needed, including for "de minimis extractors" (as defined by Section 10721), for replacement extractors, when drinking water is needed by a water system for public health purposes, for habitat and wetlands conservation, for photovoltaic or wind energy generation when less than 75 acre feet of groundwater is needed annually, when required by an approved CEQA document, and for facilities constructed to ensure a sustain water supply to consolidated public water systems. This bill would also require groundwater sustainability agencies (GSAs) to develop a process for the issuance of groundwater extraction permits which considers demonstrations of need, adherence to a groundwater sustainability plan, a showing that the extraction will not contribute to an undesirable result, and other procedural requirements. Additionally, the bill would require notification to all groundwater users within one mile of the proposed groundwater extraction facility, and to the DWR when the proposed extraction is within one mile of a disadvantaged community or a domestic well user, and other procedural steps. Also allows those GSAs in a basin not designated as subject to critical conditions of overdraft to adopt an ordinance that establishes their own process, in accordance with this section, for the issuance of groundwater extraction permits, and allows imposition of fees as long as they do not exceed reasonable agency costs. DWR shall provide technical assistance to assist GSA implement this section. This bill would further amend Water Code Section 10728 to require annual reports by GSA to include information regarding the number, location, and volume of water encompassed by permits issued under this section.

Unfunded mandate, now reimbursements provided. Keyed: fiscal.

Amended 4/27/2022 to removes all provisions regarding groundwater extraction facilities, adds in provisions regarding local agencies, which are defined as cities, counties, districts, agencies, or other



entities with the authority to issue a permit for a a new groundwater well or for an alteration to an existing well.

**AB 2442 (Rivas, Robert D) Climate change.**

**Current Text:** Amended: 4/5/2022 [html](#) [pdf](#)

**Introduced:** 2/17/2022

**Last Amend:** 4/5/2022

**Status:** 6/2/2022-Action rescinded whereby the bill was referred to Com. on E.Q.

**Location:** 6/2/2022-S. G.O.

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

**Calendar:** 6/14/2022 9 a.m. - 1021 O Street, Room 1200 SENATE GOVERNMENTAL ORGANIZATION, DODD, Chair

**Summary:** The California Disaster Assistance Act requires the Director of Emergency Services to authorize the replacement of a damaged or destroyed facility, whenever a local agency and the director determine that the general public and state interest will be better served by replacing a damaged or destroyed facility with a facility that will more adequately serve the present and future public needs than would be accomplished merely by repairing or restoring the damaged or destroyed facility. Current law also authorizes the director to implement mitigation measures when the director determines that the measures are cost effective and substantially reduce the risk of future damage, hardship, loss, or suffering in any area where a state of emergency has been proclaimed by the Governor. This bill would specify that mitigation measures for climate change and disasters related to climate, may include, but are not limited to, measures that reduce emissions of greenhouse gases, the preservation of open space, improved forest management and wildfire risk reduction measures, and other investments in natural infrastructure, as defined.

**Position**

Watch

**Subject**

Ag/Open Space Protection

**CALAFCO Comments:** Seeks to add climate change to California Disaster Assistance Act and adds, as noted cost effective mitigation measures, the preservation of open space, improved forest management and wildfire risk reduction measures, and other investments in natural infrastructure (in line with definition of a "natural infrastructure" in GC Section 65302(g)(4)(C)(v).) Also would amend GC Sec 65302 to require General Plans to include "a set of measures designed to reduce emissions of greenhouse gases resulting in climate change, and natural features and ecosystem processes in or near identified at-risk areas threatened by the impacts attributable."

**SB 12 (McGuire D) Local government: planning and zoning: wildfires.**

**Current Text:** Amended: 6/6/2022 [html](#) [pdf](#)

**Introduced:** 12/7/2020

**Last Amend:** 6/6/2022

**Status:** 6/6/2022-From committee with author's amendments. Read second time and amended. Re-referred to Com. on H. & C.D.

**Location:** 5/24/2022-A. H. & C.D.

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

**Calendar:** 6/15/2022 9:30 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, WICKS, Chair

**Summary:** The Planning and Zoning Law requires the legislative body of a city or county to adopt a comprehensive, long-term general plan that includes various elements, including, among others, a housing element and a safety element for the protection of the community from unreasonable risks associated with the effects of various geologic and seismic hazards, flooding, and wildland and urban fires. Current law requires the housing element to be revised according to a specific schedule. Current law requires the planning agency to review and, if necessary, revise the safety element upon each revision of the housing element or local hazard mitigation plan, but not less than once every 8 years to identify new information relating to flood and fire hazards and climate adaptation and resiliency strategies applicable to the city or county that was not available during the previous revision of the safety element. Current law requires that the Office of Planning and Research, among other things, coordinate with appropriate entities, including state, regional, or local agencies, to establish a clearinghouse for climate adaptation information for use by state, regional, and local entities, as provided. This bill would require the safety element, upon the next revision of the housing element or the hazard mitigation plan, on or after July 1, 2024, whichever occurs first, to be reviewed and updated as necessary to include a comprehensive retrofit strategy to reduce the risk of property loss and damage during wildfires, as specified, and would require the planning agency to submit the adopted strategy to the Office of Planning and Research for inclusion into the above-described clearinghouse

**Position**

**Subject**

**CALAFCO Comments:** UPDATE 2/24/22: According to the author's office, they do plan to move this bill forward in 2022 and no other details are available at this time.

**SB 418 (Laird D) Pajaro Valley Health Care District.**

**Current Text:** Chaptered: 2/4/2022 [html](#) [pdf](#)

**Introduced:** 2/12/2021

**Last Amend:** 1/24/2022

**Status:** 2/4/2022-Approved by the Governor. Chaptered by Secretary of State. Chapter 1, Statutes of 2022.

**Location:** 2/4/2022-S. CHAPTERED

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

**Summary:** Would create the Pajaro Valley Health Care District, as specified, except that the bill would authorize the Pajaro Valley Health Care District to be organized, incorporated, and managed, only if the relevant county board of supervisors chooses to appoint an initial board of directors.

**Position**  
Watch

**Subject**  
Special District  
Principle Acts

**CALAFCO Comments:** Gut and amended on 1/14/22, this bill forms the Pajaro Valley Health Care District within Santa Cruz and Monterey counties. The formation, done by special legislation, bypasses the LAFCo process, with language explicitly stating upon formation, LAFCo shall have authority. The bill requires that within 5 years of the date of the first meeting of the Board of Directors of the district, the board of directors shall divide the district into zones. The bill would require the district to notify Santa Cruz LAFCo when the district, or any other entity, acquires the Watsonville Community Hospital. The bill requires the LAFCo to order the dissolution of the district if the hospital has not been acquired by January 1, 2024 through a streamlined process, and requires the district to notify LAFCo if the district sells the Watsonville Community Hospital to another entity or stops providing health care services at the facility, requiring the LAFCo to dissolve the district under those circumstances in a streamlined process.

Given the hospital has filed bankruptcy and this is the only hospital in the area and serves disadvantaged communities and employs a large number of people in the area, the bill has an urgency clause.

Several amendments were added on 1/24/22 by the ALGC and SGFC all contained within Section 32498.7.

CALAFCO worked closely with the author's office, Santa Cruz County lobbyist and the Santa Cruz and Monterey LAFCos on this bill. We have requested further amendments which the Senator has agreed to take in a follow-up bill this year. Those amendments include requiring Santa Cruz LAFCo to adopt a sphere of influence for the district within 1 year of formation; the district filing annual progress reports to Santa Cruz LAFCo for the first 3 years, Santa Cruz LAFCo conducting a special study on the district after 3 years, and representation from both counties on the governing board.

The bill is sponsored by the Pajaro Valley Healthcare District Project and is not keyed fiscal.

**SB 969 (Laird D) Pajaro Valley Health Care District.**

**Current Text:** Amended: 3/2/2022 [html](#) [pdf](#)

**Introduced:** 2/10/2022

**Last Amend:** 3/2/2022

**Status:** 6/9/2022-Read second time. Ordered to consent calendar.

**Location:** 6/8/2022-A. CONSENT CALENDAR

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

**Calendar:** 6/13/2022 #33 ASSEMBLY CONSENT CALENDAR 1ST DAY SENATE BILLS

**Summary:** Current law creates the Pajaro Valley Health Care District, as specified, and authorizes the Pajaro Valley Health Care District to be organized, incorporated, and managed, only if the relevant county board of supervisors chooses to appoint an initial board of directors. Current law requires, within 5 years of the date of the first meeting of the Board of Directors of the Pajaro Valley Health Care District, the board of directors to divide the district into zones and number the zones consecutively. Current law requires the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to govern any organizational changes for the district after formation. Current law requires the district to notify the County of Santa Cruz local agency formation commission (LAFCO) when the district, or any other entity, acquires the Watsonville Community Hospital. Existing law requires the LAFCO to dissolve

the district under certain circumstances. This bill would require the LAFCO to develop and determine a sphere of influence for the district within one year of the district's date of formation, and to conduct a municipal service review regarding health care provision in the district by December 31, 2025, and by December 31 every 5 years thereafter.

**Position**  
Watch

**Subject**  
Other

**CALAFCO Comments:** This bill is a follow up to SB 418 (Laird) and contains some of the amendments requested by CALAFCO and Monterey and Santa Cruz LAFcos. As introduced the bill requires Santa Cruz LAFco to adopt a sphere of influence for the district within 1 year of formation; the district filing annual progress reports to Santa Cruz LAFco for the first 2 years, Santa Cruz LAFco conducting a Municipal Service Review on the district every 5 years with the first being conducted by 12-31-25. Our final requested amendment, ensuring representation from both counties on the governing board, is still being worked on and not reflected in the introduced version of the bill.

**SB 1405 (Ochoa Bogh R) Community service districts: Lake Arrowhead Community Service District: covenants, conditions, and restrictions: enforcement.**

**Current Text:** Amended: 4/18/2022 [html](#) [pdf](#)

**Introduced:** 2/18/2022

**Last Amend:** 4/18/2022

**Status:** 6/9/2022-Re-referred to Com. on JUD.

**Location:** 6/9/2022-A. JUD.

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

**Calendar:** 6/14/2022 9 a.m. - State Capitol, Room 437 ASSEMBLY JUDICIARY, STONE, Chair

**Summary:** Would authorize the Lake Arrowhead Community Services District to enforce all or part of the covenants, conditions, and restrictions for tracts within that district, and to assume the duties of the Arrowhead Woods Architectural Committee for those tracts, as provided. This bill contains other related provisions.

**Position**  
Watch

**Subject**  
Other

**SB 1425 (Stern D) Open-space element: updates.**

**Current Text:** Amended: 4/18/2022 [html](#) [pdf](#)

**Introduced:** 2/18/2022

**Last Amend:** 4/18/2022

**Status:** 5/27/2022-Referred to Com. on L. GOV.

**Location:** 5/27/2022-A. L. GOV.

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

**Calendar:** 6/15/2022 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

**Summary:** Would require every city and county to review and update its local open-space plan by January 1, 2026. The bill would require the local open-space plan update to include plans and an action program that address specified issues, including climate resilience and other cobenefits of open space, correlated with the safety element. By imposing additional duties on local officials, the bill would create a state-mandated local program.

**Position**  
Watch

**Subject**  
Other

**SB 1489 (Committee on Governance and Finance) Local Government Omnibus Act of 2022.**

**Current Text:** Amended: 4/18/2022 [html](#) [pdf](#)

**Introduced:** 2/28/2022

**Last Amend:** 4/18/2022

**Status:** 5/19/2022-Referred to Com. on L. GOV.

**Location:** 5/19/2022-A. L. GOV.

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

**Summary:** Current law, including the Professional Land Surveyors' Act, the Mello-Roos Community Facilities Act of 1982, the Subdivision Map Act, provisions relating to official maps of counties and cities, and provisions relating to maps of certain special assessment districts, prescribe requirements for the identification, storage, access, and preservation of maps. This bill would revise requirements for storage, access, and preservation of maps, in connection with the above-described laws, to authorize alternative methods by which maps may be identified, kept safe and reproducible, and to which they may be referred, and would generally eliminate the requirement that they be fastened and stored in

books.

**Position**  
Watch

**Subject**

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

**Total Measures: 28**

**Total Tracking Forms: 28**

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## LEGISLATIVE COMMITTEE MEETING STAFF REPORT

### Agenda Item No. 6 Continued Discussion and Recommendation Regarding GC §56133 Proposal from San Diego LAFCo

**Meeting Date:** June 17, 2022

**Prepared By:** René LaRoche, Chair

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#### RECOMMENDATION

Continued Discussion and Recommendation Regarding Government Code (GC) § 56133 proposal from San Diego LAFCo.

#### DISCUSSION

This item is a continuing discussion regarding a proposal received from San Diego LAFCo relative to Government Code Section 56133(e), which provides an exemption to the LAFCo process for certain types of contracts between entities.

#### Background:

The underlying proposal From San Diego LAFCo and the potential sponsorship by CALAFCO was previously approved by this Committee and was later included among the Board directed 2022 legislative priorities. CALAFCO began working with San Diego LAFCo as co-sponsors of the extension of service legislative proposal in early October, 2021. A proposal and fact sheet were prepared, stakeholder outreach was conducted, and efforts were undertaken to seek a legislator to author the bill.

The stakeholder outreach elicited concerns from various stakeholders, as well as the two local government committee consultants. (Entities included CSDA and several of their members, ACWA, CASA, CSAC, League and ACHD.) Seven legislators were approached about authoring the bill (CALAFCO approached four potential legislative authors and San Diego LAFCo approached three), and all declined the request. With no ability to secure an author for the 2022 year, CALAFCO staff tabled the proposal for 2022, and discussed the situation with the Board at their January 21, 2022 meeting with a recommendation that the Board revisit the matter at its April meeting.

At its meeting of April 22, 2022, the Board revisited the tabled item. Questions were posed regarding the exact nature of the stakeholder concerns, the resources and effort that would be needed to move the proposal forward, and the potential for success. The Board gave direction to the Executive Director/Committee Chair to undertake some research and foundational work with the Legislative Committee to better inform their consideration of the matter, with a final Board vote to be scheduled during the July 29, 2022 meeting, or at a Special Meeting called sooner, if the Legislative Committee determines that earlier action is needed.

The Board's direction to the Legislative Committee was to 1) Revisit the earlier stakeholder concerns to help determine the proposal's viability; 2) Confirm San Diego LAFCo's role and commitment to outreach; 3) Determine responsibilities and workloads for CALAFCO and San Diego LAFCo to co-sponsor the bill, and clearly delineate each; and 4) Ascertain an estimated cost to hire a lobbyist to assist with the effort.

At the April 29, 2022 Legislative Committee meeting, Priscilla White, speaking on behalf of San Diego LAFCo, reaffirmed their commitment to the process. The Committee Chair advised that, in response to the Board's direction, she had already reached out to Jean Hurst, with Hurst Brooks and Espinosa, as well as to the Senate Consultant. She relayed the feedback received regarding reticence surrounding the proposed GC § 56133 amendment. The Committee Chair also reported that Jean Hurst estimated a cost of approximately \$5,000 to create a plan to address Board direction number 3) above, and that she further recommended that CALAFCO should first begin the effort with the creation of a White Paper regarding the underlying issues.

The Committee discussed the matter and concurred with the recommendation to produce a White Paper since it would also assist with the Committee's determination of whether to proceed with the § 56133 proposal. Steve Lucas, Kai Luoma, Priscilla White, and René LaRoche were directed to produce the attached draft paper for return to the Committee on June 17, 2022. (Formatting and graphic design are mock-up for illustration only and are subject to change after final approval.)

It should also be noted that additional research of CALAFCO records has occurred since the last Committee meeting which found that the Committee and Board have considered and approved the pursuit of changes to Government Code § 56133 twice over the last twenty years. The first attempt occurred between the years 2004 and 2007 (see attachment d.) and the second attempt occurred between 2011 and 2014 (see attachments e. and f.).

While the CALAFCO record is silent on the reasons behind the lack of resolution from the 2004-2007 effort, a reason is suggested by letters of opposition that were received from several LAFCOs. Additionally, a List Serve discussion thread, which occurred among Executive Officers (EOs) around 2006, noted that at least one LAFCo counsel raised the issue of Section 8 of Article XI of the California Constitution (added in 1970), which reads:

- (a) The Legislature may provide that counties perform municipal functions at the request of cities within them.*
- (b) If provided by their respective charters, a county may agree with a city within it to assume and discharge specified municipal functions.*

Finally, regarding the 2011-2014 effort, the March 21, 2014, Legislative Committee Minutes note:  
*After much discussion, the Board determined that although a large amount of resources have been directed to this piece of potential legislation, in the end it is likely that there will not be enough support to pass a bill with the desired amendments. Given all of the other priorities on the table, the Board felt it best to let this go at this time, and directed the Executive Director and Counsel to draft a letter to the membership on the matter.*

The Committee is now being asked to resume its discussion regarding the proposal received from San Diego to amend GC § 56133 with the aim of determining the proposal's viability and providing a final recommendation to the Board as to whether or not to commit the resources to pursue the amendment.

## **ATTACHMENTS**

- a. DRAFT White Paper
- b. 2021 Proposal Fact Sheet
- c. Current Proposal from San Diego
- d. 2005 - 56133 Memo
- e. 2011 - 56133 Letter to LAFCo EOs
- f. 2011 - CALAFCO 56133 Info Sheet - Dec 2011

# PLANNING FOR A SUSTAINABLE AND PREDICTABLE FUTURE:

## Clarifying LAFCo Authority to Determine Government Code Section 56133(e) Exemption Eligibility

California Association of Local Agency Formation Commissions (CALAFCO)  
San Diego County LAFCo  
Butte LAFCo  
Ventura County LAFCo

June 2022



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# INTRODUCTION

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## 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.<sup>1</sup> This rapid rise in population after the war led to rapid development of bare 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.<sup>2</sup> 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 (LAFCo's). 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 prime principle in sustainable infrastructure.<sup>3</sup>

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*

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<sup>1</sup> James N. Gregory. "The Shaping of California History." Encyclopedia of American Social History (New York: Scribners, 1993).

<sup>2</sup> CALAFCO. "What is LAFCo's History?" <https://calafco.org/lafco-law/faq/what-lafcos-history>

<sup>3</sup> 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.

*equality, allows for the provision of clean water and sanitation, and provides access to affordable energy for all.*<sup>4</sup>

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.*<sup>5</sup>

Fortunately, the state legislature gave LAFCo's the regulatory oversight to provide this exact type of strategic land use and service planning through service reviews that they conduct which consider the spheres of influence (or service boundaries) of an entity or 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 contracts extending services beyond their boundaries. Agencies believe they are exempt under Government Code Section 56133(e) – a section that provides limited conditions that are exempt from a full LAFCo review . The paper also considers the ramifications of other ambiguities in that code, including who determines whether a condition for exemption has been met, how “surplus water” is defined and ultimately, is the proposed service provider the most efficient and appropriate.

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<sup>4</sup> 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.

<sup>5</sup> Ibid. p 5.

Based on the experiences of a number of LAFCo's, 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.

## BACKGROUND

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In 1963 when LAFCo's 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.<sup>6</sup>

Those objectives, and all LAFCo authorities, are codified under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000<sup>7</sup> which delegates the Legislature's power to coordinate and oversee the boundaries of cities and special districts to LAFCo's, as well as to provide regional growth management services.

Known as the Legislature's "watchdog" for local governance issues<sup>8</sup>, 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 LAFCo's), and at least one member of the public appointed by the other members.

For LAFCo's to achieve their objectives, the Legislature empowered them with the exclusive authority to determine the jurisdictional boundaries and service areas of 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 LAFCo's in each of the

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<sup>6</sup> California Government Code Sections 56001, 56300, 56301, 56375.

<sup>7</sup> California Government Code Sections 56000-57550.

<sup>8</sup> Fifth District: 274 Cal.App.2d 545. 1 July 1969

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 LAFCo's shall have the power "To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to [Government Code] Section 56133."<sup>9</sup> 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.<sup>10</sup> However, the Legislature has limited LAFCo's 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<sup>11</sup>. 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<sup>12</sup>, as determined by LAFCo. This ensures that the service will not induce development but is limited to addressing public health and safety.

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

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<sup>9</sup> Government Code Section 56375(p) -

<sup>10</sup> 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."

<sup>11</sup> 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.

<sup>12</sup> 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..."

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 contract scenarios under which a city or district may provide services or functions outside its boundaries without obtaining LAFCo approval. The Legislature took care to limit these “exemptions” to services/functions 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, certain ambiguities have led to problems in the field that undermine the Legislature’s intent for planning oversight by LAFCo. These exemptions have sometimes

been utilized 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 effected local agencies. Additionally, these exempted services lack the transparency and public process offered by LAFCo that is demanded by the taxpayers of the districts who ultimately are responsible for funding the service. Unfortunately, there is also no 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 LAFCo’s 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 LAFCo’s to force compliance, not every county has the resources to fund their LAFCo’s 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

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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 encroaching into others' jurisdictions and competing for grant money, customers, etc.

### 2. Unorderly Boundaries

- In some instances, failing to annex territory – including island areas – upon the extension of service, thereby creating unorderly boundaries and as a result, jurisdictions have overlapping boundaries causing duplicative services and conflict between agencies. In addition, an extension of services outside an agencies' 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) states the extension may be authorized in anticipation of a later change of organization. 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 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

- LAFCo's 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 Unpredictability 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

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### 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.

### 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.

### 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.

***Continued...***

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.

### 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

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Government Code Section 56133(e) should be amended to explicitly confirm that LAFCo's - 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. This can be accomplished by either:

- Amending the preface of Government Code Section 56133(e) to add “as determined by the commission”, or
- By adding a new subparagraph (f), which states: “Final determination regarding the applicability of exemptions under subparagraph (e) above shall rest solely with the local agency formation commission.”

## CONCLUSION

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The Legislature clearly and significantly delegated its authority to LAFCo's 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, LAFCo's 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 LAFCo's lack of knowledge of a service, even when rightfully exempted, impacts later service review determinations, and can introduce situations that LAFCo's were created to rectify; 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).

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# Proposed Amendment to GOVERNMENT CODE SECTION 56133 (e)



## SUMMARY

This bill would make explicit in statute that Local Agency Formation Commissions (LAFCOs) are authorized to oversee the approval process for agencies to provide new or extended services outside their boundaries. This includes – importantly – clarifying LAFCOs or their executive officers determine when allowable exemptions apply.

## BACKGROUND

The Legislature created LAFCOs in 1963 to discourage urban sprawl, preserve open space and prime agricultural lands, encourage the orderly formation and development of local agencies, and to ensure the efficient delivery of government services. LAFCOs authority is currently codified under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (AB 2838, Hertzberg) (The Act) which delegates the Legislature’s power to coordinate and oversee the boundaries of cities and special districts to LAFCOs. LAFCOs are governed by a board of locally elected officials, including city council members, county supervisors, representatives from special districts (in 31 of the 58 LAFCOs), and at least one member of the public appointed by the other members.

Coordinating and overseeing city and special district boundaries means LAFCOs in each of the 58 counties have direct oversight on the timing and location of development and the type of services that are and are not available to support the development.

LAFCOs are required under state law to oversee the approval process for cities and special districts intending to provide new or extended services outside their boundaries by contracts. These contracts are typically a result of when annexations are not feasible and/or desired given local conditions.

State law identifies certain contract scenarios as exempt from requiring LAFCOs approval, including contracts between two or more local agencies where the intended new or extended service is an equal alternative or substitute for service already provided. California Government Code Section 56133 outlines the requirement for LAFCO review and the exemptions are listed within subsection (e).

## THE PROBLEM

Some local agencies have entered into contracts to provide new or extended services outside their boundaries. Unfortunately this practice creates numerous problems including:

1. Unintentionally creating conflict between local agencies when encroaching into others’ jurisdictions and competing for customers.
2. In some instances, failing to annex territory – including island areas – upon the extension of service, thereby creating unordered boundaries.
3. Conflicts with existing Government Code Section 56133(b) that states the extension may be authorized in anticipation of a later change of organization.
4. Undermining LAFCOs ability to coordinate the orderly delivery of municipal services in concert with community needs and in step with regional growth management objectives. These problems create unnecessary costs and liabilities that are otherwise completely avoidable.

## SOLUTION

To make explicit in statute that LAFCOs – not local agencies – are authorized to oversee the approval process for agencies to provide new or extended services outside their boundaries, and in doing so closes a current loophole in state law. The addition of nine words to 56133(e) as a preface to its listing of exemptions is proposed to read “as determined by the commission or the executive officer.”

### [ Contacts ]

This legislative effort is co-sponsored by CALAFCO and San Diego LAFCO

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## Explanation of GC 56133 Proposal

Specific language proposed for change are:

Amend C-K-H Government Code Section 56133:

#1

Add clarifying wording in subsection (e) that “*as determined by the commission when exemptions are applicable*” for providing new or extended services, and,

#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*”.

## Background Description

The Cortese-Knox-Hertzberg Act (CKH) requires LAFCos to exercise authority over functions and services, in a number of sections of the Government Code (GC). For instance, when updating or amending a sphere of influence (SOI), “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 at the time of expanding the importance of establishing SOI’s and conducting municipal service reviews (MSRs), the reviews and authorization by a commission was intended to and does apply to both functions and services for cities and special districts.

In 1992 when GC 56133 was enacted and subsection (e) was included, commissions and agencies had not kept close oversight of SOI’s and boundaries by service category. While commissions were provided authority to initiate consolidations, the caveat was that a special study (or later revised after 2001), a MSR had to have been completed with specific determinations and findings. The additional authority for LAFCo was tempered by AB 1335 (Gotch) which exempted from 56133, or “grandfathered in”, existing services that predated January 1, 1993. Additional exceptions/exemptions were included such as contracts between public agencies for services that were presently authorized or existing. In 2000 as a result of the Commission on Governance for the 21<sup>st</sup> Century report, AB 2484 (Hertzberg) rewrote the Cortese-Knox Act into the Cortese-Knox-Hertzberg Act of 2000 that included a host of new and modified responsibilities for commissions including MSRs, added requirements for establishing and updating SOI’s, and consideration of urban-suburban sprawl impacts upon open space and agricultural lands.

Since 2001, three cycles of MSR’s and SOI reviews have been implemented in various levels for counties, cities and special districts. Added legislation for hospital districts, water agencies and fire districts has been adopted for specific situations (A partial list is attached). Functional and structural reorganizations and consolidations have been

implemented resulting in over 200 special districts being restructured or dissolved, primarily to provide for more efficient and cost-effective service delivery.

Over the past two to five years, Executive Officers of several LAFCoS have been experiencing increased situations of agencies seeking to be more efficient and/or expand services to achieve more productivity and serve areas interested in various services. Pressures to develop fringe or non-municipal areas have increased for services such as water, wastewater and fire protection and often in areas not wanting to be annexed to a city or special district. A number of these situations have been identified during completion of MSRs.

Since the responsibilities of conducting MSRs and establishing/reviewing SOIs have been established for commissions, it follows that the oversight and awareness of changes in service areas and levels are essential duties of commissions. In recent years, the added emphasis of identifying and responding to needs of Disadvantaged Unincorporated Communities (DUC's) throughout the state (over 400 identified) for essential services of water, wastewater and storm water management has brought to light areas of services outside of established city and special district SOI's. The increased uses of Joint Power Authority (JPA) structures and Memorandum of Understanding (MOU) agreements as contracts for facilities and services have also added to the blurring of organizational structure lines that by some are believed to be exempted contracts for services while resulting in expansion of capacity and service areas beyond those currently being provided.

## The Proposal

The proposal from CALAFCO is to amend GC Section 56133 in CKH and its provisions governing the LAFCo approval process for cities and districts to provide new or extended services outside their jurisdictional boundaries. Two distinct components underlie the amendments:

1. The first and most pertinent component clarifies LAFCoS' authority under subdivision (e). It would add to subdivision (e) the phrase, "*as determined by the commission*" to clarify that it is LAFCo that makes the determination when a proposed new or extended service meets one of the exemptions listed under subdivision (e), and,
2. The second component adds the term "function" to the statute to ensure consistency with other sections of CKH and the distinction between service, function and class.

## Why the Proposal?

CALAFCO believes the proposed amendments to GC Section 56133 will measurably clarify that it's within a LAFCoS' intended role to review and regulate new or extended services and functions outside an agency's jurisdictional boundaries. The amendments

do not expand or limit LAFCo's current authority. Most notably, the amendments clarify that LAFCo possesses the sole authority to determine whether a new or extended service can be considered exempt from LAFCo review and approval. This protects against a city or district "self-exempting" a contract or agreement for a new or extended service that would otherwise merit commission review. Adding the term "function" also makes the statute consistent with other areas in CKH.

## What are some of the issues addressed by the Proposal?

GC section 56036 (a) defines a District or special district as "an agency of the state, formed pursuant to general law or special act, *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*" (emphasis added)

Section 56375(p) provides a power to "To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133" (emphasis added).

Additionally, Sections 56425(a), (e), (i) and (j) delineate a commission's authority and requirements to adopt and review city and special district SOIs for services and "shaping the logical and orderly development and coordination of local governmental agencies subject to the jurisdiction of the commission to advantageously provide for the present and future needs of the county and its communities...." This includes to "establish the nature, location, and extent of any functions or classes of services provided by existing districts" (emphasis added).

A related issue is that for extension of services or spheres, a commission is to consider impacts under GC 56668(d), (e), (j) and (k), et al. Without submittal of a proposed service to a property, LAFCo is unable to carry out its directed legislative mandates of oversight of logical service boundaries and levels. SOIs are the accepted planning tool for considering plans for future services by agencies. When areas are served outside of boundaries and SOIs without LAFCo review, such studies and determinations are not made and applicable for future consideration. The potentials for suburban sprawl and impact upon agricultural lands are always a primary focus of a commission on expansion of service areas.

By adding the proposed wording to GC 56133 of "functions" and under Section (e) "as determined by the commission", clarification is provided to reinforce the authority and purpose of CKH as noted above. Executive Officers and staff find that many city and special district staff who are new to their agencies in the past 5-15 years are not fully familiar with various sections of CKH. It is proposed that adding the wording as proposed will help provide reference and clarity for reviewing parties.

## How does LAFCo become Aware of Non-approved Outside Agency Service (OAS) Situations?

There are several general sources or reasons that a LAFCo would become aware of non-authorized Outside Agency Service situations. Some situations have been described by various Executive Officers from their experience:

- 1) An agency undergoes a MSR review for SOI or annexation proposals. An inventory of services provided and areas served through a questionnaire reveals services provided outside the agency boundary and/or SOI that have not been previously documented.
- 2) A property or properties contact LAFCo concerning possible annexation to a city or special district and it is learned that service(s) is already being provided to some or all of the properties without prior review and approval of LAFCo.
- 3) During a MSR or special study, alternative services reviews are undertaken and it is learned that service is being provided by another agency(s) than the proposing one.
- 4) An agency contacts LAFCo to propose study of an area for annexation that includes some properties already served by the agency without prior review and authorization by LAFCo.

## How are these Unauthorized OAS Situations Resolved?

Each situation must be evaluated and studied on the merits of the situation. LAFCo generally has an annual plan of services projected so these situations add workload that may not have been considered in the annual budget. Additionally, the agency and/or property owner(s) may be expected to fund the review and processing of the resolution through staff and the Commission. The staff often and usually attempt to develop a plan to resolve the service issue retroactively and process a report to the commission with applicable determinations and conditions of approval for future long-term service to the affected properties and communities. Occasionally no acceptable agreement can be reached with the involved agency and the commission must take a final action instituting determinations and conditions. Hours of effort are often expended resolving one case that draws upon limited resources of the commission. LAFCo is not an enforcement type agency so legal enforcement or litigation is always a last resort action due to time and cost impacts plus time lost on other projects.

## Discussion of subsection of GC 56133 (e) exemption issues

Current language in CKH Section 56133(e) This section does not apply to any of the following:

- (1) Two or *more public* agencies where the public service or function to be provided is an alternative to, or substitute for, public services or functions *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 or function contemplated by the existing service provider. (Emphasis added)*

While a pure contract situation between two agencies substituting existing services was contemplated in the original legislation, with added emphasis upon contracting to reduce costs or gain efficiencies, the role of understanding what services are provided by whom and the planned long-term implications is a function of LAFCo. Verifying that a substitution and not a change to revise or expand service or area is a responsibility of LAFCo, so knowledge of proposed changes should be maintained such as in a MSR or SOI update. Therefore the added proposed wording: “as determined by the commission” is proposed – It is anticipated that *a notification to LAFCo and review for concurrence should be an administrative action possible by staff unless a difference of opinion is a result as determined by the commission.*

*Examples:*

*(1) San Diego LAFCo*

*Agency A (possibly a water agency) is required to implement environmental mitigation for a project by developing habitat within or outside its SOI. Agency A proposes to contract with Agency B (possible RCD) to install and/or maintain the habitat area for a period of time or ongoing. While Agency B may be in the function of providing that service, to do so in Agency A’s area or outside either agencies’ areas as a new or expanded service should be subject to review and authorization by LAFCo.*

*(2) Ventura LAFCo*

The sale of “surplus” treated water.

Historically this area of function has been left for the service providers to manage and has not been of great concern. However, with recent drought conditions and expansion of State water management including SGMA and DUC situations, the need for added coordination and planning appears to be occurring. Also providing “surplus water” outside of a city or special district for use when a drought situation is existing negates the justification of “surplus water.”

*Additionally, MSR’s now include review of factors including timely availability of water supplies (GC 56668 (I)) and facilities for SOI reviews. Increased emphasis is being placed by commissions on documentation of these services for long-term water reliability planning.*

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 appears to be adequately addressed that commission approval is required.

### (3) Butte LAFCo

The City of Chico had extended wastewater service to a number of residential parcels outside of the city in early 2000-2005 timeframe. Butte LAFCo became aware of these situations while some parcel owners began to seek annexations to the city and by review of County Health Department septic system destruction permit records. The City claimed exemption under section of contracting with County but no contract existed. The City and LAFCo eventually settled the potential litigation through an agreement requiring an annexation plan and eventual annexation of involved parcels over time. This situation could have been prevented or minimized if the language in 56133 were clearer requiring commission approval of outside area services.

### (4) Alameda LAFCo

In 2016 the commission staff became aware of a city serving over 60 customers outside of the city with wastewater services with no prior approval. After negotiation and review the commission approved the outside services retroactively and adopted a local policy assigning review and approval delegated by the commission to EO for such situations.

## Summary:

The proposal provides for clarification of the LAFCos' existing responsibility and duty to determine exemptions under subsection (e); no new powers are proposed for LAFCos. The proposal similarly adds a reference to "functions" in overseeing new and extended services in the statute and in doing so provides consistency with recent amendments to CKH Act. The proposal brings focus to the role and responsibilities of LAFCo to carry out its mission and purpose under the CKH Act. By bringing this to forefront of purpose in the Government Code, local agencies should be more aware and prepared to coordinate projects and services with their respective commissions and staff.

January 3, 2005

SUBJECT: Proposed Amendments to Government Code §56133

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The California Association of Local Agency Formation Commissions (CALAFCO) has reviewed reports from its membership of challenges and issues relating to California Government Code §56133. This important code section affirms the meaning of LAFCO-defined jurisdictional and planning boundaries with respect to the provision of municipal services. This section prohibits the extension of services by an agency to areas outside of its jurisdiction except under special circumstances. CALAFCO seeks to provide some local control of the definition of these special circumstances. In addition, language introduced in 2000 to this code section limits the discretion of a local agency to change its contracts for service with other agencies. CALAFCO proposes amending the relevant paragraph to return it to a format more consistent with pre-2000 language.

CURRENT:  
LAW

G.C. §56133 allows local agencies to extend services to areas outside of their jurisdiction only when the following special circumstances exist:

- The area to be served is within the agency's sphere of influence and the commission anticipates a later change of organization to add the area to the agency's jurisdiction.
- The area to be served is outside of the agency's sphere of influence and there is an existing or impending threat to public health or safety of the residents of the affected territory.

Exemptions to the restrictions of G.C. §56133 are provided; these exemptions primarily relate to the provision of surplus and recycled water. Particularly notable is that contracts or agreements between two or more public agencies are exempt where "the public service to be provided is an alternative to, or substitute for, public services already being provided to an existing public service provider and where the level of service to be provided is consistent with the level of service provided."

ISSUE:

1. There are special circumstances where a LAFCO, a land use authority, and a service provider are in agreement that the extension of a service outside of jurisdiction and outside of a sphere of influence is warranted and appropriate. For example, a cell phone tower on a hill in the middle of an unserved agricultural area may require power from a municipal provider. Another example arises when a provider obtains an easement from a property owner for a major water or sewer line. In the process of obtaining the easement, the provider may wish to give service to existing facilities on the property. CALAFCO believes that local agencies should have the ability to work with their LAFCO to establish appropriate local policy to deal with special circumstances. CALAFCO proposes amendments to allow a LAFCO, the affected land use authority, and the affected service provider(s) to jointly approve extensions of service when appropriate.
2. In 2000, the exemption for contracts between agencies was amended to include the language: *where the level of service to be provided is consistent with the level of service provided*. No guidance is provided in the law for the determination of whether service levels are consistent. When an agency concludes that it is in its best interests to contract with a different provider than it is currently using, current law suggests that LAFCO must determine if the new provider and contract will be consistent with service levels offered by the old provider and contract. CALAFCO believes local agencies should be able to establish levels of service via contract with the same discretion they would have to set levels of service provided internally. CALAFCO proposes to amend the exemption to make it more consistent with the language that existed prior to 2000.

Attached, please find two versions of Government Code §56133 with amendments. The first version is provided in legislative notation. The second is a clean copy of G.C. §56133 as it would read if these amendments were approved.

Comments and questions should be directed to:

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2011

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June 21, 2011

**TO:** LAFCo Executive Officers  
**FROM:** CALAFCO Legislative Committee  
**REPORT BY:** Keene Simonds, Napa LAFCo  
**SUBJECT:** **Board-Approved Amendments to Government Code Section 56133**

On April 29, 2011, the CALAFCO Board unanimously approved a proposal from the Legislative Committee to amend Government Code (G.C.) Section 56133 and its provisions governing the LAFCo approval process for cities and special districts to provide new and extended outside services. Three substantive changes underlie the Board-approved amendments. The first change expands LAFCos' existing authority in approving new and extended services beyond agencies' spheres of influence irrespective of public health and safety threats. The second change clarifies LAFCos' sole authority in determining the application of the statute. The third change deemphasizes the approval of contracts or agreements in favor of emphasizing the approval of service extensions.

The Board-approved amendments would – if passed into law – significantly expand LAFCos' individual discretion in administering G.C. Section 56133. Markedly, enhancing discretion highlights the Legislative Committee's principal motive in proposing the amendments given the current statute limits LAFCos' ability to accommodate new and extended services beyond spheres of influence that are otherwise logical given local conditions unless addressing public health or safety threats. The Legislative Committee, nevertheless, recognizes the importance of establishing specific safeguards to help uniformly guide LAFCos in exercising their expanded discretion consistent with our collective responsibilities to facilitate orderly and efficient municipal growth and development. Most notably, this includes explicitly tying the expanded discretion with the municipal service review process.

Additional materials are attached to this communication further detailing the Board-approved amendments to G.C. Section 56133. This includes a one-page informational flyer summarizing the key changes with implementing examples as well as addressing frequently asked questions that have been raised in the two plus years the Legislative Committee has expended on this important rewrite. The Legislative Committee welcomes your questions and comments. Towards this end, to help expedite follow up, these regional coordinators are available to discuss the Board-approved amendments as well as make presentations to individual LAFCos if interested:

**Northern:** Scott Browne, Nevada  
Steve Lucas, Butte

**Coastal:** Neelima Palacherla, Santa Clara  
Keene Simonds, Napa

**Central:** Marjorie Blum, Stanislaus  
Ted Novelli, Amador

**Southern:** Kathy McDonald, San Bernardino  
George Spiliotis, Riverside

Thank you again for your attention to this matter and the Legislative Committee looks forward to working with you on any questions or comments.

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Attachments: 1) Informational Flyer on the Board-Approved Amendments to G.C. Section 56133  
2) Board Approved Amendments to G.C. Section 56133 (Track-Changes)  
3) Legislative History of G.C. Section 56133



December 2011

## The Proposal: Three Changes ...

The CALAFCO Board has unanimously approved a proposal from the Legislative Committee to amend Government Code (G.C.) Section 56133 and its provisions governing the LAFCo approval process for cities and districts to provide new and extended outside services. Three key changes underlie the Board-approved amendments. The **first** and most significant change expands LAFCo's existing authority in approving new and extended services beyond agencies' spheres of influence irrespective of public health and safety threats so long as LAFCo make three findings at noticed public hearings. These findings involve determining the extension 1) was contemplated in a municipal service review and 2) will not result in adverse impacts on open-space and agricultural lands or growth nor is a 3) later change of organization expected or desired based on local policies. The **second** change clarifies LAFCo's sole authority in determining the application of the statute. The **third** change deemphasizes the approval of contracts and emphasizes the approval of service extensions.

## Why the Changes ...

The CALAFCO believes the three changes proposed for G.C. Section 56133 will measurably strengthen a LAFCo's ability to effectively regulate outside service extensions in concert with our evolving role in regional growth management. Specifically, if passed into law, the changes will provide LAFCo more flexibility in accommodating service extensions lying beyond spheres of influence that are otherwise sensible given local conditions while clarifying the determination of when the statute and its exemptions apply rests solely with LAFCo. The changes would also strike unnecessary references to "contract or agreement approval" given these documents are generally prepared only after the proposed service extensions have been considered and approved by LAFCo. Examples showing how these changes could be implemented follow.

- LAFCo would have the authority, subject to making certain findings, to approve new or extended outside services beyond spheres of influence for public facilities, such as fire stations and schools, where the connection to the affected agency's infrastructure is a potential option.
- LAFCo would have the authority, subject to making certain findings, to approve new or extended outside services beyond spheres of influence for private uses supporting permitted intensity increases, such as residential construction or commercial additions.
- LAFCo would avoid delays and other transaction costs tied to disagreements with agencies regarding the constitution of "new" and "extended" services as well as determining when exemptions apply. Notably, this includes determining when a contract service proposed between two public agencies qualifies for exemption if it is "consistent with the level of service contemplated by the existing provider."

## FAQs

**Does providing LAFCo with more flexibility to approve services beyond spheres of influence undermine LAFCo's ability to curb sprawl?**

No. The proposed changes include measured safeguards to protect against inappropriate urban development by requiring LAFCo to make three specific findings (consistency with a municipal service review, no adverse agricultural or growth inducing impacts, and no expectation of future annexation) at noticed hearings before approving new or extended services beyond spheres.

**Will these changes create new pressures on LAFCo to accommodate development beyond agencies' spheres they would otherwise reject?**

The proposed changes do not effect LAFCo's existing right and duty to deny outside service requests deemed illogical and inconsistent with their policies.

**How long has CALAFCO been discussing the proposal?**

The Legislative Committee has spent two plus years working on the proposal before Board approval in April 2011.

## Questions or Comments

The following regional coordinators are available for questions or comments on the proposed changes to G.C. Section 56133. The regional coordinators are also available to make presentations to interested LAFCos.

- Scott Browne, Nevada
- Steve Lucas, Butte
- Marjorie Blom, Stanislaus
- Ted Novelli, Amador
- Neelima Palacherla, Santa Clara
- Keene Simonds, Napa
- Kathy McDonald, San Bernardino
- George Spiliotis, Riverside

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